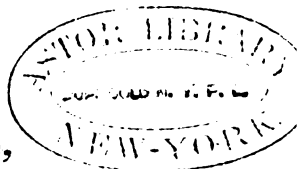


L A W S
OF THE
STATE OF NEW-YORK,

PASSED AT THE
THIRTY-NINTH, FORTIETH AND FORTY-FIRST
SESSIONS

OF THE
LEGISLATURE,



COMMENCING
JANUARY 1816, AND ENDING APRIL 1818.



VOL. IV.

ALBANY:

PRINTED FOR WEBSTERS AND SKINNERS,

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1818.

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necessary and expedient to purchase in of the estate of the said Joseph Gasherie, by virtue of the said judgment, and subject to the said judgment, in trust nevertheless, and for the sole use of the people of this state, and until a beneficial sale thereof may be effected; and the monies arising from such sale or sales, to pay over into the treasury of the said county, for the use of the people of this state; and upon such payment to be immediately paid over by the said treasurer into the treasury of this state: And the said supervisors and their successors in office, shall be and hereby are declared to be individually liable and accountable for the due and faithful performance and execution of the said trust; and that upon a final settlement of the said judgment and sale of the said real estate, and payment of the avails thereof as aforesaid, the said corporation shall cease and be dissolved; *Provided*, That the said supervisors shall make such sale and settlement within five years from the passing of this act.

To purchase the estate of Joseph Gasherie for the benefit of the state.

To pay over all monies into the treasury of the state.

Provided that sale is made within five years.

CHAP. XLVIII.

AN ACT to incorporate the Hudson Aqueduct Company.

Passed March 22, 1818.

WHEREAS the proprietors of the aqueduct in the city of Hudson, have, by their petition, represented that the laws relative to the said aqueduct, now in force, have been found by experience insufficient for the due regulation and management of the same, and have therefore prayed an act of incorporation, whereby they may be the better enabled to supply the inhabitants of the said city with water: Therefore,

I. *BE it enacted by the people of the state of New-York, represented in Senate and Assembly,* That Robert Jenkins, William Johnson, Judah Paddock, Ebenezer Comstock and Gayer Gardner and others, their present and future associates, their successors and assigns, be and they are hereby created and declared to be a body corporate and politic, in fact, by the name of "The President and Directors of the Hudson Aqueduct Company;" and by that name may have perpetual succession, and shall in law be capable of suing and being sued, in all courts and places whatsoever, and may have a common seal, with power to alter the same, and by the name and style aforesaid, capable of purchasing and holding such real property as shall be necessary to attain the object of this incorporation; *Provided*, such real estate shall not exceed in value ten thousand dollars.

II. *And be it further enacted,* That all property, real and personal, vested in the Hudson aqueduct company, in virtue of the act incorporating them, or any other act, shall be and hereby is transferred to and vested in the company hereby created; that the capital stock of the said company shall not exceed fourteen thousand dollars, to be divided in four hundred shares, of thirty-five dollars each; that the present stockholders of the Hudson aqueduct company, shall hold two hundred shares of the said capital stock, and shall be credited with the sum of thirty-five dollars upon each share by them respectively held; and the said president and directors may open

Capital divided in 400 shares.

14 days notice
of subscrip-
tion given.

The Hudson
aqueduct
company to
have the right
of subscribing
not exceeding
200 shares.

5 directors to
be elected on
the first Mon-
day in May.

Elections to
be by ballot.

Directors
named.

a book for subscribing the remaining two hundred shares, in such manner as they may direct, giving at least fourteen days notice in the newspapers printed in the city of Hudson, of the time and place of subscription, and continue the same open until the said two hundred shares shall be subscribed, and may direct the payment of the sum of thirty-five dollars on each share subscribed, at such times and in such proportions as they may from time to time order, giving the like notice of such payments: *Provided however*, that the present stockholders of the Hudson aqueduct company shall have the exclusive right and privilege of subscribing for the said two hundred shares, or such part thereof as they may think proper, at any time within six days after the book is open for subscription; *Provided*, that no stockholder shall have the privilege to subscribe for more shares than he now holds, until after the aforesaid six days expire.

