

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.



TROY:

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1849.

Chap. 424.

AN ACT to authorize Edward Mitchell to build a dock in the town of North Hampstead, in Queens county.

Passed April 11, 1849.

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

§ 1. It shall be lawful for Edward Mitchell, of the town of North Hampstead, in Queens county, his heirs and assigns, to erect and maintain a dock adjoining his lands in the said town of North Hampstead; said dock to be built from the corner of the slip at the northerly end of Plandome Mills, and to extend the same for the distance of sixty rods in a northerly direction into Cow bay, and to receive from all persons using the same reasonable wharfage and dockage therefor; but the rates of wharfage and dockage to be received shall at all times be subject to regulation by the legislature, in such manner as shall be deemed just.

Dock may be erected.

Chap. 425.

AN ACT in relation to the Oneida Lake canal.

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. The canal commissioners are hereby authorized to purchase sufficient land along the left bank of Wood Creek below where the Oneida Lake canal enters the same for a towing path for the canal where it occupies said creek, and to pay for said lands from any funds which may be on hand for the payment of damages for taking lands for canal purposes.

Land may be purchased.

§ 2. This act shall take effect immediately.

Chap. 426.

AN ACT to incorporate the Watertown Waterworks 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. Loveland Paddock, Timothy Dewey, Frederick W. Hubbard, N. M. Woodruff, and Orville Hungerford, and all such persons as may be hereafter associated with them, are constituted a body corporate by the name of the "Watertown Waterworks Company."

Corporation created

Capital
stock.

§ 2. The capital stock of said company shall be fifty thousand dollars, to be divided into shares of fifty dollars each, which stock shall be considered personal property and shall be assignable and transferable on the books of the company.

Subscrip-
tions to
stock.

§ 3. A majority of the persons named in the first section of this act, shall meet at the American, in the village of Watertown, on the first Monday of May next, (or such other day as they may select,) upon giving four weeks notice in two newspapers printed in said village, and receive subscriptions to the capital stock of said company, and may adjourn such meetings from time to time until the whole amount of such capital stock shall be subscribed, and in case more than the number of shares authorized by this act shall be subscribed, they shall apportion the same amongst the subscribers as they shall think best for the interest of the company.

Election of
directors.

§ 4. The concerns of said corporation shall be managed by five directors, who shall be stockholders, three of whom shall constitute a quorum for the transaction of business, and who shall hold their offices for one year and until others are chosen in their places. The directors shall be chosen annually, in the village of Watertown, on the first Monday of May, at such time of day and place in said village, as the directors for the time being, shall appoint. The first election shall be held on the first Monday of May, eighteen hundred and fifty; three weeks notice of such election shall be given by a publication at least once in each week, in two newspapers published in said village, each stockholder shall be entitled to one vote upon each share of stock held by him or her for at least ten days previous to an election: voting shall be by ballot and may be in person or by proxy.

Officers to be
appointed.

§ 5. The directors shall annually appoint a president, secretary and treasurer, and such other officers as they shall deem necessary, who shall hold their offices until others are appointed in their places, and they may make and ordain such by-laws and regulations as they may deem necessary and proper for the management of their business, and for accomplishing the purposes of the corporation, not contrary to the constitution or laws of the state.

Calls on
stockholders

§ 6. The directors may require payment of subscriptions to the stock at such times and in such proportions as they may see fit, under the penalty of forfeiting all stock and previous payments thereon, and may sue for and recover all such subscriptions. Notice of the time and place of such payment shall be published for two weeks previous to said time, at least once, in each week, in two newspapers published in said village.

First direct-
ors.

§ 7. The persons named in the first section of this act, shall be the first directors, and shall hold their offices until the first Monday of May, one thousand eight hundred and fifty, and until others are chosen in their places, and in case of vacancy in the direction by reason of the death or resignation of any director, or of his ceasing to be a stockholder, it may be filled by the remaining directors until the next annual election, or until some other

person shall be elected to fill the same. The directors herein named, may appoint three persons, who shall be stockholders, to be inspectors at the first election, after which the stockholders shall choose three such inspectors at the annual elections. If no inspectors are chosen, the directors may appoint them from time to time. The directors may remove all officers appointed by them, and appoint others in their places, and fill all vacancies in the offices. If at any time an election of directors does not take place on the day appointed by this act, the corporation shall not for that cause be dissolved, but an election may be held on any other day, in such manner as shall be prescribed by the directors, or provided for by the by-laws, four weeks previous notice having been given in some newspaper printed in said city.

