

L A W S
OF THE
STATE OF NEW-YORK.
PASSED AT THE
SEVENTY-FOURTH SESSION
OF THE
LEGISLATURE:

THE REGULAR SESSION BEGUN THE SEVENTH DAY OF JANUARY
AND ENDED THE SEVENTEENTH DAY OF APRIL, 1851,
AND THE SPECIAL SESSION BEGUN THE TENTH DAY OF JUNE AND
ENDED THE ELEVENTH DAY OF JULY, 1851, AT ALBANY.

[N. B. The Laws passed at the Special Session commence on Page 483.]



ALBANY:
PRINTED BY CHARLES VAN BENTHUYSEN,
FOR
GOULD, BANKS & CO., 475 BROADWAY, ALBANY;
AND
BANKS, GOULD & CO., 14 NASSAU ST., NEW-YORK
1851.

generally; the books, papers and business of said corporation shall be open and subject to the examination of such person or persons, and the trustees, officers and clerks thereof, or any other person, may be examined on oath by such person or persons, and said court may confer such further powers on the person or persons so appointed, as they may consider necessary for the more thorough and perfect examination of the affairs and business of said corporation. The said person or persons so appointed shall report the result of their investigation to the said court, who, if satisfied thereby that any officer, trustee or servant of said corporation has been guilty of any fraud or misconduct, may remove such person or persons, and make such further order, and take such further measures for securing the funds and property of said corporation as the said court shall deem expedient.

§ 14. The corporation hereby created shall be subject to the provisions of the eighteenth chapter of the first part of the Revised Statutes, as far as the same are applicable; and the legislature may at any time alter, modify or repeal this act.

§ 15. This act shall take effect immediately.

Chap. 325.

AN ACT to incorporate the *Ishua Hydraulic Company*.

Passed June 30, 1851.

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

- Title. § 1. Edward Shearer, Rufus L. Whitcher, Rufus Mixer, Ira Winslow, and Jerome B. Jewel, and their associates, who shall become stockholders with them, are hereby constituted a body corporate, by the name of the "Ishua Hydraulic Company."
- Capital stock. § 2. The capital stock of said company, shall be two thousand five hundred dollars, to be divided into shares of twenty-five dollars each.
- Books of subscription. § 3. Books of subscription for the capital stock of said corporation, shall be opened under the direction of the directors hereinafter named, subject to such rules and regulations as they shall prescribe. The stock shall be considered personal property.
- Board of directors. § 4. The concerns of said corporation shall be managed by five directors, who shall be stockholders and residents

of the town of Machias, in the county of Cattaugus, and who shall hold their offices for one year and until others are chosen in their places. The directors shall be annually elected on the first Tuesday of April, at such time of day and place at Machias Five Corners, as the directors for the time being shall appoint. The first election shall be held on the first Tuesday in April, one thousand eight hundred and fifty-two. Two weeks notice of such election shall be given by a written notice posted in three of the most public places at the said Machias Five Corners. At every annual election, each stockholder shall be entitled to 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, ^{Officers.} treasurer, and secretary, and such other officers as they shall deem necessary, who shall hold their offices until the next annual election. The president shall be chosen from among the stockholders for the 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 said company, so far as respects the use and preservation of 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 said town of Machias, or any other town of the said county adjoining the same. No such rule, regulation, or by-law, shall take effect until two weeks after its adoption by said directors and until two weeks after copies are posted in three public places at Machias Five Corners. 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 the same, shall be presumptive evidence of any such rule, regulation, or by-law, and the time and places of posting copies thereof.

§ 6. The directors may demand payment from the stock-^{Payment on stock.}holders of moneys due on their respective subscriptions to the capital stock, in such proportions, and at such times, to be prescribed in their by-laws, as they shall see fit, under pain of the forfeiture of the shares and all previous payments thereon to the corporation. The said corpora-

tion may also sue for and recover all subscriptions to the capital stock.

First direc-
tors.

§ 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 Tuesday in April, eighteen hundred and fifty-two, and until others are elected in their places; and

Vacancies.

in case of a vacancy in the office of director, by reason of death, resignation, or removal from the said town of Machias, or ceasing to be a stockholder, the vacancy may be filled by the remaining directors until the next annual election, and until some other person be chosen to fill the same.

Lands to
be taken.

§ 8. For the purpose of supplying the said place of Machias Five Corners with pure and wholesome water, it shall be lawful for the said corporation and their directors and agents, to enter into and upon the lands, streams, lakes or springs within the county of Cattaraugus, belonging to any person or persons, and to take the water therefrom and divert and convey the same to any part of Machias Five Corners aforesaid; 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, before the same shall be taken possession of or used by the said company for the purposes aforesaid, 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; and 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 under any legal disability to contract, or out of the state, the lands or other property intended to be taken for the purposes 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, showing the place from which the water is to be taken, and the track and direction in which it is intended that such water 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 devices, upon which map the land of every such owner shall be designated; which map shall be signed by the surveyor making the same, and by the president of the said company and filed in the office of the clerk of the said town of Machias.