III. *And be it further enacted*, That the stock, property, interest and concerns of the said company, shall be managed and conducted by five directors, being stockholders and inhabitants of the said city of Hudson, a majority of whom shall form a board, and who shall hold their office for one year; and the said directors shall be elected on the first Monday in May, in each and every year, excepting the ensuing first Monday in May, at such time and place within the said city as the directors for the time being shall appoint; whereof public notice shall be given by the said directors, in one or more of the public newspapers printed in the said city, or by putting up such public notice in at least four of the most public parts of the said city, at least three weeks immediately preceding the time of holding such election; and the said election shall be held by the said directors, or by such one or more of them as they shall appoint, and shall be made by such of the stockholders as shall attend in their proper persons or by proxy, and each share shall be entitled to one vote; all elections shall be by ballot, and the five persons who shall have the greatest number of votes at any election, shall be the directors: and in case any two or more persons shall at any such election have an equal number of votes, in such manner that a greater number of persons than five shall by a plurality of votes appear to be chosen as directors, then the said stockholders herein before authorised to vote at such elections, shall proceed to ballot a second time, and by plurality of votes determine which of the persons so having an equal number of votes shall be the director or directors, so as to complete the whole number of five; and the said directors, as soon as may be after their election, shall proceed to elect one of their number to be their president; and if any one or more of the said directors shall die, resign, or move from the said city, before the expiration of the year for which he or they shall have been elected, his or their place or places shall be filled by such person or persons as shall be elected for that purpose, by the remainder of the directors or a majority of them. And the first directors of the said company shall be Robert Jenkins, William Johnson, Jun'ah Paddeck, Ebenezer Comstock and Gayer Gardner, and shall hold their offices until the first Monday in May, in the year one thousand eight hundred and seventeen; and in case it shall at any time happen that an election of directors should not be made on any day when, pursuant to this act, it ought to have been made, the corporation shall not for

that cause be deemed to be dissolved; but it shall and may be lawful for the directors last chosen to order an election to be held on any other day within three months thereafter, of which public notice shall in like manner be given at least twenty days preceding the time of holding the same.

IV. *And be it further enacted*, That the said directors so to be chosen, shall have power to elect and appoint one discreet person for their clerk and treasurer, and one discreet person for their collector, and such other agents as may be necessary to carry into effect the objects of this incorporation; to make and ordain all such by-laws, ordinances, rules and regulations, relative to the said aqueducts, as they may deem proper and necessary, for the superintendance, regulation and management of the same, and of such as may be added thereto; and for the alteration, preservation and reparation thereof; and relative to all other property, interest and concerns of the said company. And the said president and directors may ordain and prescribe such fines and penalties for the breach or non-performance of any of the said by-laws, as to them shall seem proper, which fines and penalties shall not exceed in any one case the sum of twenty-five dollars; and all fines and penalties which shall exceed the sum of two dollars and fifty cents, may be recovered by the president and directors, in their name, for the use of the said company, by action of debt or information, in any court within the city of Hudson having cognizance thereof; and all fines and penalties, not exceeding the sum of two dollars and fifty cents, shall and may be collected by the collector, in the same manner and by the same process as the collector shall collect the rate or tax on water, as hereafter regulated in the sixth section of this act, for the use of the said company: *Provided*, such by-laws be not contrary to, or inconsistent with the constitution and laws of this state or of the United States.

V. *And be it further enacted*, That it shall and may be lawful for the president and directors of the said company, and their superintendants, artists, workmen and laborers, with carts, waggons and other carriages, with their beasts of draft and burthen, and all necessary tools and implements, to enter upon any lands, streets, lanes, alley, turnpike roads, public ground or highways, in the said city of Hudson, to dig the ground, lay down, alter and repair the said aqueducts, doing as little damage thereunto as possible, and repairing and mending any breaches or other injury they make or commit to such lands, streets, lanes, alley, public grounds, turnpike roads or highways, and to dig up, tear down and remove any trees, bushes or shrubs, the roots of which shall injure the said aqueducts, or obstruct or impede the free passage of the water in and through the same; and it shall be lawful for the president and directors, or their agents, to kill and destroy any tree, shrub or bush, that is planted or found growing on any private ground within forty feet of the aqueducts: *Provided always*, that no public street, lane or highway shall be dug into, or in any wise injured or defaced, without the permission of the common council of the city of Hudson for that purpose first had and obtained: *And provided also*, that damages done on any lands by said company, or their agents, shall be estimated and appraised by three indifferent persons, not being stockholders in the said company, or inhabitants of the said city, under oath or affirm-

To make
by-laws

Penalty not
to exceed 25
dollars.

