

12-30 #3  
THE

**New-York Gas Light Company,**

VS.

**SAMUEL LEGGETT AND OTHERS.**

THE

NEW-YORK AND ALBANY COMPANIES

VS.

SAMUEL LEGGETT AND OTHERS.

OF

THE

NEW-YORK



## IN CHANCERY.



*To the Honorable Reuben Walworth, Chancellor of the State of New-York.*

Humbly complaining, show unto your Honor, your Orators the New-York Gas Light Company, that by an act of the Legislature of this state passed March twenty-sixth, one thousand eight hundred and twenty-three, entitled "An Act to incorporate the Gas Light Company of the City of New-York," your Orators were incorporated as a body politic and corporate, with power and authority to manufacture, make and sell gas, to be made of coal, oil, tar, peat, pitch or turpentine, or other materials, to be used for the purpose of lighting the said City, and the streets thereof, and any buildings, manufactories or houses therein contained and situate, and otherwise, as by the said act is provided : That in, and by the said act, it is enacted, that the capital stock of the said Corporation, should not exceed one million of dollars; and that a share in the same should be fifty dollars, and the subscriptions to the same, or such part thereof, as from time to time might, by the Directors for the time being, be deemed proper and necessary, should be opened by appointment, or under the direction of the Directors therein after named, or a majority of them subject to such rules limitations and conditions as by them should be prescribed.

And it was in, and by the same act further enacted, that the stock, property, and affairs, and concerns of the said Corporation should be ordered, managed and conducted, under the direction of thirteen Directors, being stockholders, and Citizens of this State:—That the said Directors should hold their offices from the third Monday of January inclusive, in every year, for one year, and should be elected on the second Monday in January in each year, at such time and place within the city of New-York, as a majority of the Directors for the time being should appoint; which election by the said act is directed to be made by the stockholders of the said Corporation, in the manner therein prescribed; and the Directors so chosen, are by the said act authorized to elect one of their number for their President: And it was thereby further enacted, that Samuel

Leggett and twelve others should be their present Directors, and should hold their offices respectively until the third Monday of January inclusive, which would be in the year of our Lord one thousand eight hundred and twenty-five, and until others were chosen in their place, and proceed to choose their President at such time and place, as they, or a majority of them should determine.

It was also further enacted by the said act, that the Directors for the time being should form a Board, and they or a majority of them, should be a quorum for transacting the business of the said corporation, and should have power to make such by-laws, rules, and regulations, not repugnant to the constitution, or the laws of the United States, or this State, as to them should seem needful and proper, touching the government of the said corporation, the management and disposition of the stock, property, estate and effects thereof, the duties of the officers, clerks, and servants employed therein, the election of Directors and all such other matters as might appertain to the concerns of the said corporation, and should also have power to appoint so many officers, clerks and servants for carrying on the business thereof, with such salaries and allowances as to them should seem meet.

And it was thereby further enacted, that the stock of the said corporation, should be assignable and transferable, according to such rules, and subject to such regulations as the Board of Directors should from time to time make and establish, and should be considered personal property.

As by reference to the said act which your Orators further show is thereby declared to be a Public Act, may among other things fully and at large appear, and to which for greater certainty your Orators beg leave to refer.

And your Orators further show to your Honor, that on or about the second day of April, in the said year one thousand eight hundred and twenty-three, the Directors named in the said Act, or a majority of them, duly met and elected the said Samuel Leggett, one of their number, to be the President of the said corporation, who was continued as President thereof until in or about the month of January, in the year one thousand eight hundred and twenty-eight.

And your Orators further show to your Honor, that on or about the fourteenth day of May, in the said year one thousand eight hundred and twenty-three, at a meeting of the said Directors, the President (the said Samuel Leggett) and four other Directors were appointed a committee for opening the books of the said corporation, for the purpose of receiving subscriptions



to the capital stock of the said company, or such proportion thereof as they should think fit, not exceeding two hundred thousand dollars, which books were to be opened at such time and place as the said committee should appoint, and upon such terms and conditions as they might think proper to prescribe, and at or about the same time the said President and four other Directors were appointed a committee of Finance, with power to audit, pass and direct the payment of all demands and accounts against the said company, and generally to superintend and direct the disposition of the property, funds and effects of the said Corporation.

