

Court of Common Pleas
JANUARY, 1873 - JUNE, 1878.

PUBLIC LAWS 193

OF THE

STATE OF RHODE ISLAND. Law: Sta:

AND

PROVIDENCE PLANTATIONS,

PASSED AT THE SESSIONS OF THE

GENERAL ASSEMBLY,

FROM JANUARY, 1873, TO JUNE, 1878, INCLUSIVE.



STATE OF RHODE ISLAND, ETC.

OFFICE OF THE SECRETARY OF STATE, NOVEMBER, 1878.

PROVIDENCE:

E. L. FREEMAN & CO., PRINTERS TO THE STATE.

1878.

CHAPTER 582.

Passed Feb. 8, 1877. AN ACT FOR SUPPLYING THE CITY OF NEWPORT WITH PURE WATER.

[Amended, see chap. 634.]

It is enacted by the General Assembly as follows :

Grants to Geo. H. Norman *et al.* for supplying Newport with pure water.

[See chap. 634.]

SECTION 1. George H. Norman, of the city of Newport, his heirs and assigns, are hereby authorized, for the purpose of supplying said city and the inhabitants thereof with pure water, as hereinafter provided, to take and convey into and throughout the city of Newport the waters of those two certain streams or brooks which unite at Lawton's Valley, in the town of Portsmouth, and to acquire, as hereinafter indicated, and to hold the said waters, the water rights therewith connected so far as may be necessary for the purposes hereof, and any real estate, hereinafter designated, requisite for the location, establishment, erection, building and maintaining of dams and reservoirs to collect, retain and store said waters, and of water works for pumping and transporting the same; and are further authorized to enter upon and excavate the highway in Portsmouth and Middletown, known as the Main Road, from said valley and streams to the north line of the city of Newport, for the purpose of laying water pipes beneath the surface of said road, and for the purpose of repairing such pipes thereafter; but said highway shall always be restored immediately after such excavating to as good order as it was in just before the excavating was commenced, and during the laying down of said pipes, said highway shall be kept passable at all times for the public.

Of condemning lands, water and water rights.

[See chap. 634.]

SEC. 2. If any owner of lands, water, or water rights required to carry out the objects of this act shall refuse to sell the same to said Norman, his heirs and assigns, or if any such owners shall not agree with said Norman, his heirs or assigns, upon the price to be paid for such property, or privileges, then said Norman, his heirs and assigns, are authorized to take and condemn so much land, water and water rights as

may be necessary for the purposes of this act, under the provisions hereof, and to proceed with the use and improvement thereof in the premises, and with the construction of dams, reservoirs and other works therein as aforesaid; but the lands so condemned shall not exceed the quantity and limits hereinafter specified, to wit: of lands adjoining and adjacent to said streams, and lying next to and south of said Main Road, and between said road and Union Street, so called,—about twenty-three acres belonging to Susan B. Thurston, Peleg L. Thurston, Lewis Thurston, Roland Thurston, and Parker H. Thurston, about twelve and a half acres belonging to John Croucher, about thirteen and three-quarters acres belonging to Jacob Chase, and about sixteen and a half acres belonging to Peleg A. Coggeshall; and of lands lying near and south of said Union street, about four acres belonging to Edward Almy, and about twenty-two acres belonging to Edward Sisson. And upon taking any property or privilege, as aforesaid, said Norman, his heirs or assigns, shall tender to the owner or owners thereof, if in this state, a sum of money as and for the damages sustained, or to be sustained, by such owner, or owners, by the said taking and condemnation, and if said tender shall be refused or lawfully omitted, shall on demand give bond to such owner or owners for the prompt payment of all damages and costs adjudged under this act, in a form and a sum, and with sureties satisfactory to any justice of the supreme court.

What lands may be condemned.

Of tender of payment.

Bonds to be given on refusal of tender.

