

L A W S

OF THE

STATE OF NEW-YORK,

PASSED AT THE

SEVENTY SECOND SESSION

OF THE

LEGISLATURE,

BEGUN THE SECOND DAY OF JANUARY, AND ENDED
THE ELEVENTH DAY OF APRIL, 1849,
AT THE CITY OF ALBANY.



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1849.

Chap. 433.

AN ACT to incorporate the *Gilboa Aqueduct Company*.

Passed April 11, 1849, "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Sidney Tuttle, John Reed, James P. Bogardus, Samuel Corporation
W. Jackson, Nelson Fanning, Jacob Morse, Warren P. Street, ^{created.}
George Lawrence, and William B. Hays, and their associates who
shall become stockholders with them, are hereby constituted a
body corporate by the name of "The Gilboa Aqueduct Com-
pany."

§ 2. The capital stock of said company shall be one thousand ^{Capital}
five hundred dollars, to be divided into shares of seventy-five ^{stock,}
dollars each.

§ 3. Books of subscription for the capital stock of said corpor- ^{Subscription}
ation shall be opened under the direction of the directors herein- ^{tion to stock.}
after named, subject to such rules and regulations as they shall
prescribe. The stock shall be considered personal property.

§ 4. The concerns of said corporation shall be managed by nine ^{Election of}
directors, who shall be stockholders and residents of the town of ^{directors.}
Gilboa, in the county of Schoharie, and who shall hold their off-
ices for one year and until others are chosen in their places. The
directors shall be annually chosen on the first Saturday of April,
at such time of day and place in the village of Gilboa, as the
directors for the time being shall appoint. The first election shall
be held on the first Saturday of April, one thousand eight hun-
dred and fifty. Two weeks notice of such election shall be given
by a written notice posted in three of the most public places in the
said village of Gilboa. At every annual election each stock-
holder shall be entitled to one vote for every share of stock held
by him or her for ten days previous thereto. Voting shall be by
ballot, and may be in person or by proxy.

§ 5. The directors shall annually appoint a president, treasurer, ^{Officers to be}
and secretary, and such other officers as they shall deem neces- ^{appointed}
sary, who shall hold their offices until the next annual election. ^{and by-laws}
The president must be chosen from among the directors for the ^{made.}
time being. It shall be lawful, and the directors are hereby
authorized to declare dividends on the stock of said company, to
establish rules and regulations and by-laws for and concerning
the government of their officers, agents and servants, and for and
concerning the conduct and government of all such persons as
shall use the water from the works of the said company, so far as
respects the use and preservation of the said water, and to restrain
the waste thereof, and by such by-laws to impose penalties and
forfeitures for any neglect or refusal to comply therewith, which
penalties and forfeitures, in any one case, shall not exceed the
sum of five dollars, and shall be recoverable in the name of the

said corporation before any justice of the peace of the town of Gilboa, or any town in said county adjoining the same. No such rule, regulation, or by-laws shall take effect until two weeks after its adoption by said directors, and until two weeks after copies are posted in three public places in the said village. A copy of any such rule, regulation or by-law, certified by the president of said corporation with an affidavit of the time and places of posting copies thereof, shall be received in all courts and places as evidence of any such rule, regulation or by-law, and the time and places of posting copies thereof.

Calls on
stockholders.

§ 6. The directors may demand payment from the stockholders of moneys due on their respective subscriptions to the capital stock, in such proportions and at such times as they may see fit, under pain of the forfeiture of the shares and all previous payments thereon to the corporation. The said corporation may also sue for and recover all subscriptions to the capital stock.

First directors.

§ 7. The persons named in the first section of this act, shall be the first directors, and shall hold their offices until the said first Saturday of April, one thousand eight hundred and fifty, and until others are chosen in their places; and in case of a vacancy in the office of a director, by reason of death, resignation, removal from the said village, or ceasing to be a stockholder, the vacancy may be filled by appointment of the remaining directors, until the next annual election, and until some other person be chosen to fill the same.