The books of subscription to the stock of the said company were accordingly opened by and under the direction of the said committee in that behalf, and on or about the second day of June following, subscriptions thereto were made to the amount of seven thousand shares, whereof four thousand shares being the number authorized by the said Directors to be subscribed as aforesaid, were distributed among, and allotted to the respective subscribers, and certificates therefor issued accordingly.

And your Orators further show, that on or about the fourth day of June in the said year, one thousand eight hundred and twenty three, it was resolved by the said Committee of Finance that the balance of the shares of the capital stock of the said Company be considered as capital, and carried to the credit, and stand in the name of Samuel Leggett, President of the said Company.

And your Orators show to your Honor that the said Corporation became, and was duly organized and have since proceeded, and now are proceeding, in the prosecution of the business for which it was incorporated.

And your Orators show and charge that the residue or balance of shares, in the capital stock of the said Company, over and above the said four thousand shares, so distributed as aforesaid, remained the property of the said Company; and ought, whenever the same or any part thereof, should thereafter have been disposed (the exigencies of the Company remaining the same,) to have been disposed of, for the benefit and advantage of the said Company; which was justly entitled to the premium, or increase on the par value thereof, which could reasonably be obtained therefor; and that it was the duty of the President, and Directors of the said Company, having the management thereof, or any sale or disposition thereof; to have secured and accounted to the said Company, for all such emoluments, as should arise from any disposition, thereafter to be made, of the said stock or any part thereof.

And such Orators show and charge was also the clear understanding of the said President and Directors themselves.

And as evidence thereof your orators further show to your Honor, that on or about the twenty-third day of February, in the year one thousand eight hundred and twenty-four, at a meeting of the said Finance Committee, at which the said Samuel Leggett, the President, and three other Directors, were present, it was resolved, that, in order to meet the honourable engagements entered into by the agents of said Company, and to discharge the claims for stock, the President be directed to dispose of not exceeding fifteen hundred shares of the capital stock standing in his name as President, at such times as he might judge most beneficial, and after paying the par value, with the interest thereon, to the Company, that he cause the balance of profit to be carried to the credit of the Finance Committee, on the books of the Company; and that the chairman of said Committee, by and with their advice, be authorized to discharge such honorable engagements from said fund; and by another resolution passed at the same meeting, the said Robert Bogardus was appointed chairman of the said Committee.

And your Orators show that, prior to the passing of the said last mentioned resolution, the said Samuel Leggett, as President, had disposed, but under what authority or pretence is not known to your Orators, of six hundred of the shares so directed or authorized to be disposed of: that is to say, on the third day of January, in the said year one thousand eight hundred and twenty-four, one hundred shares for the par value, with interest from the second day of June preceding, one hundred and fifty shares on the twelfth February following, at the par value, with interest as aforesaid, and twenty per cent. premium; one hundred shares on the seventeenth day of February aforesaid, for the like par value and interest with twenty-six per cent. premium; and two hundred and fifty shares on the same day for the like par value with interest, and twenty-five and a half per cent. premium; and the remaining nine hundred, residue of the said fifteen hundred shares, were disposed of in the months of November and December following the said resolutions, at the prices following: that is to say, seven hundred shares thereof, for the like par value, with interest from the said second day of June, one thousand eight hundred and twenty-three, and forty per cent. premium or advance upon the par value thereof; one hundred and fifty shares for the like par value and interest, with thirty-nine per cent. premium on the par value; and fifty shares for the like par value and interest, with thirty-seven and a half premium or advance upon



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the par value thereof, making a gain, including interest to the time of payment, over and beyond the par value, of twenty-five thousand and sixty-two dollars and sixty-six cents, on the said fifteen hundred shares, which was paid to and received by the said Company, and placed to the credit of the contingent fund of said Company.

