

JANUARY, 1864.

119922

No. 10. AN ACT TO INCORPORATE THE PROVIDENCE WATER COMPANY.

*It is enacted by the General Assembly as follows:*

SECTION 1. Amos D. Smith, Albert S. Gallup, Wm. Whitaker, Henry W. Gardner, B. Mathewson and Charles Morris Smith, their associates and successors, are hereby made a Corporation by the name of the Providence Water Company, for the purpose of supplying the city and citizens of Providence and the suburbs thereof with water; with all the powers and privileges, and subject to the duties and liabilities of Manufacturing corporations, as set forth in chapters 125 and 128 of the Revised Statutes and of the statutes in amendment thereof and in addition thereto.

SEC. 2. The capital stock of said corporation shall be one million dollars, to be divided into shares of one hundred dollars each. Said shares shall be transferred in such manner as shall be prescribed by the by-laws of said corporation.

SEC. 3. The stock or shares of every stockholder shall be pledged and liable to the corporation, for all debts and demands due and owing from such stockholder to the corporation; and whether overdue or due at a day future, and whether arising from assessments or installments or from any contract originally made with said corporation in any other manner; and said stock or shares may be sold for the payment of such debts and demands in such manner as the by-laws of the corporation may prescribe; and in case the proceeds of such sale shall be insufficient to discharge said debts or demands, the corporation may have their action against the debtor for the balance due.

SEC. 4. For the purposes aforesaid, said corporation may draw water by means of steam or water power, or by the natural flow thereof, from any point on the Ten Mile River, so called, in the towns of Pawtucket and East Providence, or from any pond or reservoir connected with said river or any of its tributaries; and may convey the water so drawn, into the reservoir or reservoirs, to be erected by said corporation in said city of Providence or its vicinity, by means of aqueducts, conduits or pipes, through, under, over or across any river, pond, street, bridge, railroad highway or other way, in such manner as not to obstruct or impede navigation or travel thereon; and may, with the consent of the City Council of said City, and upon such terms and conditions as said City Council may prescribe, open the ground in any part of the streets, lanes and highways in said city, for the purpose of laying and repairing pipes to distribute the water of said corporation from said reservoir or reservoirs; and, for said last mentioned purpose, may also, with the consent of the Town Councils of the towns to which the same may belong, open the ground in any part of the streets, lanes and highways of the suburbs of said city.

SEC. 5. Said corporation is hereby authorized and empowered to purchase, take and hold land, water and water rights, for the purpose of erecting, constructing

and making dams, ponds, reservoirs, canals, pumping-houses, aqueducts and other necessary structures and for obtaining a full supply of water and water power; and also to take and hold the land on and around the margin of the pond, to be formed by the dam or dams of said corporation, not exceeding five rods in width, measuring from the edge of said pond when the water shall be running over said dam or dams, so far as the same may be necessary for the preservation and purity of the water in said pond; said corporation shall pay all damages done or caused by the taking of land, water and water rights and by the construction of dams, aqueducts, reservoirs and other works under and for the purposes of this act; and in case the parties interested do not agree upon the damages to be paid therefor, the same shall be determined in a manner hereinafter provided. And, when the land, water or water-rights of any infant, or person non compos mentis, shall be necessary for said purpose, or such persons shall in any way be damaged, the guardian or guardians of such infant, or person non compos mentis, may convey the same and may release the damage the same as he or they might do if the same were holden by them in their own right respectively; *provided*, the same be done with the advice and direction of the Court of Probate of the town or towns in which the land, water or water rights is or are situate.

SEC. 6. The said corporation shall, within sixty days from the time they shall take any land, water or water rights, for the purposes of this act, place on record, in the town clerk's office of the town where said land, water or water rights may be situate, a description of the same as certain as would be required in a conveyance thereof, and a statement of the purpose for which the same is or are taken; which said description and statement shall be signed by the President or Secretary of said corporation. And if the parties damaged by the taking of any land, water or water-rights or by the construction of any dams, aqueducts reservoirs or other works under or for the purposes of this act as aforesaid, shall not agree upon the damages to be paid therefor, they may apply, by petition, for the assessment of the same at any time within two years from

the time the said damages were done or caused, and not afterwards, to the court of Common Pleas in and for the county of Providence. Such petition may be filed in the clerk's office of said court, in vacation or in term time, and the clerk shall thereupon issue a summons to said corporation, returnable, if issued in vacation, to the then next term of said court in said county, and if in term time, returnable on such day as the court shall order, to appear and answer to said petition; the said summons shall be served fourteen days, at least, before the return day thereof, by leaving a copy thereof and of the said petition certified by the officer who shall serve the same, with the President or Secretary of said corporation; and the said court may, upon default or hearing of said corporation, appoint three judicious and disinterested freeholders of said Providence county, who shall, after having been sworn to a faithful and impartial discharge of the duties imposed upon them, and after giving notice, in such manner as said court shall direct, to the parties, assess the damages, if any, which said petitioner or petitioners may have sustained as aforesaid; and the award of said commissioners or of the major part of them being returned into and accepted by said court, shall be final, and judgment shall be rendered and execution issued thereon for the prevailing party, with costs, unless one of said parties shall claim a trial by jury, in the manner provided in the following section.

