

STATE OF NEW-JERSEY.

An ACT to incorporate the Contributors to the Society for establishing useful manufactures, and for the further encouragement of the said Society.

[Continued from page 48.]

Sec. 17. And whereas it may be necessary, for the beneficial extension of the aforesaid plan, to cut canals, and clear and improve the channels of rivers, the advantages of which will not be confined to the members of the said society, who ought therefore to be authorized to receive a reasonable toll to defray the expenses of improvements ultimately so valuable to the state: Be it enacted, That it shall be lawful for the directors of the said society, their engineers, artists and labourers, to enter upon and survey all such land, and land covered with water, as shall appear to them most practicable and convenient for effecting navigable canals, for the purpose of transporting goods, wares, and merchandizes, to and from some manufactory by them established, and also such parts of such rivers and other waters as they may propose to open and clear, doing as little damage to the grounds and enclosures as shall be possible; and thereupon shall certify to the governor of this state in writing, as well the courses and distances of any such canal as they may propose to cut, and of the part of any such river as they may propose to clear and open, as the width and probable depth thereof, and shall transmit with such certificate a draught or plan of such intended canal, or of the part of such river so intended to be cleared or opened: and in like manner shall certify to the said governor, from time to time, such alteration in the intended course of such canal as the quality of the ground or other causes may occasion; whereupon it shall be lawful for them, their engineers, artists and labourers, to enter upon all such land, and land covered with water, as shall be necessary for effecting such navigable canal or canals, or for opening or clearing such river or rivers, and to contract and agree with the owners of any lands and tenements for the purchase of so much thereof as shall be necessary for the purpose of making, digging and perfecting such canal or canals, or opening and clearing such river or rivers, and of erecting and establishing all the necessary locks, works and devices, to such navigation belonging; if they can agree with such owner or owners: But in case of disagreement, or in case the owner thereof shall be feme covert, under age, non compos mentis, or out of the state, then it shall and may be lawful to and for the said directors to apply to two of the Justices of the Supreme Court of this State, who, upon such application are hereby authorized and empowered, enjoined and required, to frame and issue one or more writ or writs, as occasion shall require, in the nature of a writ ad quod damnum, to be directed to the Sheriff of the county in which such lands and tenements shall be, commanding him, that, by the oaths and affirmations of twelve good and lawful men of his bailiwick, who shall be indifferent to the parties, he shall inquire whether the person or persons, owning any lands and tenements necessary to be used by the said directors, or which may be injured in establishing the said canal or canals, or in opening or clearing such river or rivers, which person or persons shall be named, and which lands and tenements shall be described in such writ or writs, will suffer and sustain, and what damages by reason or means of taking any lands, tenements, mill, mill-pond, water, water-course or other real hereditament, necessary for the use of any such canal, or for the opening of the navigation of any such river, and the locks and works thereto belonging, and to return the same writ, together with the finding of the said Jury, to the next Supreme Court of this state after such finding, and upon such writ being delivered to the said Sheriff, he shall give at least twenty days notice in writing to all and every the owners of the lands and tenements, in the said writ described, or to so many of them as can be found, or to the agent or agents of such owners of the time of executing the same, and shall cause to come upon the premises, at the time appointed, twelve good and lawful men of his bailiwick, who shall be selected in such manner as struck Juries usually are, to whom he shall administer an oath or affirmation, that they will diligently inquire concerning the matters and things in the said writ specified, and a true verdict give according to the best of their skill and judgment, without favour or partiality; and thereupon the said Sheriff and inquest shall proceed to view all and every the lands and tenements in such writ specified, and having considered the quantity of land, and land covered with water, mills, buildings or other improvements, that shall be necessary to be vested in the said company for the purposes aforesaid, and any water course then existing, the use whereof will be necessary for the purposes aforesaid, they shall cause the same to be minutely and exactly described by metes and bounds, or other particular descriptions, and shall value or appraise the injury or damages, if any, which the owner or owners of the said lands, tenements, mills, water, water courses, buildings or improvements, will, according to their best skill and judgment, sustain and suffer by means of so much of the said lands and tenements being vested in the said company, or by means of such improvements being destroyed or rendered useless or of less value, or by means of the said company being permitted to turn such water to fill their canal and locks, or by means of said company being permitted to enlarge any mill-pond, mill-race, or other water-course, and to use the same as and for part of such canal and navigation, or by any other means whatsoever defining and ascertaining as well all such lands and tenements, liberties and privileges to be vested in the said company, as the several sums at which the said injuries and damages shall be so assessed; and the said Sheriff and Jury shall make an inquisition, under their hands and seals, distinctly and plainly setting forth all the matters and things aforesaid; and the Sheriff shall forthwith return the same, together with the said writ, to the officer of the Supreme Court, and at the first Supreme Court which shall be held next after the return of any such writ, the Justices of the said Court shall