And your Orators further show, that on or about the twenty-ninth day of January, in the year one thousand eight hundred and twenty-five, the said Samuel Leggett, as President of the said Company, but by what authority your Orators are unable to discover, entered into an engagement with one Henry Post, Junior, who had then become also one of the Directors of said Company, to sell to him twenty-seven hundred shares in the capital stock of the said Company, at fifty per cent. advance, deliverable any time on or before the first day of March then next, at the option of the said Henry Post, Junior, in fulfilment of which contract eighteen hundred shares were, on the fifteenth day of February following, transferred by the order of said President to the said Henry Post, Junior, which were paid for at the rate aforesaid, and the advance or gain of fifty per cent. on the par value thereof was carried to the credit of the said contingent fund. And your Orators further show, that except one other transfer of fifty shares, which had been made at par, the foregoing appear to have been all the sales and transfers made by the said President and Directors of the said stock, subsequent to the original subscription aforesaid up to the said fifteenth day of February, one thousand eight hundred and twenty-five. And although your Orators by no means admit that the said stock so disposed of was sold or disposed of for its full market value, yet your Orators show that the premium or gain made by the sale thereof was acknowledged to belong to the said Company, and was paid to and received by the said Company, and placed to the credit of the contingent fund thereof.

And your Orators further show, that on the tenth day of January, in the year one thousand eight hundred and twenty-five, according to the provisions of the Act of Incorporation aforesaid, the first election for Directors of the said Company was held, at which election ten of the former Directors were re-elected for the then ensuing year; and at a meeting of the said Directors, on or about the eighteenth day of January in the same year, the said Samuel Leggett was again chosen President of the said Company, and the several committees of the said Company were, by a resolution of the said Directors then adopted, also continued.

And your Orators further show to your Honor, that on or about the eighteenth and nineteenth days of February, in the said year one thousand eight hundred and twenty-five, the shares in the capital stock of the said Company had very greatly advanced in value, and were at that time selling in the market at an advance or premium which, at the average rate of sales which were made to a large extent on those days, amounted to eighty-seven and three-eighths per cent. upon the par value thereof, and shortly thereafter actually rose to the premium or advance of ninety-five and a half per cent. upon the par value thereof. And your Orators show and charge that it was the duty of the said Directors, as trustees and managers of the property, stock and concerns of the said Company, in making sales of the shares in the capital stock of the said Company, to have obtained the best, or at least the fair market price or value of such shares, for the benefit of the stockholders interested in the said Company. And your Orators further show to your Honor, that some time prior to the eighteenth day of February, in the said year one thousand eight hundred and twenty-five, the said Samuel Leggett (the President) Robert Bogardus, and others, Directors of the said Company, and with whom the said Henry Post, Junior, who afterwards, as herein before mentioned, became Director, concurred, in violation of their duty and trust as such Directors, and with a view to secure to themselves and their particular favorites and friends, the premium or advance upon the par value of the shares in the capital stock of the said Company then remaining undisposed of to a large amount, conceived the unjust project of dividing and distributing a large amount of the shares in the said capital stock so undisposed of, among themselves and their particular friends at the par value thereof, with interest thereon from the second day of June, one thousand eight hundred and twenty-three, the time of the original subscription to the stock of the said Company, and in order to give some colour of authority for such intended transaction, caused a paper to be drawn up in the words or to the effect following, that is to say: "Resolved that the President of the New-York Gas Light Company be authorized and he is hereby directed to cause an increase of the capital stock of the said New-York Gas Light Company, to be distributed among the Directors, on the terms of the original subscription, to such an amount as he may judge reasonable and proper, and also to such other persons as the Company may be honorably bound to, in pursuance of previous arrangements, upon the condition that the said increased stock shall not be offered for sale



within one year from this date. Dated New-York, Nov. 1, 1823; which paper is subscribed by said Samuel Leggett, Robert Bogardus, and others, Directors of the said Company, as by the reference to the original thereof now in your Orators' possession, and ready to be produced, and to which for greater certainty your Orators pray leave to refer, may appear.