The said company, by any three of its officers, and their surveyors and servants, may enter upon any lands for the purpose of making any examination and survey, doing no unnecessary damage.

§ 9. In all cases where the said company do not agree with the owners of any lands 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 said county of Cattaraugus, on ten days previous notice, to be served on such persons and in such manner as the county judge shall direct, for the appointment of three commissioners, none of whom shall be residents of the town of Machias, or interested in the matters determined by them, who shall determine what land and water may be taken for the purposes of this act, and the damages to be sustained by the owner or owners of any land or other property so to be taken by said company. 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. The said commissioners, before they enter on their duties, shall take an oath, well and faithfully to discharge their duties as such commissioners, and shall fix a time and place of meeting, to determine what land and waters may be taken for the purposes of this act, and cause notice of such meeting to be served on all resident owners at least fifteen days prior to the day fixed by them; they shall appraise the value of the lands and waters so to be taken, and the damage sustained by the owner thereof, and award to such owner a just compensation for the property taken; and said commissioners shall thereupon make under their hands and seals, a report containing a description of the land, and other property taken, and also the award or awards that they shall make, and shall acknowledge the same before some justice of the peace of Cattaraugus county which report and the affidavit or affidavits of the service of notice of the time and the place of appraisal upon the owners of the lands and property appraised, shall be recorded in the office of the clerk of Cattaraugus county, 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 each commissioner the sum of two dollars per day for every day spent in the performance of his said duties.

Land dam-
ages how
ascertained.

§ 10. The said company or any party to the proceedings before the said commissioners, may appeal from any

Appeal.

determination or award of the said commissioners, to the county court of Cattaraugus county, provided the party appealing, within twenty days after such determination or award shall be made known to him, shall give notice of the appeal to the other party, the said court shall proceed to hear such appeal and may confirm or reverse the proceedings of the commissioners and may increase or diminish the amount of compensation awarded by them, or may order a new appraisement.

Award and its effects.

§ 11. Upon the payment or legal tender to the persons entitled to receive the same, of the compensation awarded by the said commissioners, (or in case of appeal, by the said court) the said company shall be deemed to be seised in fee simple of the lands and other property taken for the purposes contemplated by this act, and for which compensation shall have been paid or tendered as aforesaid. If any person to whom compensation shall have been awarded as aforesaid, cannot upon due inquiry be found, or shall be under any legal disability to contract, then the payment of such compensation shall be made to the county treasurer of Cattaraugus county, who shall hold the same in virtue of his office, for the benefit of such person, subject to the order of the said court; and every payment so made by said company shall have the same effect as if made or tendered to the individual in person to whom compensation shall have been awarded as aforesaid, and he or she were competent to contract.

Tenure by which land is to be held.

§ 12. The said company shall also be deemed seised in fee simple of all lands or other property they may acquire by purchase, and shall be entitled to hold the same for the purposes contemplated by this act forever. Any title acquired by the said company to any lands, shall not prevent the occupation thereof by the person or persons, of whom such title shall have been acquired, their heirs or assigns, in any manner not inconsistent with the purposes of this act; but such occupant shall have no right to do any act which shall or may injuriously affect the quality or quantity of water, which may or might be conducted to the said Machias Five Corners by the said company.

Conduits how 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 town of Machias, putting such road, street or highway in as good condition as the same was before such conduits were laid, and without unnecessary delay.

Territory to be supplied with water.

§ 14. The territory to be supplied with water in pursuance of this act, shall embrace a circle of three-fourths

of a mile, the centre of which shall be that point in the Franklinville road which is intersected by the Ellicottville road in the town of Machias, designated as Machias Five Corners.

§ 15. The said company may make any agreements, ^{Sale and distribution of water.} contracts, grants and leases for the sale and distribution of water within the limits specified in the last section, that may be agreed upon between the said company and any individuals or associations, which agreements, contracts, grants and leases shall be valid and effectual in law.

§ 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. ^{Penalty for trespass.}

§ 17. The indebtedness of said company shall not, at any time, exceed an amount equal to fifty per cent of its actual capital stock; and if it shall at any time exceed that amount, the directors of the said company shall be personally liable for such excess to the creditors of the said company, provided that the same cannot be collected of the company. ^{Debts of company.}

§ 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 business within one year from the passage of this act.

§ 20. This act shall take effect immediately.

Chap. 326.

AN ACT to amend the charter of the village of Havana.

Passed June 30, 1851, "three-fifths being present."

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

§ 1. The trustees of the village of Havana are hereby authorized to change and straighten the channels of the creeks leading into said village, and to cause the expenses thereof to be levied, assessed and collected from the taxable property within said village in the same manner as other taxes for the ordinary expenses of said village are levied and collected. ^{Channels of creeks may be straightened.}