

L A W S
OF THE
State of New-York,
PASSED AT THE
FORTY-NINTH SESSION
OF THE
LEGISLATURE,
BEGUN AND HELD AT THE CITY OF ALBANY,
The Third day of January, 1826.



ALBANY:

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FOR
WILLIAM GOULD & Co. ALBANY,
AND
GOULD & BANKS, LAW BOOKSELLERS, NEW-YORK.

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1826.
WV

Right of citi-
zens not to
be barred

3. *And be it further enacted*, That nothing herein contained shall be construed to bar, preclude, or in any wise to affect the right or title which any citizen of the United States may have to the real estate of which the said Sarah Kemp, otherwise Campbell, died seized.

CHAP. 189.

AN ACT to amend an Act, entitled "*An Act to incorporate the Aqueduct Association in the Village of Little Falls, in the County of Herkimer,*" passed March 14, 1806.

Passed April 14, 1826.

Common seal

Officers

Election

1. *BE it enacted by the People of the State of New-York, represented in Senate and Assembly*, That the said Aqueduct Association in the village of Little Falls may have a common seal, with power to alter the same; that the shares of stock in the said company shall not exceed thirty dollars each; and that the stock, property, real and personal estate, interest and concerns of the said company shall be managed and conducted by the treasurer, clerk, collector and superintendent, and three trustees, being stockholders, and inhabitants of the said village of Little Falls, to be denominated "*The Board of Managers of the Aqueduct Association of the village of Little Falls,*" a majority of whom shall form a board, and who shall hold their office for one year; and the said treasurer, clerk and collector, and superintendent and trustees, shall be elected on the first Monday in June, in each and every year hereafter, at such time and place within the said village as the treasurer or board of managers for the time being shall appoint, whereof public notice shall be given by the clerk of the said association in one or more of the public newspapers printed in the said county of Herkimer, or by putting up such notice in at least three of the most public places in the said village, at least fourteen days immediately preceding the time of holding such election; and the said election shall be held by the treasurer of the said association, or by the said board of managers, 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 own proper persons or by proxy, and each share shall be entitled to one vote; all elections shall be by ballot, and the persons having the greatest number of votes for treasurer, clerk, superintendent, and collector and trustees at any election, shall be the treasurer, clerk, superintendent and trustees; 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 one treasurer, one clerk, one superintendent and collector, and three trustees shall, by a plurality of votes, appear to be chosen as such treasurer, clerk, superintendent and collector and trustees, the said stockholders herein before authorised to vote at such election shall proceed to ballot a second time, and by a plurality of votes determine which of the persons so having an equal number of votes shall be the treasurer, clerk, superintendent and collector, trustee or trustees, so as to complete the whole number; and if the said treasurer, clerk, superintendent

and collector, or any one or more of the said trustees shall die, resign or move from the said village 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 said board of managers, or a majority of them; and in case it shall at any time happen that an election of treasurer, clerk, superintendent and collector, and trustees, should not be made on the day when, pursuant to this act, it ought to have been made, this act shall not for that cause be deemed to be repealed, or the powers herein contained revoked or annulled; and it shall and may be lawful for the treasurer of the said company, or board of managers 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 ten days preceding the time of holding the same.

2. *And be it further enacted,* That the said board of managers Meetings so to be chosen and constituted shall have power to prescribe the time or times for their stated meetings, choose a presiding officer from their own body, and to elect and appoint three competent persons, being stockholders, as assessors, and such other officers and agents of the said company as may be necessary to carry into effect the objects of the act incorporating the said company, and of this act amending the same, and to make and ordain all such by-laws, By laws ordinances, rules and regulations relative to the said conduits and aqueducts, and other matters and things relating to the same, as they may deem proper and necessary for the superintendence, 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, estate real and personal, and concerns of the said company; and the said board of managers may ordain and prescribe such fines and penalties for the breach and 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 said association or company in their name, and for their own use, by action of debt, in any court within the county of Herkimer having cognizance thereof; and all fines and penalties not exceeding the said sum of two dollars and fifty cents shall and may be collected by the collector of the said company, in the manner and by the same process as the collector shall collect the tax or rate on water, as hereafter regulated in the fifth section of this act, for the use of the said company. Fines

3. *And be it further enacted,* That it shall and may be lawful for the said board of managers of the aqueduct association in the village of Little Falls, and their superintendents, artists, workmen and labourers, with carts, waggons and other carriages, with their beasts of draft and burthen, and all necessary tools and implements, to enter upon any of the lands, streets and other places mentioned in the third section of the act hereby amended, to do and transact all necessary acts, matters and things in the said section contained, relative to the said aqueducts and conduits, and supplying the said village with pure and wholesome water, according to the true intent and meaning of the said act hereby amended, doing as little da- Improve ments

Proviso

mage thereunto as possible, and repairing and mending any breaches or other injury they make and commit to such lands, streets, lanes, alleys, public grounds, turnpike roads or highways : *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 trustees of said village 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 village, under oath or affirmation, to be appointed by a judge of the county court of said county of Herkimer, not residing in said village of Little Falls, on the application of the said board of managers or the party aggrieved ; which damages when so 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 to pay by the said company, have his action of debt in any court of competent jurisdiction in this state.