§ 8. For the purpose of supplying the said village of Water-town with pure and wholesome water, said company may purchase, take and hold any real estate necessary for the purpose, and by their directors, agents, servants, or other persons employed, may enter upon the lands of any person or persons' which may be necessary for said purpose, and may take the water from any springs, ponds, rivers, fountains or streams, and divert and convey the same to said village, and may lay and construct any pipes, conduits, aqueducts, wells, reservoirs, or other works or machinery necessary or proper for said purpose, upon any lands so entered upon, purchased, taken or held. Said corporation may, as aforesaid, enter upon any lands, streets, highways, roads, lanes, or public squares, through which they may deem it proper to carry the water from said springs, fountains, ponds, rivers, streams, wells and reservoirs, and lay and construct any pipes, conduits, aqueducts, or other works for that purpose, leaving the said lands, streets, highways, roads, lanes, and public squares in the same condition, as nearly as may be, as they were before said entry; but the said company shall not, within the bounds of the said village, lay and construct said pipes, conduits, aqueducts and other works, through any private garden, court yard, or building lot, without the written consent of the owner thereof.

§ 9. Before entering, taking or using any land or water for the purposes of this act, the directors of said company shall cause a survey and map to be made of the lands intended to be taken or entered upon, for any of said purposes, and by which the land of each owner and occupant intended to be taken and used, shall be designated, and which map shall be signed by the surveyor or engineer making the same, and by the president of said company, and be filed in the office of the clerk of the county of Jefferson. The company by any of its officers, agents, or servants, may enter upon any lands for the purpose of making any examination and of making said survey and map, doing no unnecessary damage.

§ 10. In case the said company can not agree with the said owners and occupants of any lands or water intended to be taken or used as aforesaid, for the purchase thereof, the directors may apply to any court of record at any term or session thereof, held

Their power.

Real estate may be purchased, take and held.

Surveys and maps to be made.

Provision in case of disagreement with owners.

in the fifth judicial district, for the appointment of three commissioners, by whom the compensation to be paid for the damages suffered or to be suffered by any person or persons, by reason of taking said lands and water and constructing any of the works of said company, shall be ascertained and determined; and in case of the death, resignation, refusal or disability to act, of any of the said commissioners, the said court may appoint others in their places. The commissioners shall cause a notice of at least twenty days, of the time and place of their meeting, to be served upon owners of said land and water as can be found in this state, which may be served personally, or, in their absence from their dwellings or places of business, by leaving the same thereat with some person of suitable age: and in case of any legal disability of such owner to act, then, upon serving notice in like manner upon his guardian or person appointed to act for him, as hereinafter directed; and in case any of said owners can not be found in this state, such notice shall be given to them by publishing the same for six weeks successively in two newspapers published in said village, and if any of said owners be married women, insane, infants or idiots, the said court shall appoint some suitable person to attend in their behalf before said commissioners, and take care of their interests in the premises. The commissioners may issue subpoenas to compel the attendance of witnesses to testify before them, and they, or any one of them, may administer the usual oath to such witnesses. They shall make a written report of all their proceedings, containing the testimony taken by them, and showing the sum awarded to each owner or other person, and return the same to said court, to be filed of record. The company shall pay to each commissioner the sum of three dollars per day, for every day necessarily spent by him in the performance of his duties under this act, and to each witness sworn and testifying, or if not sworn and testifying, who the commissioners shall certify were properly and necessarily subpoenaed, the sum of fifty cents per day, and four cents per mile travel, going and returning, if living more than three miles from the place of meeting.

Right of appeal.

§ 11. The said company, or any party to the proceedings of the commissioners, may appeal from any award or determination of the commissioners, providing the party appealing shall, within ten days after any such award or determination shall be made, give written notice of the appeal to the other party or parties interested in the same, and the said court shall examine the report of the commissioners, and if their proceedings in the case have been irregular, the court may set the same aside and order new proceedings and appraisement, and the said court may make such orders in reference to the proceedings of the commissioners and of notices to be given to parties, as may not be inconsistent with this act and as the nature of the case and the interest of the parties may require; and the said commissioners shall again examine the case, and their decision then made shall be final. If at any time after an attempted or actual ascertainment of compensation

under this act, or any purchase of any lands or water for the use of said company, the title acquired to all or any part of said land or water shall fail or be deemed defective, the said company may proceed anew to perfect such title, by procuring an ascertainment of the compensation proper to be made to any person or persons whose title, claim or interest in or lien upon such lands, shall not have been compensated and extinguished according to law, and by making payment thereof in the manner heretofore provided, as near as may be.

§ 12. Upon the payment or legal tender of the compensation determined as before provided, the said company shall be entitled to enter upon for the purposes contemplated by this act, all the lands, waters and real estate for which such compensation shall be paid or tendered as aforesaid, and to hold and use the same for the said purposes to them and their successors forever. If any person to whom any compensation shall be awarded, or who shall be entitled to the same by virtue of said award, can not be found, or shall refuse to receive the sum awarded to him, then the said payment may be made by depositing the amount of the said award to the credit of said person in such bank as may be appointed by said court; a certificate of such deposit, signed by the cashier of the bank, shall be published by said company in two newspapers published in said village, for four weeks successively, immediately after said deposit. If the person to whom compensation is awarded, or who is entitled to receive the same as aforesaid, be under legal disability as aforesaid, payment may be made to his guardian or person appointed as aforesaid by the said court, and if said guardian or person appointed can not be found, then by deposit in bank as aforesaid.

