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MADE AND PASSED

BY THE

GENERAL ASSEMBLY

OF THE

STATE OF MARYLAND,

AT A SESSION BEGUN AND HELD AT ANNAPOLIS, ON WEDNESDAY,
THE 5th DAY OF JANUARY, 1853, AND ENDED ON TUESDAY,
THE 31st OF MAY, 1853.

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1853.

Canal company, their bonds for the interest in arrear, due by them respectively to this State; the said bonds to bear interest from the first day of July next, payable semi-annually, and the principal of said bonds to be payable at the rate of twenty per cent. thereof, on the first day of January, eighteen hundred and sixty, and on the same day in each of the four succeeding years thereafter, till the whole shall be paid; *Provided how-* Proviso.
ever, that the State does not by this act, nor by the acceptance of said bonds, release or waive any lien or security, which it now has upon the works and property of said companies, for the payment of said arrears.

CHAPTER 296.

AN ACT to incorporate the Frostburg Water Company. Passed May
27, 1853.

WHEREAS, a number of citizens of Frostburg have Preamble.
 petitioned this General Assembly that an act may be passed to incorporate a company for the purpose of supplying the town with pure water; *And whereas*, the health and convenience of the inhabitants would be greatly promoted thereby; Therefore,

SECTION 1. Be it enacted by the General Assembly Capital stock.
of Maryland, That a company shall be established in the town of Frostburg for said purpose, the capital stock whereof shall be twenty thousand dollars, divided into one thousand shares of twenty dollars each, and that subscriptions to constitute said stock shall, on the first Monday of July next, be opened in said town under the superintendance of the following commissioners, or a majority of them, viz: Thomas Beall, Levi B. Porter and Samuel S. Porter, and that the Commission-
 subscription books shall be kept open for the space of three days, and if subscriptions to the amount of one-half or more of the capital be taken, then the said company shall be authorised to go into operation; and the books may be re-opened for the completion of said capital, at the pleasure of said company, upon the same terms and conditions as are prescribed to the said commissioners in taking subscriptions.

SEC. 2. And be it enacted, That the said com- Notice to be
 missioners shall give not less than two weeks notice of given.
 the time and place of opening said subscriptions, in some

one of the newspapers published in the town of Cumberland, and that each subscriber at the time of subscribing, shall pay into the hands of said commissioners the sum of one dollar on each share of stock for which he shall subscribe, to be paid over by the said commissioners to the president and directors of said company, and that the further sum of nineteen dollars shall be paid to the president and directors of said company in instalments not exceeding five dollars, at such times as said president and directors may appoint; *Provided, always,* that thirty days notice shall be first given in said newspapers.

Proviso.

Election of directors.

SEC. 3. *And be it enacted,* That as soon as stock not less in amount than one-half of said capital shall be subscribed, notice thereof shall be given in the newspapers as aforesaid, and that in two weeks thereafter, an election by ballot shall be held for directors of said company, at a time and place in said town to be particularly stated, which election the said commissioners shall hold, and the directors then chosen shall be capable of serving as such until the next election of directors as herein provided.

Subscription to stock.

SEC. 4. *And be it enacted,* That it shall be lawful for any person or body politic in person or by attorney, to subscribe for said stock, and in case the amount of subscriptions shall exceed the number of shares into which the said capital stock is divided, the excess then created shall be reduced to said number by a deduction from the highest subscription, and if after such deduction there shall be an equal number of shares, such number shall be allotted equally to the highest subscribers, but if the number of shares shall be less than the number of subscribers, then the said commissioners shall ascertain the successful subscriber by lot.

Incorporated.

SEC. 5. *And be it enacted,* That all such persons as shall become subscribers in said company; their successors and assigns shall be and are hereby created and made a corporate and body politic, by the name and style of the Frostburg Water company, and by that name are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain to them and their successors, all such lands, tenements, hereditaments, goods, chattels and effects of whatever kind, nature and quality soever, as may be necessary to carry into effect the object and intention of this law, and the same to grant, alien and dispose of in like manner, and sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in any court of record, or in any other place whatsoever, and to make,

have and to use a common seal, and the same to break, alter or renew at pleasure, and also to ordain, establish and put in execution such laws, ordinances and regulations as shall be proper and convenient for the government of said company, the same not being contrary to law, or to the constitution, and generally to do and execute such matters and things as to their institution shall or may appertain to do, subject nevertheless to the rules, restrictions and provisions herein specified and provided.

SEC. 6. *And be it enacted*, That the said directors shall be six in number, of whom there shall be an election by plurality of votes on the first Monday of July, in each and every year, that the said election shall be by ballot, and each share of stock on which no instalments remain unpaid at the time, and no other, entitles its owner to one vote, and that the directors thus duly elected, shall be capable of serving as such until the next election of Directors, and to fill up all vacancies in the body, and that said directors at their first meeting, annually, shall choose one of their number as president, who may be by them removed at pleasure, and another appointed in his stead.

Number of directors.

SEC. 7. *And be it enacted*, That if any instalments on stock remain unpaid for the space of sixty days from the time at which it should have been paid, the same shall thereby become forfeited to the said company, and may be disposed of by the president and directors, as to them may appear to the most advantage of said company, and that during and for the term, such instalments shall remain unpaid the stock to which they relate, shall not be included in any dividend or apportionment of profits that may be made for an equal period of time, next after the receipts of profits shall commence.

Unpaid instalments.

SEC. 8. *And be it enacted*, That in case it should so happen that an election should not be made upon the day when, pursuant to this act, it ought to have been made, the said company shall not for that cause be dissolved, but it shall be lawful on any other day within two weeks thereafter, to hold and make an election of directors in such manner as shall have been regulated by the laws and ordinances of said company.