Tax

4. *And be it further enacted*, That it shall and may be lawful for the said association or company, by their agents the said board of managers to impose on the inhabitants of the said village, who shall use the water brought into the said village by said company, such an annual rate or tax as shall be deemed just and reasonable therefor, which said rate or tax shall be assessed, levied and collected in the following manner, to wit : it shall be the duty of the said assessors to be appointed by the said board of managers according to the provisions of this act, within fifteen days after every annual election of charter officers according to the foregoing provisions, each and every year, to assess upon each and every inhabitant of the said village using the water of the said company, such rate or tax as may be deemed just and reasonable, taking into consideration the quantity of water used and consumed by such inhabitant, and also, the convenience thereof for such use and consumption to such inhabitant ; and that the said assessors shall make an assessment list or roll of their said rate or tax, containing the names of the said inhabitants by them assessed, and the amount of the rate or tax imposed by them, and within five days after the expiration of the said fifteen days, shall file the same with the clerk of the said company, signed by the said assessors or any two of them ; and if any such inhabitants or inhabitant shall feel themselves, himself or herself aggrieved by the said assessment in manner aforesaid made, it shall and may be lawful for such inhabitant within ten days thereafter, to appeal from such taxation or assessment, to three of the justices of the peace of the said county, residing nearest to, and not in said village, who shall not be stockholders of the said company, whose duty it shall be forthwith to confirm, alter or reduce the said assessment in such manner as to them shall be deemed just and equitable under all the circumstances of the case, and whose decision thereon shall be final in the premises ; and that if the said assessment shall be confirmed, then the person appealing therefrom shall pay to the said justices their reasonable charges, and if the said assessment shall be reduced, then the said company shall pay such charges : *Provided*, That the said charges of the said justices shall not in any one case exceed the sum of three dollars.

5. *And be it further enacted,* That at and after the expiration <sup>When con-
firmed</sup> of the said ten days all the said assessment, rate and tax made and assessed according to the provisions of the next preceding section, which is not appealed from, shall be deemed and taken to be confirmed, and shall not then be subject to be reduced or altered in any manner whatever; and if any of the inhabitants of the said village, using the said water of the said association or company, shall neglect or refuse to pay such rate or tax as shall be imposed as aforesaid for the use of the said water, by and for the space of three days after the demand made at his, her or their store, grocery, shop or dwelling-house or last place of residence, it shall be the duty of the collector of the said association or company, immediately thereafter, to enter complaint thereof in writing, to any justice of the peace of said county of Herkimer, who shall issue a warrant under his hand and seal, directed to any constable of the said county of Herkimer, 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 return the said warrant within ten days; for which services the said justice shall receive twenty-five cents, and the said constable shall receive the same fees as are allowed for like services, by the act entitled "an act for the better and more speedy recovery of debts of the value of fifty 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 the said constable shall be deemed liable to pay the said rate or tax and costs, and may be sued for the same by the said board of managers, in the name of the said company or association, in an action of debt in any court having cognizance thereof.

6. *And be it further enacted,* That the said assessors, when chosen or appointed in manner aforesaid, shall respectively, before they enter upon the duties of their respective offices, take and subscribe <sup>Assessors to
take an oath</sup> before a judge of the county courts of the said county, or any justice of the peace of said county, who are hereby authorised to administer the same, an oath or affirmation well and faithfully to execute their said office and trust, according to the best of their ability, skill and understanding, without partiality, which said assessors so elected, chosen and qualified, shall continue in their said office until others be duly chosen and qualified in their respective places; and the said board of managers may by ordinance, or by law, direct the same oath or affirmation to be in like manner administered to any of the agents or officers of the said association, or any other agent whom they may constitute and appoint in pursuance of this act.