examine the same; and if the said writ shall appear to have been duly executed, and the return thereof be sufficiently certain to ascertain the lands and tenements, rights, liberties, and privileges intended to be vested in the said company, and the several compensations awarded to the owners thereof, then the said Court shall enter judgment, that the said company, paying to the several owners as aforesaid the several sums of money in the said inquisition assessed, or bringing the same into the said Court over and besides the costs of such writ, and of executing and returning the same, shall be intitled to have and to hold to them and their successors and assigns forever, all and every the lands, tenements, rights, liberties, and privileges in the said inquisition described, as fully and effectually as if the same had been granted to them by the respective owners thereof: and if any return, so to be made, shall not be sufficiently certain, for the purposes aforesaid, the said Court shall award an inquisition de novo, and upon payment or bringing into court all such monies as by such judgement shall be required to be paid, or brought into Court, all such lands, tenements, rights, liberties and privileges, shall be fully and absolutely vested in the said corporation, which shall become seized and possessed thereof in like manner as the then late owner or owners was or were seized or possessed thereof. Provided always, That no greater quantity of land shall be in such writ directed to be set out, or shall be set out by any such Jury, than shall be sufficient for such canal and navigation, and to leave on each side of any canal intended to be cut, or water intended to be rendered navigable, a space or distance not exceeding two hundred and fifty feet, for the better maintaining and repairing of such canal and the locks, or other works, and buildings which it shall be necessary to erect and maintain, for the purpose of such canal or other navigable water.

18. And be it further enacted by the authority aforesaid, That, wherever such canal shall cross any public or private laid out road or highway, or shall divide the ground of any person into two parts so as to require a ford or bridge to cross the same, the Jury who shall inquire of the damages to be sustained, in manner herein directed, shall find and ascertain whether a passage across the same shall be admitted and maintained by a ford, or by a bridge, and, on such finding, the said directors shall cause a ford to be rendered practicable, or a bridge fit for the passage of carts and wagons to be built, and forever hereafter maintained and kept in repair, at all and every the places so ascertained by the said Jury, at the costs and charges of the said company: But nothing herein contained shall prevent any person from erecting and keeping in repair any foot or other bridge across the said canal at his own expence, where the same shall pass through his ground, provided the same shall be of such height above the water as shall be usual in the bridges erected by the company; and provided also, that such foot or other bridges, so to be erected by the owners of such land, shall not interfere with any of the locks, buildings, or other works of the company.

19. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said directors, their engineers, artists and labourers, with carts, wagons, wains, and other carriages, with their beasts of draft and burthen, and all necessary tools and implements to enter upon the lands contiguous or near to the said tract of such intended canal or canals, or to such parts of any river or other water, as they may propose to clear and render fit for navigation, and also to take and carry away any stone, gravel, sand or earth, there being most conveniently situate for making, repairing, or improving such canal or navigation, and the same to use in carrying on the said work, first giving notice of their intention to the owners of such lands, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be sustained by the owners of such ground, according to a reasonable agreement with the owners, if they can agree, or, if they cannot agree, then according to an appraisement to be made upon the oath or affirmation of three, or, if they disagree, any two indifferent freeholders to be mutually chosen; or if the owners neglect or refuse to join in the choice, then according to an appraisement to be made upon the oath or affirmation of twelve good and lawful men of the bailiwick, to be summoned, sworn and impanelled, by virtue of a warrant from any one Justice of the supreme court of the state, or any one Justice of the peace in and for the county in which such lands may lie, who at the request of the said society or their lawful agent, is authorized and required to issue his warrant to the Sheriff of the said county, commanding him, that, by the oaths of twelve good and lawful men of his bailiwick, he make the said appraisement, and return the same forthwith under their hands and seals to the said Justice.