Failure to elect directors

SEC. 9. *And be it enacted*, That the said directors for the time being, shall have power and authority to appoint such clerks, agents, superintendents and servants under them, as may be necessary for executing the business of the company, and the same to remove

Authority to appoint clerks &c.

at pleasure, and to allow them, or any of them, and also the president, such compensation for their services as they shall deem right, and bonds with security, to take from any or either of said persons, if thought necessary, for the faithful discharge of their duty.

President to be a stockholder.

SEC. 10. *And be it enacted*, That no person shall be a president or director, who shall not at the time be a stockholder.

Shares transferable.

SEC. 11. *And be it enacted*, That the shares of stock shall be transferable on the books of said company, only according to such rules and regulations as shall be established by the said president and directors.

President and directors may agree with owners of lands which may be wanted.

SEC. 12. *And be it enacted*, That the president and directors of said company, or a majority of them, or any person or persons authorised by a majority of them, may agree with the owner or owners of any land, earth, timber, gravel, stone or other material, or any improvements which may be wanted for the construction or repair of any of their works, and with the owner or owners of any water or water rights which may be wanted for the supply of the same, for the purchase or use and occupation of the said land, earth, timber,

In case of disagreement, sheriff to summon jury of inquest.

gravel, stone, waters or other materials; and if they cannot agree, or if the owner or owners, or any of them be a feme covert, under age, non compos mentis, or out of Allegany county, when such lands, waters or materials shall be wanted, application may be made to any justice of the peace of said county, who shall thereupon issue his warrant under hand and seal, directed to the sheriff of said county, requiring him to summon a jury of twenty inhabitants of said county, not related or in anywise interested to meet on the land or near to the property or materials to be valued on a day named in said warrant, not less than ten nor more than twenty days after the issuing of the same and if at said time and place any of said jurors summoned, do not attend the said sheriff shall immediately summon as many jurors as may be necessary with the jurors in attendance, to furnish a panel of twenty persons in attendance and from them each party or its, his, her or their agent and if either be not present in person or by agent the sheriff for him her, it or them may strike off four persons, and the remaining twelve shall act as the jury of inquest of damages, and before they act as such the said sheriff shall administer to each of them an oath or affirmation as the case may be, that he will justly and impartially value the damage which the owner or owners will sustain by the use or occupation of the same required by the company, and the said

jury shall reduce their inquisition to writing, and shall sign and seal the same, and it shall then be returned by said sheriff to the clerk of the circuit court of Allegany county, and by him filed in his court, and shall be confirmed by said court at its next session, if no sufficient cause to the contrary be shown, and when confirmed shall be recorded by said clerk at the expense of said company; but if set aside the said court may direct another inquisition to be taken in the manner above prescribed, and such inquisition shall describe the property taken or the bounds of lands condemned, and the quantity or duration of the interest in the same valued for the company, and such valuation when paid or tendered to the owner or owners of said property or his, her or their legal representatives, shall entitle the said company to the estate and interest in the same thus valued, as fully as if it had been conveyed by the owner or owners of the same, and the valuation, if not received when tendered may at any time hereafter be received from the company without costs by the said owner or owners or his, her or their legal representative or representatives.

Inquisition to be returned to clerk of Circuit court, and by him recorded.

If set aside court may direct another inquisition.

SEC. 13. *And be it enacted*, That said company shall have full power and authority to make and lay conduits or tunnels for the conveyance of said water under, along the streets, lanes, alleys and side pavements or any of them, of the town of Frostburg for the purpose of conveying and distributing said water, and the said conduits or tunnels from time to time to renew and repair, leaving at the same time as sufficient passage for carriage, horses or foot passengers as the case may be and forthwith restoring to their former condition all such streets, lanes, alleys and side pavements as may at any time be dug, opened or taken up.

Authority to lay conduits.

SEC. 14. *And be it enacted*, That the said company shall have full power to establish reservoirs and public fountains in such parts of the said streets and squares of the said town as they may think proper and to grant to all persons whomsoever, and to all bodies corporate and politic the privilege of using said water, to be introduced as aforesaid in such manner and upon such terms as they shall think fit.

Power to establish reservoirs.

SEC. 15. *And be it enacted*, That if it shall be found that the said capital be insufficient to effect the object intended, the said president and directors are and shall be authorised to increase the same by subscription in the same manner and upon the terms hereinbefore prescribed for the reception of subscription; *Provided*, that the said capital shall not be increased, so as to exceed thirty thousand dollars.

May increase capital.

Proviso.

- Dividend.** SEC. 16. *And be it enacted,* That there shall be a semi-annual dividend of profits upon shares of stock, and the first shall be made on the first Monday of January eighteen hundred and fifty-five, if the sum then received shall be deemed sufficient for that purpose, and semi-annual thereafter.
- Transaction of business.** SEC. 17. *And be it enacted,* That a majority of said directors shall be competent to transact all the business and discharge all the duties authorised and directed by this act.
- Books of subscription.** SEC. 18. *And be it enacted,* That if subscriptions shall not be received by said commissioners to the amount of one-half of the capital as aforesaid, in that case, the said commissioners or a majority of them shall be and are authorised to open the books of subscription from time to time, until one-half of said capital shall be subscribed; *Provided,* that the same notice be given of such re-opening as directed in the first instance.
- Proviso.**
- Banking for bid.** SEC. 19. *And be it enacted,* That nothing in this act shall be so taken or construed as to allow the said corporation to issue any token, scrip or device to be used as a currency; and the Legislature hereby reserves to itself the right to alter or amend this act of incorporation at pleasure.
- Reservation.**
- Subject to general law.** SEC. 20. *And be it enacted,* That this act shall be subject to any general law regulating water companies now existing or that may hereafter be enacted.