SEC. 3. Any owner of lands, waters or water rights so taken as aforesaid, may at any time within, but not after one year from the time of such taking (unless the owner be a minor or out of the state, in which case such owner shall make his claim hereunder within one year after his majority or after his return to the state) apply by petition for damages to the supreme court, holden within and for the county of Newport, at any regular term of said court, and, upon such petition being filed, at least twenty days notice thereof shall be given said Norman, his heirs or assigns by serving him, them or any of them with a copy of such petition; and said court shall, after such notice, pro-

Of application to the supreme court for damages.

Of appointment
of appraisers.

ceed to the hearing of the petition, and shall appoint three disinterested persons, being freeholders and residents of the state, appraisers to determine, after reasonable notice to the parties, what damages, if any, the petitioner has sustained; and the award of such appraisers, or of the major part of them, shall be returned to the court as soon as may be; and upon acceptance thereof by the court, unless a jury trial be applied for as hereinafter provided, judgment shall be thereupon rendered by said court, for the party prevailing, with costs, and execution may issue accordingly; and provided further that if either party shall be dissatisfied with such award, such party may, immediately upon the return thereof to the court, apply

Of trial by jury.

for a trial by jury, which shall determine all questions of fact relating to such damages and the amount thereof; and such trial shall thereupon be ordered by the said court and had as soon as conveniently may be, and judgment shall be entered upon the verdict of said jury, and costs shall be allowed to the party prevailing, and execution may be issued therefor; but no petition or complaint shall be made, as aforesaid, for the taking of any land, water or water rights, until the same shall have been actually taken by virtue of the terms of this act.

Geo. H. Norman
et al., to
have exclusive
right to waters,
etc.

SEC. 4. Said Norman, his heirs and assigns, shall have the exclusive right of the waters aforesaid, taken, dammed, collected and stored, as aforesaid, for the purposes aforesaid, and may maintain an action against any person using the same without his or their consent.

Penalties.

And if any person shall maliciously or wantonly divert the water of either of said streams and sources from which water shall be taken and conveyed to the city of Newport, as aforesaid, or shall corrupt or render impure the same or any water connected therewith, or shall destroy or injure any pipe, dam, reservoir, machinery or other property used in or relating to the premises, such person or persons, and his or their aiders or abettors, shall forfeit to said Norman, his heirs or assigns, to be recovered in an action of trespass on the case or trespass, treble the amount of damage sustained thereby, and shall also be liable to indict-

ment therefor, and upon conviction shall be fined not exceeding three thousand dollars, or be imprisoned not exceeding two years.

SEC. 5. The lands, waters and rights taken and acquired for the purposes of this act, and all the property and improvements of every kind used in connection therewith for supplying said city of Newport with water, and all the rights and powers granted by this act, may be at any time sold and transferred to and vested in said city of Newport by said Norman, or his heirs, or by any person or corporation to whom he may assign the same, and thereupon shall be thenceforth freely and absolutely held, used, possessed and enjoyed by said city forever, and shall be conducted, operated, managed and maintained by said city in manner and form as the city council of said city shall by ordinance from time to time provide; and said city is hereby empowered to purchase the same and pay for the same, and for the subsequent maintenance and support thereof, as hereinafter further authorized, by the bonds, scrip or finances of said city, as said city council may deem best, provided such purchase shall be first voted on and approved by a majority of the electors of said city qualified to vote on any proposition to impose a tax or for the expenditure of money, voting in ward meetings, legally called for the purpose. And after such purchase, said city may distribute said water throughout said city, and by ordinance regulate the use thereof and the price to be paid therefor by the inhabitants of said city and other persons using the same, and all the terms upon which the same may be used within or without the limits of said city, and may enlarge, repair, replace or strengthen dams, reservoirs, works, pipes and other structures and improvements in the premises, and generally may do whatever shall be necessary, desirable or appropriate for the purposes of this act.

Lands, waters, etc., hereby taken may be sold to city of Newport.

City of Newport authorized to purchase the same.

Powers of the city in the premises.

SEC. 6. This act shall take effect on its passage, but no property or privilege shall be condemned hereunder after three years from the passage hereof.