Fines col-
lected.

To remove
obstacles that
may be in the
way of the
aqueduct.

No public
street to be
dug into with-
out the permis-
sion of the
com. council.

Damages to
be appraised.

ation, to be appointed by a judge of the court of common pleas not residing in the city of Hudson, on the application of the said president and directors, or the party aggrieved; which damages, when assessed by the said appraisers or any two of them, shall be forthwith paid by the said company, to the owners of such lands; and for the recovery of which, such owner may, after demand and refusal, have his action of debt in any court of competent jurisdiction.

Amount of tax for the use of the water.

If not paid, collector to enter complaint.

Levying the tax.

VI. *And be it further enacted*, That it shall be lawful for the said president and directors to impose on the inhabitants of the city of Hudson, who shall use the water of the aqueducts, such an annual rate or tax as shall produce to the stockholders of the said company an annual dividend of nine per cent. on the money by them actually expended in the making, laying down and repairing the said aqueducts, together with such sums as they may think proper to allow to their collector, clerk and treasurer, agents and superintendants; and if any inhabitants of the said city, using the water of the said aqueduct, shall neglect or refuse to pay such rate or tax as shall be imposed by the president and directors for the use of the said water, by and for the space of three days after the demand made at his or her dwelling-house or last residence, it shall be the duty of the collector of the company immediately thereafter to enter complaint thereof in writing, to a justice of the peace in the said city of Hudson, who shall issue a warrant under his hand and seal, directed to any constable of said city, and commanding him forthwith to levy and collect the said rate or tax, together with the costs, of the goods and chattels of such person or persons, who shall so neglect or refuse to pay the same, and to return the said warrant within ten days; for which services the justice shall receive twenty-five cents, and the constable shall receive the same fees as are allowed for like services by the act, entitled "an act for the more speedy recovering debts to the value of twenty-five dollars;" provided the said costs shall not exceed two dollars and fifty cents; and it shall be the duty of the said constable to make sale of the said goods and chattels of such delinquent, if any can be found, before the return day of the said warrant, giving three days public notice of the time and place of such sale, and to make return of the said warrant as he shall be therein commanded; in default of which, he shall be deemed liable to pay the said rate or tax and costs, and may be sued for the same by the president and directors, in an action of debt, in any court having cognizance thereof: *And be it further provided*, that after the whole capital stock of the said company that shall be subscribed and expended, in the reparation, alteration or extension of the said aqueducts, it shall and may be lawful for the said president and directors to assess on the inhabitants using the water of the said aqueducts, in addition to the tax or rate before mentioned, and the wages and salaries paid their collector, clerk, agents and superintendants, all and every sum or sums of money annually by them expended, in the reparation alteration or extension of said aqueducts, and collect the same in the manner as is herein before directed.

Officers to take an oath.

VII. *And be it further enacted*, That the said clerk, treasurer and collector, when chosen in the manner aforesaid, shall respectively, before they enter upon their respective offices, take and subscribe,

before the mayor or the recorder of the said city of Hudson, who are hereby authorised to administer the same, an oath or affirmation, well and faithfully to execute their respective trusts and offices, according to the best of their skill and understanding; which said clerk, treasurer and collector, so elected, chosen and qualified, shall continue in their respective offices until others be duly chosen and qualified in their respective places. And the said president and directors may, by ordinance or by-law, direct the same oath or affirmation to be in like manner administered to any other agent whom they may hereafter constitute and appoint, in pursuance of this act.