And your Orators show and charge, that although the said paper purports to be a resolution of the Directors of the said company, and to bear date, the said first day of November, one thousand eight hundred and twenty three, yet in truth and in fact, no meeting of the Directors of the said Company was held at that time, and that the same never was passed as a resolution of the Board of Directors of the said company, at any meeting of the said Directors, and that the same was merely regular handed round among such of the Directors as concurred in signing the same, without any consultation or interchange of ideas on the subject thereof, at any regular meeting of said Directors; and that the same never was regularly entered on the minutes of the proceedings of the Directors of said Company, otherwise than is hereafter mentioned; and your Orators are entirely ignorant at what time the same was subscribed, by the several persons whose signatures appear thereto; although it is apparent from the inspection thereof, that such signatures were affixed at different times. And your orators show, that nothing, as they believe, was done under the said pretended resolution last recited, until some time on or about the twenty seventh day of December, in the year one thousand eight hundred and twenty-four, at which time the shares, in the capital stock of the said Company, had greatly increased in value, when your Orators show, that four thousand shares in the capital stock of said company were transferred by said Samuel Leggett the President, or by his order, to the said Robert Bogardus, as chairman of the said Finance committee; which transfer, your Orators show and charge, was made upon the understanding and with the intention that the same, or such portion thereof as might be agreed on between the said Directors, should be distributed and divided among them and their friends and favorites, at the original, or par value thereof; and your Orators, accordingly further show and charge, that the said Robert Bogardus, in whose name the said four thousand shares had been transferred, on or about the eighteenth day of February, in the said year, one thousand eight hundred and twenty five, gave an order to the Secretary of the said Company, to transfer the said shares to the several persons, and in proportions, and on the terms therein mentioned: which order is signed by the said

Robert Bogardus, and is in the words or to the effect following. The Secretary of the New-York Gas Light Company, will please transfer from my account to the following persons, the number of shares herein expressed, upon their paying the par value, and the interest thereon, from the date of subscription, the same in discharge of arrangements made at that time.

To Timothy Dewey, five hundred shares	500
To Henry Post, Jun. five hundred shares	500
Foxall A. Parker, five hundred shares	500
Samuel F. Mott, five hundred shares	500
And to eight other directors	470
Samuel Leggett, President	1530

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Shares 4000

New-York, February 18, 1825.

Robert Bogardus, Chairman of Finance Committee; and by order of same.

As by reference to the original papers last mentioned, now in your Orators' possession, and ready to be produced and proven, to which for greater certainty they pray leave to refer, may fully appear; and your Orators show, that the whole of the said paper or order is in the handwriting of the said Samuel Leggett, except the name Foxall A. Parker inserted therein, and the signature thereto, of the said Robert Bogardus as chairman as aforesaid, which are in the proper handwriting of the said Robert Bogardus. And your Orators further show, that the Secretary of the said Company, in pursuance of the said order, on or about the nineteenth day of February aforesaid, transferred to the several persons named in the said order, the several shares therein mentioned, making together, two thousand four hundred and seventy shares, for which they respectively paid the par value thereof, with interest from the second day of June, in the year one thousand eight hundred and twenty-three and no more. And your Orators show and charge, that if the said shares had been disposed of at the then fair market value thereof, being eighty-seven and three eights per cent advance upon the par value; the same would have produced to your Orators a profit equal to one hundred and seven thousand nine hundred and eight dollars, and twelve cents from which, if the interest which was received upon the par value is deducted, amounting to four thousand seven hundred and ninety-two dollars and fifty-five cents, there would have been a clear gain to your Orators, of ninety three thousand one hundred and fifteen dollars and fifty-seven cents, over and beyond what was actually received, for the said shares or stock; and which gain