7. *And be it further enacted,* That the clerk of the said company or association, in addition to the duties prescribed by the act <sup>Duty of the
clerk</sup> hereby amended, shall 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 said board of managers, 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 and shares of in and to the stock, real and personal estate of the said company, or to the said conduits or aqueducts, according to such rule or by-law as the said board of managers shall or may hereafter prescribe and direct for that purpose, and shall also duly enter in the same book every transfer and assignment made or hereafter to be made of any right or share of, in or to the same stock, real and personal estate, or to the same conduits or aqueducts, according to such rule or by-law as the said board of managers may hereafter direct and prescribe 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 after the passing of this act, until the evidence of his right or share shall be entered as aforesaid; and the treasurer of the said association or 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 aforesaid directions of the said board of managers or of the stockholders; and the said treasurer, clerk, superintendent and collector shall likewise do, perform, and transact all other duties, matters and things committed to them respectively by any law, rule or ordinance to be made in pursuance of this act, or in pursuance of the act hereby amended, by the said board of managers or by the stockholders of the said company.

Trustees may
take stock

8. *And be it further enacted*, That the trustees of the village of Little Falls for the time being, shall be at liberty, at any time, to subscribe for and have four shares of stock in the said association or company, or any less number; and if the trustees of the said village for the time being, shall not think proper to subscribe for and have any shares of stock in the said association, then the said company or association shall not be held in any manner liable to supply the reservoirs constructed by the corporation of the said village for the purpose of aiding and assisting in extinguishing fires in the said village, without a just and fair equivalent therefor, to be paid by the corporation of said village.

Springs and
streams may
be leased

9. *And be it further enacted*, That the said board of managers be, and hereby are authorised to bargain for, purchase or lease any springs, wells or fountains of water, and so much land as shall be sufficient and necessary for the use and preservation thereof, and of their works and improvements for supplying the inhabitants of said village with wholesome water, and to receive and take title therefor, by deed or lease from the owner or owners of such springs, wells, fountains of water and land; and if any person or persons whatever, shall wilfully trespass or do any damage whatsoever to the said springs or fountains belonging to the said company or association, or to the lands that are adjoining to or about the said springs and fountains, and appropriated as aforesaid, for the protection and preservation thereof, or shall do any act whatever, whereby any of the works of the said association or 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 association, treble the amount of the damages, to be recovered by the said aqueduct association in the village of Little Falls, for their own use, with costs of suit by an action of debt in any court of this state

having cognizance thereof: *Provided* it shall not be lawful for the said association to deprive any person of the use of any fountain or stream of water to which they were legally entitled before the passage of this act.

10. *And be it further enacted*, That the said corporation or board of managers shall not use any of the funds of the said corporation, or be engaged in any banking or insurance operation, or the issuing of any paper intended as a circulating currency, or the purchasing, discounting or loaning of any money, bonds, bills or negotiable paper whatsoever. Banking & prohibited

11. *And be it further enacted*, That this act is hereby declared to be a public act, and that the same be construed in all courts and places, favorably and benignly for every beneficial purpose therein contained. A public act

12. *And be it further enacted*, That the legislature may at any time hereafter alter, modify or repeal this act. Right to repeal

CHAP. 190.

AN ACT to authorise the Supervisors of the County of Genesee, to raise money advanced by the Commissioners to complete the building of a Bridge over the Tonawanta Creek.

Passed April 14, 1826.

1. *BE it enacted by the People of the State of New-York, represented in Senate and Assembly*, That the board of supervisors of the county of Genesee be, and they are hereby authorised at their next annual meeting, to direct to be assessed, levied and collected upon and from the freeholders and inhabitants of the town of Batavia, in the said county, the sum of three hundred dollars in the same manner that the other monies and contingent charges of the said town are by law assessed, levied and collected; and it shall be the duty of the collector of the said town of Batavia to pay the money hereby directed to be collected, to Ephraim Towner, Ebenezer Mix and Nathan Follètt, the commissioners appointed in and by an act entitled "an act to authorise the supervisors of the county of Genesee, to raise money to build a bridge over the Tonawanta creek in the town of Batavia," passed April 1, 1824, whose duty it shall be to account for the faithful expenditure of the same with the said board of supervisors, according to the provisions of the act above referred to. \$300 to be raised by tax

2. *And be it further enacted*, That in addition to the above sum authorised to be raised, the said supervisors are hereby authorised to cause to be assessed, levied and collected as aforesaid, upon and from the said freeholders and inhabitants, an additional sum, equal to the interest of the said three hundred dollars, from the time the same was expended by the said commissioners, and which shall be equal to the loss which the said commissioners can make. it appear to the said supervisors they have sustained in consequence of the same not having been collected in pursuance of an act of the legislature in relation thereto, passed April 13, 1825. Additional sum to be raised