Lands may
be entered
upon.

§ 8. For the purpose of supplying the said village of Gilboa, with pure and wholesome water, it shall be lawful for the said corporation and their directors and agents, to enter into and upon any lands, streams, creeks, fountains and springs, belonging to any person or persons, bodies politic or corporate, and to take the water and divert and convey the same to any part of said village, and may lay and construct any pipes, logs, conduits, aqueducts, wells, reservoirs, or other machinery necessary and proper for said purposes, through or over any lands, roads, streets or highways. But all lands, real estate, and other property thus entered upon, taken possession of and used by the said company, shall be purchased by the said company of the owners thereof respectively, at prices to be agreed upon between the said company and the different owners, in case they can agree. But in case the said company cannot agree with the owners of any such lands or other property as to the price to be paid therefor, or in case any owner shall be a feme covert, under age, or out of the state, the lands or other property intended to be taken for the purpose aforesaid, and belonging to any such owner, shall be appraised and the damages assessed as hereinafter directed. But previous to every such appraisal and assessment, the said company shall cause a survey and map to be made of the track or direction in which it is intended that such waters and conduits shall run, and of the lands deemed requisite by the said company for conveying the water and for laying such conduits, reservoirs, and other de-

Lands to be
purchased.

Provision in
case of dis-
agreement.]

vices, by which the land of every such owner last referred to shall be designated, which map and field book shall be signed by the surveyor making the same, and the president of the said company, and filed in the office of the clerk of town the of Gilboa, in said county. The said company by any three of its officers and the necessary surveyors, servants, &c., may enter upon any lands for the purpose of making any examination and survey, doing no unnecessary damages.

§ 9. In all cases where the said company do not agree with the owners of any land or water intended to be taken and used as aforesaid for the purchase thereof, the said company may apply to the county court of the county of Schoharie for the appointment of a commissioner who shall not be a resident of the county of Schoharie, or interested in the matters to be determined by him, by whom the damages to be sustained by the owner or owners of any lands or other property so taken and designated by the said company, by reason of the appropriation thereof by the said company to the purposes contemplated by this act, shall be determined. And in case of the death, refusal or disability to act, of any person so appointed, the said court may appoint another in his place. It shall be the duty of the said commissioner to cause fifteen day's notice of the time and place of any such appraisement to be served upon the owners of any such land or other property, whose damages he shall appraise; which notice may be served personally or by leaving the same with some person of suitable age at the place of residence of any such owner. Such commissioner shall make under his hand and seal a report containing a description of the land and other property appraised, also the award or awards that he shall make, and shall acknowledge the same before some justice of the peace of Schoharie county; which report, and the affidavit or affidavits of the service of notice of the time and place of appraisement, upon the owners of the lands or property appraised, shall be recorded in the office of the clerk of the county of Schoharie; which report and affidavits, and the records thereof, and certified copies of such records, shall be evidence of the facts contained in such report and affidavits. The said company shall pay to such commissioner the sum of three dollars for every day spent in the performance of his said duties.

§ 10. The said company, or any party to the proceedings of the said commissioner, may appeal from any award of the said commissioner to the county court of Schoharie county: provided the party appealing, within twenty days after any such award, give notice of the appeal to the other party or parties interested in the same. The said court shall proceed to hear such appeal, and may confirm or reverse the proceedings of the commissioner, and may increase or diminish the amount of compensation awarded by him, and may order a new appraisement.

Application may be made to county judge for a commissioner.

Duty of commissioner.

Right of appeal.

Lands when
to be vested
in company.