or advantage, was acquired by the said Directors or persons to whom the said stock was transferred, to the prejudice of your Orators, and the other stockholders of the said Company. And your Orators show and charge, that although the name of the said Foxall A. Parker, was used in the transfer of the said five hundred shares, distributed to him as aforesaid, yet in fact the same was used merely for the benefit of the said Robert Bogardus, whose son-in-law he is, and who was the party really interested in and paid for the same, and to whom the same were almost immediately thereafter transferred; and that in like manner, the said five hundred shares, transferred to the said Samuel F. Mott, really belonged to and were intended for the said Samuel Leggett, who was the party really interested therein, and who paid for the same, and who held or received a power of Attorney, from the said Samuel F. Mott, to dispose thereof, and actually hath disposed of or otherwise applied the same to his own use. And your Orators show and charge, that at the time of the said transfer of the said two thousand four hundred and seventy shares, the said Samuel Leggett, Robert Bogardus and others were, and from the commencement of the said Company, had been Directors thereof; and the said Henry Post, Jun. was also a Director, having been elected as such at the election held on the tenth day of January preceding. And your Orators further show and charge, that the said transfer of the said two thousand four hundred, and seventy shares, was made by, and with the consent, and in concert and collusion with, and between the said Directors, in that behalf above named, with the improper and fraudulent intent of acquiring to themselves and their particular friends the gain or advance aforesaid, over and beyond the par value of the said stock, and in manifest violation of their duty as Directors as aforesaid to your Orators, and the stockholders of the said Company. And your Orators, as further evidence thereof, do show unto your Honor that on the nineteenth day of February, in the year one thousand eight hundred, and twenty-five, at the time the said stock was transferred as aforesaid, a resolution was drawn and signed by the said Directors, in the words following, to wit; "At a meeting of the Directors of the New-York Gas Light Company. Resolved, that the increased Capital which has been created by the President and Finance Committee, is approved by this board. New-York, February 19th, 1825." As by the original resolution signed by the last named Directors, now in your Orators' possession, and ready to be produced and proven, as this Honorable Court shall direct, may fully appear; and to which for greater certainty, your Orators pray leave to refer; which resolution

your Orators also show, is entered in the Book of minutes of the proceedings of the Directors of said Company.

And your Orators humbly submit and insist, that the said Samuel Leggett, Robert Bogardus, Henry Post, Jun., &c., are not only liable, each to account for and pay to your Orators, for the benefit of the Stockholders of the said Company, the particular gain or advance aforesaid over the par value of the Shares so transferred to them respectively, but are jointly liable to account for and pay to your Orators the whole amount of the said advance over the par value of the whole of the said two thousand four hundred and seventy shares so transferred as aforesaid, at the rate of eighty-seven and three-eighths per cent on the said par value thereof, deducting the interest as aforesaid; or at least at such rate as shall appear to have been, at the time of such transfer, the fair market value of the said stock; and your Orators have often in a friendly manner applied to them, or some of them and requested them so to do, with which reasonable requests your Orator had well hoped they or some of them would have complied.

But now, so it is, may it please your Honor, that the said Samuel Leggett, Robert Bogardus, Henry Post, Jun., &c., the defendants in this suit, combining and confederating to and with each other; and to and with divers persons, whose names are at present unknown to your Orators; but which, when discovered, they pray may be inserted in this their Bill of complaint, with proper and apt words, to charge them as parties thereto, and contriving how to injure and aggrieve your Orators, have altogether refused to comply with your Orators' reasonable request; and, among other unfounded objections and pretences, they or some of them do set up and pretend, that they considered themselves entitled to additional stock at par, to make up the amount of their first subscriptions. Whereas, your Orators show and charge, that out of the whole amount, being four thousand shares, which were distributed as aforesaid at the time of the original subscriptions, the said defendants took together only four hundred and fifty shares, and refused or declined to take any more; whereby the residue was distributed among other subscribers who were not Directors, and that the said defendants respectively subscribed for, and took the number of shares following; that is to say the said