VIII. *And be it further enacted*, That the said clerk and treasurer, so to be chosen and qualified as aforesaid, shall, as clerk of said company, keep the minutes of, and record all the votes and elections of the said company, and all the ordinances, by-laws, resolutions, transactions and proceedings of the president and directors, and shall keep a proper book, in which he shall duly enter the names of all the stockholders of the said company, together with their several and respective rights or shares of, in or to the said aqueducts, according to such by-law or rule as the said president and directors shall or may hereafter prescribe and direct for such purpose, and shall also duly enter in the same book every transfer or assignment made, or hereafter to be made, of any right or share of, in or to the same aqueduct, according to such rule or by-law as the said president and directors may hereafter prescribe and direct for such purpose, which entry, so to be made by the said clerk, shall be deemed evidence of such transfer or assignment. And no person shall be considered a stockholder of the said company, after the space of six months from the passing of this act, until the evidence of his right or share shall be entered as aforesaid. And the said clerk and treasurer, as treasurer of the said company, shall keep a book, in which he shall enter all receipts, advances and expenditures, of all sums of money by him received, advanced or paid out, according to the orders and directions of the said president and directors: And the said clerk and treasurer shall likewise do and perform all other duties lawfully committed to him by any law, rule or ordinance, to be made in pursuance to this act by the said president and directors.

Clerk & treasurer to keep the minutes, books, &c.

IX. *And be it further enacted*, That all lawful agreements, votes and proceedings, made, had or done by the proprietors of the said aqueduct, and entered upon their records, concerning the said aqueducts shall be considered valid and obligatory among the said stockholders, and binding upon all, each and every of them; and all lands and other property, belonging to and owned by the said proprietors, being part of the stock of the said company, shall be, and the same are hereby declared to be, vested in the said president and directors, for the use and benefit of the said company: And all sales, transfers, leases, assignments, deeds, or other conveyances of lands or other property, heretofore made or executed by the proprietors of the said aqueducts, or by the inspectors thereof, in their behalf, or by any other person or persons, as trustees for them, shall be considered, and they are hereby declared to be, as valid and effectual in law as if the same had been made and executed by the said president and directors in pursuance of this act.

All acts of the former aqueduct company valid.

Former sales, &c. valid.

X. *And be it further enacted,* That the president and directors, collector, or other officers elected or appointed in manner aforesaid, shall not be liable to be sued or prosecuted, for any act done or committed by him or them, in pursuance of this act, before any justice of the peace residing out of the city of Hudson; and that no president or director of the said company hereafter elected or chosen, shall be allowed any compensation for his services, as president or director of said company.

President and
Directors to
be allowed
no compensation.

XI. *And whereas* the main or principal spring or fountain belonging to the Hudson aqueduct company, is situated in a rock, and is thought by the people in the neighborhood to be in danger of being let out and destroyed by those who get or quarry stone adjoining to said fountain: Therefore, *be it enacted,* That it shall and may be lawful for the president and directors of the aforesaid aqueduct company, for the security of their fountains they now own or hereafter may own, to take as much land adjoining to the said fountains as they may think proper: *Provided,* they make no use of the said land, excepting only as a security for those fountains; *and provided also,* they pay the full value for the said lands, as it shall be appraised by three reputable men, being freeholders, not residing in the corporation of the city of Hudson, and not proprietors in the said aqueducts, and appointed by a judge of the court of common pleas of the said county, and not residing in the said city. And if any person or persons shall wilfully trespass and do any damage to the springs or fountains, or to the lands that are about or adjoining to the fountains, and appropriated as aforesaid for the protection thereof, or do any act whatever, whereby any of the works of the said company, or any part of such works, or any matter or thing appertaining to the same, shall be injured, the person or persons so offending shall forfeit and pay to the said company treble the amount of the damages, to be recovered by the president and directors of said company, for the use of said company, with costs of suit, by an action of debt, in the supreme court of judicature of this state; which action shall in every instance be considered as transitory in its nature, and shall and may be triable in any county in this state: *Provided nevertheless,* that it shall not be lawful for the said company to deprive any person of the use of any fountain or stream of water to which they were legally entitled before the passing of this act.

Certain land
to be taken
on appraisal.

Penalty for
injuring the
spring.

Provided that
it does not af-
fect existing
rights.

XII. *And be it further enacted,* That so much of the act, entitled "an act for the better regulating and protecting the aqueducts in the city of Hudson," passed the 9th day of March, 1790, as is inconsistent with the provisions of this act, be, and the same is hereby repealed.