§ 11. Upon the payment or legal tender of the damages awarded by the said commissioner, or (in case of appeal,) by the said court, the said company shall be deemed to be seised of the fee simple and possessed of all lands and other property for the purposes contemplated by this act, for which the damages so determined shall be paid or tendered as aforesaid. If any person to whom damages are awarded as aforesaid cannot upon due inquiry be found, or shall be a feme covert, infant, or insane, then the payment or tender of such damages shall be made to some person to be appropriated for that purpose by the said court, who shall hold the same as trustee for the benefit and to the use of such person whom he is appointed to represent, subject to the order of the said court. Every payment and tender so made by said company shall have the same effect as if made to the individual in person to whom awarded as aforesaid, and he or she were competent to contract.

Provision re-
lative to
lands ac-
quired by
purchase.

§ 12. The said company shall also be deemed seised of the fee simple of all lands or other property that they shall acquire by purchase, and shall be entitled to hold the same for the purposes contemplated by this act forever. Any title acquired by said company to any lands shall not prevent the occupation thereof by the person or persons of whom such title shall be acquired, their heirs or assigns, in any manner not inconsistent with the purposes of this act and not tending or likely to disturb, interrupt or injure the said company in the enjoyment of the privileges contemplated by this act, or to affect the quantity or quality of the water which may or might be conducted to the said village by the said company.

Conduits
how to be
laid.

§ 13. It shall be lawful for the said company to conduct and lay their conduits below the surface of any road, street or highway in the towns of Gilboa and Conesville, putting such road, street or highway in as good condition as the same was before such conduits were laid, and without unnecessary delay.

Village.

§ 14. The terms "village," and "village of Gilboa," as used in this act shall be deemed to refer to and consist of all that part of the town of Gilboa, in the county of Schoharie contained in a circle of which the diameter shall be one mile and the centre the dwelling house now occupied by Sidney Tuttle.

Distribution
of water.

§ 15. The said company may make any agreements, contracts, grants and leases for the sale, use and distribution of water that may be agreed upon between said company and any individuals, associations and corporations, which agreements, contracts, grants and leases shall be valid and effectual in law.

Penalty.

§ 16. Any person who shall maliciously or wilfully destroy or injure any of the works or property of said company, or who shall maliciously or wilfully commit any act which shall injuriously affect or tend thus to affect the water of said company, shall be deemed guilty of a misdemeanor.

§ 17. The indebtedness of said company shall not at any time exceed an amount exceeding seventy-five per cent of its capital stock, and if it shall at any time exceed such amount, the directors of said company assenting thereto, shall be jointly liable for such excess to the creditors of the said company, provided that the same cannot be collected of the company. Restriction as to debt

§ 18. The corporation hereby created shall possess the powers and be subject to the provisions of title three, chapter eighteen of the first part of the Revised Statutes. General powers.

§ 19. The said corporation shall organize and commence the transaction of its business within one year from the passage of this act. Organization.

§ 26. This act shall take effect immediately.

Chap 434.

AN ACT to amend an act entitled "An act to authorize the formation of railroad corporations," passed March 27, 1848.

Passed April 11, 1849.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The twenty-eighth section of the act entitled "An act to authorize the formation of railroad corporations," passed March 27, 1848, is hereby amended so as to read as follows :

§ 28. Every railroad corporation shall make an annual report to the state engineer and surveyor, of the operations of the year, ending on the first day of January ; which report shall be verified by the oaths of the treasurer, and acting superintendent of operations, and filed in his office by the twentieth day of January in each year, and shall state, Each railroad to report to state engineer and surveyor annually.

1. The length of the road in operation ; the length of single track ; the length of double track ; the time when laid, and the weight of the rail per yard : Length of road.

2. The capital stock, and the amount called and paid in : Stock.

3. The whole cost of the road, showing the amount expended for the purchase of lands, for grading, for expenses of engineering, for bridging, for masonry, for iron for superstructure, for buildings, for engines, for passenger and other cars, respectively : Cost.

4. The amount and nature of its indebtedness, and the amount due to the corporation : Debt.

5. The number of through and way passengers : Passengers.

6. The rate of fare for passengers, charged for the respective classes : Fare.

7. The amount received for the transportation of passengers, of property, of the mails, for interest, and from all other sources, respectively ; Amount received.