Samuel Leggett	subscribed for	1000	shares and took	20	shares.
Robert Bogardus,	do.	200	do.	do	10 do.
Henry Post, Jun.	do.	200	do.	do.	none do.
George Youle,	do.	600	do.	do.	50 do.
Thomas H. Smith,	do.	100	do.	do.	100 do.





the par value thereof. And as further credence thereof, your Orators show, that the said resolution was kept secret, and never entered on the minutes of the proceedings of the said Directors, until long after the said transfer to them and their friends, of the said additional stock; and was then entered by an order of the said Samuel Leggett, or some of the said defendants, in a blank space, which had been accidentally left at the bottom of a page, in the Book of minutes, altogether out of its order, the next preceding entry, being dated the tenth of February, one thousand eight hundred and twenty-four, and the next subsequent one, the eighteenth of January, one thousand eight hundred and twenty-five. And your Orators charge, that such entry was inserted and made, with the fraudulent intent, the better to give colour to the said illegal act and conduct of the said Defendants, in regard to the said transfer to them and their friends, of the said additional and increased number of shares. At other times, while the said defendants, or some of them, admit that they ought severally to refund to your Orators, the unjust gains which they respectively have made on the respective Shares received by them, yet they pretend that they ought not to be liable for each other, or for the advance on the shares transferred to their particular favourites and friends, but your Orators do humbly insist, and charge, that the said transaction, in relation to the said transfer of the said additional or increased shares, to the said respective defendants, and their friends as aforesaid, was done by concert and collusion between them the said Directors, and with full knowledge that the same was illegal and improper, and that some of the said defendants, as your Orators charge the fact to be, were and are in doubtful or insolvent circumstances, and unable to refund to your Orators, the gains so made by them, and if all the said defendants were not originally concerned in said collusion and illegal transactions, they yet all ratified and acquiesced therein: and took to themselves the avails and gains made thereby, and are, as your Orators charge and submit, jointly as well as severally chargeable for the same.

All which actings and doings of the said confederates, are against all equity, and tend to the great injury of your Orators.

In tender consideration, whereof, and forasmuch as your Orators are remediless in the premises, except by the aid of this Honorable Court, where matters of this nature are properly cognizable.

To the end therefore that the said defendants, Samuel Leggett, Robert Bogardus, Henry Post, Jun. &c. may, on their respective corporal oaths, according to the best of their knowledge,



remembrance and belief, full, true and perfect answer make to all and singular, the premises, paragraph by paragraph, as fully and particularly as if the same were herein again repeated, and they interrogated thereto, upon interrogatories specially framed, and put in such manner, as the nature of the charges herein contained would authorize; and, that they and each of them, or such of them as it may appear just, be adjudged liable to your Orators, for said amount or advance on the par value of the said two thousand four hundred and seventy shares in the capital Stock of the said Company, at the time of the said transfer thereof, by the order of the said Robert Bogardus, or such other amount as the same shall be ascertained to have been worth at the time of the said transfer thereof, over and beyond the par value thereof, and may be decreed to account for, and pay the same to your Orators for the use of the said Corporation, and that your Orators may have such further and other relief in the premises, as to your Honor shall seem meet, and as shall be agreeable to the equity and justice of their case.

May it please your Honor, to grant unto your Orators, the people's writ of Subpœna, to be directed to the said Samuel Leggett, Robert Bogardus, Henry Post, Jun. &c. commanding them and each of them, on a certain day, and under a certain pain therein to be specified personally, to be and appear in this Honorable Court, to answer all and singular the premises, and to obey, abide by, stand to and perform such order or decree, as it shall seem meet to your Honor to make therein, and your Orators will ever pray :

WM. SLOSSON,

Solicitor and of Counsel for Complainants.

H. MAXWELL, of Counsel.

A Copy, JOHN L. LAWRENCE, Ass't. Reg.