Land when to be taken possession of.

§ 13. The said company shall also take and hold for the purposes contemplated by this act, all the lands, waters and real estate, which they shall in any way legally enter upon and take by virtue hereof, to them and their successors forever.

Lands and waters may be held.

§ 14. In laying pipes, conduits or aqueducts, or constructing or erecting works in the streets, lanes, or public squares of the village, the company shall conform to such regulations as the trustees thereof shall prescribe.

Pipes, &c., how laid.

§ 15. The directors of said company may establish rules and regulations for and concerning the use of the water from their works, so as to preserve the same from waste, and may thereby impose penalties and forfeitures for any violation of said rules and regulations, so that said penalty or forfeiture shall not in any case exceed fifty dollars; which penalties may be recovered from the person or persons violating the said rules, with the costs, in the name of the company, before any justice of the peace of said village; said rules and regulations shall be published for three weeks successively in two newspapers published in said village, and a copy of said rules and regulations, certified by the president or secretary of said company, with affidavits of said publication of the same, made by any one of the publishers of said papers,

Rules may be established concerning the works.

or by a foreman in their offices, shall be received as evidence in all courts and places: provided the same shall have been duly recorded in the clerk's office in the county of Jefferson.

Water to be furnished to extinguish fires.

§ 16. Said company shall furnish water to the trustees of the said village for extinguishing fires and other purposes, upon such terms as may be agreed upon between the said trustees and the company; and in case they can not agree, either said trustees or said company may apply to the supreme court, as provided in section ten of this act, for the appointment of three commissioners, who shall prescribe the terms upon which water shall be furnished; and said company shall furnish water upon the terms so prescribed for the period of three years, at the expiration of which time a new commission may be applied for by either the trustees or the company, and thereafter once in three years, a like application may be made.

Penalty for injuries.

§ 17. 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 guilty of a misdemeanor, and may be punished by fine or imprisonment, or both, in the discretion of the court.

General powers.

§ 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.

Liabilities of stockholders.

§ 19. All the stockholders of the company hereby created, shall be severally and individually liable to the creditors of said company, to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by said company, until the whole amount of the capital stock shall be paid in and a certificate thereof shall be made and recorded as prescribed in the following section.

Certificate to be made and filed.

§ 20. The president and a majority of the directors, within thirty days after the payment of the last instalment of the capital stock, shall make a certificate of the amount of the capital fixed and paid in, which certificate shall be signed and sworn to by the president and a majority of the directors, and shall within thirty days be recorded in the clerk's office of Jefferson county.

Liabilities for debts.

§ 21. The stockholders of said company shall be jointly and severally liable for all debts that may be due and owing to all their laborers and servants, for services performed for said company.

Restriction.

§ 22. The indebtedness of said company shall not at any time exceed an amount equal to fifty per cent of its capital stock, and if the indebtedness of said company shall at any time exceed such amount, the directors of said company assenting thereto shall be personally and individually liable for such excess to the creditors of said company.

Provision relative to stock held by executors &c.

§ 23. No person holding stock in said company as executor, administrator, guardian or trustee, and no person holding such stock as collateral security shall be personally subject to any liability as

a stockholder of said company, but the person pledging said stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee, shall be liable in like manner, and to the same extent as the testator or intestate, or the ward or person interested in such fund would have been if he had been living and competent to act and held the stock in his own name. Every such executor, administrator, guardian or trustee, shall represent the shares of stock owned by him as administrator, guardian or trustee, at all meetings of the company, and may vote as a stockholder; and every person pledging his stock as aforesaid, may in like manner represent the same and vote accordingly.

§ 24. No stockholder shall be personally liable for the payment of any debt contracted by said company, which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of said debt shall be brought against said company within one year after the debt shall have become due, and no suit shall be brought against any stockholder who shall cease to be a stockholder in said company for any debt so contracted unless the same shall be commenced within two years from the time he shall have ceased to be a stockholder in such company, nor shall any suit be brought against any stockholder until an execution against the company shall be returned unsatisfied in whole or in part.

§ 25. In case said company shall not go on and furnish a sufficient supply of water for the use of said village as provided for in the sixteenth section, within two years from the passage of this act, and continue to furnish a sufficient supply, the trustees of said village may give two years written notice to said company to furnish the same, or that application will be made to the supreme court for the appointment of three commissioners as provided in the tenth section of this act, and in case said company shall continue to neglect to furnish said supply until the expiration of said notice, then the property of said company shall be appraised in the manner provided in said tenth section, and upon the payment by said trustees to said company, of the sum so determined, then the said trustees in behalf of the corporation of said village shall become the owners of said property so appraised, and paid for, and be possessed of all the powers given by this act to the said company.

§ 26. This act shall take effect immediately.