20. And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said directors, so soon as any mill, canal, or any part thereof shall be perfected, or any river shall be rendered navigable in any part where the same was not before navigable, to appoint such and so many collectors of tolls, for the passage of boats and vessels in, through and along the same, and at such places as they shall think proper; and that it shall and may be lawful to and for such toll collectors, and their deputies, to demand of all boats and vessels, and rafts of timber, boards, plank or scantling, passing through such canal, and the part of such river rendered navigable, and the locks thereto belonging, such tolls and rates, for every ton weight of the ascertained burden of the said boats and vessels, and for every hundred feet cubic measure of timber, and twelve hundred feet board measure of boards, plank or scantling in rafts, as the said directors shall think proper; provided, that the whole amount of such tolls and rates in one year shall not exceed fifteen per cent. on the sums expended in making and establishing such canal, or in opening and clearing such river, over and above the expences of maintaining and repairing the same, together with the necessary works, and of collecting the said tolls and rates.

21. And, in order to ascertain the tonnage of boats using the said canal navigation, and to prevent disputes between the supercargoes or skippers

and collectors of tolls concerning the same: Be it further enacted by the authority aforesaid, That, upon the request of the owner, skipper or supercargo of such boat or raft, or of the collector of the said tolls, at any lock, or place upon any such canal or water rendered navigable, it shall and may be lawful for each of them to choose one skilful person to measure and ascertain the number of tons which the said boat or vessel is capable of carrying, and to mark the same in figures upon the head and stern of the said boat, in colours mixed with oil, and that the said boat or vessel so measured and marked, shall always be permitted to pass through such canal or water rendered navigable, and locks, for the price per ton to which the number of tons so marked on her shall amount, agreeably to the rates fixed in the manner aforesaid; and if the owner, skipper or supercargo of such boat or vessel shall decline choosing a person, resident within four miles of the place where such toll is payable, to ascertain the tonnage thereof, then the amount of such tonnage shall be fixed and ascertained by the person appointed for that purpose by the said directors, or chosen by the said collector of tolls for the said company, and the toll shall be paid according to such measurement, before any boat or vessel shall be permitted to pass the lock or place where such toll shall be made payable by the said company.

22. And be it further enacted by the authority aforesaid, That if any person or persons whomsoever, shall wilfully and knowingly do any act or thing whatsoever whereby such canal or navigation, or any lock, gate, engine, machine, or device thereto belonging, shall be injured or damaged, he or they so offending, shall forfeit and pay to the said company, fourfold the costs and damages so sustained, by means of such known and wilful act, together with costs of suit in that behalf expended, to be recovered by action of debt in any court having jurisdiction competent to the sum due.

23. And be it further enacted by the authority aforesaid, That the collectors of toll's duty, appointed and authorized by the said directors, may stop and detain all boats and vessels using the said canal and navigation, until the owner, skipper, or supercargo of the same, shall pay the tolls so as aforesaid fixed, or may detain part of the cargo therein contained sufficient, by the appraisement of two credible persons, to satisfy the same, which distress shall be kept by the collector of the tolls taking the same for the space of five days, and afterwards sold by public auction, at the most public place in the neighborhood, to the highest bidder, in the same manner and form as goods distrained for rent are by law sold and saleable, rendering the surplus, if any there be, after payment of the said tolls, and the costs of distress and sale, to the owner or owners thereof.