Sec. 7. If either of said parties shall be dissatisfied with the damages awarded as aforesaid, such parties may, at the term at which such award was accepted, or the next term thereafter, claim in writing, a trial in said court, and have a jury to hear and determine, at the bar of said court, all questions of fact relating to such damages, and to assess the amount thereof; and the verdict of such jury, being accepted and recorded by said court, shall be final and conclusive, and judgment shall be rendered, and execution issued thereon. And if the party injured in his or her estate claim such trial, and fail to obtain any increase of damages, such party shall be liable for all legal costs arising after the entry of such claim; and if said corporation claim such trial, and fail to obtain diminution of said dam-

ages, it shall in like manner be liable for all legal costs arising after the entry of such claim; and said court shall enter judgment and issue execution thereon accordingly. In every case of a petition to said court by any person for the assessment of damages, said corporation may tender to the complainant, or his attorney, any sum that it shall think proper, or may bring the same into court, to be paid to the complainant for the land, water or water rights taken by said corporation as aforesaid, or for the damages which said complainant shall sustain by the action of said corporation; and if said complainant shall not accept the same, with his costs up to that time, but shall proceed in the suit, he shall be entitled to his costs up to the time of the tender or the payment into court as aforesaid and not afterwards, and said corporation shall be entitled to recover its costs after the time of such tender or payment into court, unless said complainant shall recover greater damages than were so offered by said corporation. No application shall be made to said court for the assessment of damages for the taking of any water or water rights until the water shall be actually withdrawn or diverted by said corporation as aforesaid; and any person whose water rights may be thus taken or affected as aforesaid, may make his application as hereinbefore provided, at any time within two years from the time when said water shall be first actually withdrawn or diverted as aforesaid.

Sec. 8. Whenever any person shall be damaged by said corporation as aforesaid, and such person shall neglect to institute proceedings against said corporation, according to the provisions of this act, for the space of six months, it shall be lawful for said corporation to commence such proceedings, which shall go on and be determined, in the same manner as if commenced by such person. And if such person on receiving due notice, as said court shall direct, shall not come in and prosecute the proceedings so instituted, judgment shall be entered against such person, and he shall be forever barred from recovering any damages under this act.

Sec. 9. Said Corporation shall have the right, at all reasonable and usual times, to enter into the houses of

any parties using the water of said corporation, for the purpose of examining the pipes, and the uses made of said water, and for the purpose of cutting off the water from any person who may waste the same, or make default in the payment of said water rates.

SEC. 10. The city of Providence shall have the right to draw water from hydrants for fire purposes, paying such yearly rental for every hydrant as may be agreed upon, and in case of disagreement, then as may be fixed by three commissioners appointed by the Supreme Court.

SEC. 11. If any person or persons shall wantonly or maliciously divert the water, or any part thereof, of any of the ponds, streams, or water courses which shall be taken by said corporation pursuant to the provision of this act, or shall corrupt the same or render it impure, or destroy or injure any dam, reservoir, aqueduct, canal, pipe, conduit, machinery or other property held, owned or used by said corporation, by the authority and for the purposes of this act, every such person or persons shall forfeit and pay to said corporation, three times the amount of damages that shall be assessed therefor, to be recovered by any proper action. And every such person or persons may, moreover, on indictment and conviction of either of the wanton and malicious acts aforesaid, be punished by a fine not exceeding one thousand dollars, and imprisonment not exceeding one year.

SEC. 12. There shall be an annual meeting of the stockholders of the said corporation in the city of Providence, at such time as the by-laws shall prescribe, for the choice of officers, and for such other business as may come before them; but the validity of this act shall not be impaired by the failure to hold such meeting, but the business of such meeting may be transacted at any legal meeting of the corporation held thereafter. Said corporation shall have a President, Treasurer and Board of Directors, and such other officers as the stockholders shall determine, and the President and Treasurer and a majority of the directors and other officers shall be inhabitants of this State.

SEC. 13. If the stock shall not have been subscribed for and the corporation organized previous to the first

day of April, A. D. 1866, or if the said corporation stock being so subscribed and the corporation organized, shall not complete their works so far as to furnish water in the city of Providence on or before the first day of April, A. D. 1869, this act shall be void and of no effect.