24. And be it further enacted by the authority aforesaid, That the said directors shall, at the expiration of every third year from the date of their incorporation, lay before the legislature of this state an abstract of their accounts touching such canals and waters rendered navigable, shewing the whole amount of the capital expended in purchasing real estates, and in digging, erecting and establishing the whole of such canals, locks, and works, and in rendering such waters navigable, and the whole income and profits arising from the said tolls, for and during the said periods: together with exact amount of contingent charges of supporting, maintaining and keeping the same repair for the said periods, to the end that the clear annual profits may be known; and if at the end of any such period, it shall appear from such abstract, that the clear profits and income of the said company, as touching the said canals and waters rendered navigable, will bear a dividend of more than fifteen per centum per annum as above limited, then and in such case the said tolls shall be reduced to so much as will reduce the said clear profits and income to a dividend not exceeding the said rate of fifteen per centum per annum; and the surplus which may have at any time accrued shall be paid to the order of the legislature of this state, to be applied in their discretion to the encouragement of literature, arts and sciences within this state.

25. And whereas the first attempts towards the establishment of manufactories by the said society may be attended with loss, so as to impair and diminish the capital thereof, and the said society have prayed that this legislature would authorize them to raise by lottery certain sums for their indemnification against such losses; in compliance with the said request, and for the further encouragement of the said establishment, Be it enacted by the authority aforesaid, That the said society be, and they are hereby authorized and empowered by one or more lotteries, to be drawn within this state, according to such scheme or schemes, and upon such terms as the directors of the said society shall institute, publish and declare, and under the management of such persons as the said directors shall for that purpose appoint, to raise, for the benefit of the said society, a sum or sums not exceeding in the whole one hundred thousand dollars over and above such charges and expences as shall have been incurred in and about the management and drawing of the said lottery or lotteries.

26. And whereas it is deemed important to the success of the undertaking aforesaid, that provision should be made for incorporating, with the consent of the inhabitants, such district not exceeding in content the number of acres contained within six miles square, as may become the principal seat of the intended establishment; Be it further enacted by the authority aforesaid, That any time after the directors of the said society shall have made choice of a suitable place for the principal seat of their said manufactories, and shall have certified the same to the governor of this state for the time being, it shall be lawful for the said directors, by advertisement in one or more of the public gazettes printed in this state, and also by advertisements affixed in the most public and notorious place within such district, to give notice that it appears to them conducive to the interest of the said society, if agreeable to the inhabitants of the said district, that the said inhabitants should be and become a body politic and corporate, and if within sixty days after such public notification, a majority of the taxable inhabitants of the said district shall not express their dissent

from the incorporation of the said district in writing, signed with their names addressed and delivered to the Governor of this state, it shall be deemed and taken to be evidence of the assent of the said inhabitants to be, and they shall thereupon be created and become, a body corporate and politic, in deed, and law, by the name and title of the corporation of the town of Paterson, to have perpetual succession; and they and their successors shall at all times be able and capable in law to have, hold and enjoy, any lands, tenements and hereditaments, goods and chattels, of whatsoever kind or quality, and the same to sell, grant, alien and dispose of; to sue and be sued, implead and be impleaded, in courts of justice or any place whatsoever; to make and use a common seal, and the same to alter and renew at pleasure; and also in manner hereafter mentioned, to ordain, establish and put in execution, all necessary and convenient bye-laws, ordinances, and regulations: Provided the same are not contrary to the laws and constitution of the United States, or of this state.

27. And be it further enacted by the authority aforesaid, That if any number of the said taxable inhabitants shall signify their dissent in manner aforesaid, and if the said society shall controvert the same, being a majority of the said taxable inhabitants of the said district, it shall be lawful for the Governor of this state, upon application made to him by the said society in that behalf, to issue a writ to the sheriff of the county in which the major part of such district shall be, commanding him to make, or cause to be made, an enumeration of the taxable inhabitants of the said district, and to return the same within a certain time to be expressed therein, not more than three, nor less than one calendar month after the date of the said writ, and the same writ to renew in case of default until the said enumeration shall be duly made, and returned; and if upon such enumeration it shall appear that the number of persons who have signified their dissent are less than a majority of the whole number of the taxable inhabitants, then the dissent so signified shall be void and of no effect.

[Remainder in our next.]

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