

*Pennsylvania. Laws, statutes, &c.*

# L A W S

OF THE

## GENERAL ASSEMBLY

OF THE

# COMMONWEALTH OF PENNSYLVANIA,

PASSED AT THE SESSION OF 1838-9,

IN THE

SIXTY-THIRD YEAR OF INDEPENDENCE.



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PUBLISHED BY AUTHORITY.

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HARRISBURG:

PRINTED BY PACKER, BARRETT AND PARKY.

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1839.

## No. 86.

## AN ACT

To supply the borough of Harrisburg with Water.

**SECTION 1.** *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the corporation of the borough of Harrisburg, in the county of Dauphin, by their president and town council, be, and they are hereby authorized and empowered to procure, and introduce into the said borough, a sufficient supply of pure fresh water, for the use of the citizens thereof, at the expense of the said borough. Corporation empowered to introduce water

**SECTION 2.** That in order to carry into effect the provisions of the foregoing section, the said president and council shall provide, erect, and maintain all works and machinery, or engines necessary or proper for raising and introducing into the said borough of Harrisburg, a sufficient supply of fresh and pure water, at any point on the bank of the Susquehanna river, which may be fixed upon between Pine street, in said borough, and the head of what is called Miller's Ripples, in the township of Susquehanna; and for the purpose of creating a water power, along the said shore, they shall be permitted to construct and make a canal along said shore, between the aforesaid points, by the erection of a wall and embankment in the river, not extending more than thirty yards from low water mark: *Provided,* The same shall not obstruct the descending navigation of said river, and shall provide, erect, and maintain the necessary buildings and machinery, either by water or steam power, for the purpose of raising and throwing the water on the high grounds, in the neighborhood of the public ground, and shall provide, erect, and maintain all proper cisterns and reservoirs for the reception of the water they may so introduce; and for this purpose, they are hereby authorized and empowered, by themselves, their agents, artisans, engineers, and workmen, with their tools, instruments, carts, wagons, and other carriages, and beasts of burden or draft, from time to time, and at all times hereafter, to enter into such lands and enclosures, and public or private roads or highways, as may be necessary, and to occupy, dig, ditch, and lay pipes through the same, and the same to raise, alter, and repair, doing as little damage to private property as possible, and making compensation To erect works  
To make a canal  
Provide  
Duties of president and council  
May enter upon lands  
Damages and compensation

to the owner or owners thereof, in the manner hereinafter provided for.

**Powers of the president and council**

**SECTION 3.** The said president and town council of the borough of Harrisburg, and their successors in office, their superintendents, engineers, and laborers, with their tools, instruments, carts, wagons, and other carriages, and beasts of burden or draft, may enter upon any lands, streets, lanes, alleys, or highways, laying between the water-works on the bank of the Susquehanna river, and the reservoirs authorized to be constructed by this act; and dig ditches for the purpose of laying pipes from said water-works to the said reservoir or reservoirs, and to lay pipes for the conveying of water through said lands from time to time, and at all times thereafter, and if necessary, for the purpose of taking up, repairing, and laying down again said pipes, as often as the same may be required; and also to take, and convey away stone, earth, sand, or other material necessary to the construction of said reservoirs, or to the proper laying down of the said pipes.

**To dig ditches and lay pipes**

**May purchase lands, &c**

**SECTION 4.** The president and town council for the better carrying out of the object aforesaid, in their corporate capacity, shall have power, and they are hereby authorized and empowered to purchase any lands which may be required in the construction of said water-works, cisterns, reservoirs, or laying down pipes, or for the purpose of procuring stone, sand, gravel, or earth, and the same to hold in fee simple, or for any less estate, with full power, the same, or any part or parts thereof, to grant, bargain, sell, alien, convey, and dispose of at their will and pleasure.

**Compensation to owners of land**

**SECTION 5.** That if the parties cannot agree upon the compensation to be made to the owner or owners of any such lands, enclosures, public or private roads or highways, it shall and may be lawful for either party to present his petition to the court of common pleas of said county, setting forth the facts, and praying the court to appoint proper persons to view the lands and premises, and value the same, or assess the damages; whereupon, the court shall appoint three suitable and disinterested persons of the county of Dauphin, whose duty it shall be, after being first sworn or affirmed, to view the lands and premises, and injuries complained of, and make report of the damages done, or the value of said lands to the next court of common pleas, upon which report, judgment shall be entered, and execution issue, as in other cases of debt. Nevertheless, should either party feel himself or themselves aggrieved, they shall have the privilege of filing exceptions to said report, at any time during the first week of the court, and also the right to a writ of error, for which services the viewers shall be entitled to one dollar per day, and the

**Viewers to be appointed by court**

**To report**

**Judgment on report**

**Exceptions may be filed**

**Writ of error**

officers of the court the same fees, as for similar proceeding in other cases, to be paid, in all cases, by the party against whom report shall be made. Pay of viewers

**SECTION 6.** That the president and council of the borough of Harrisburg, in council assembled, shall have full power and authority to pass, ordain, and enact all laws and ordinances to enable them to convey the said water through the borough, in all directions, and to fix hydrants or fire-plugs wheresoever they may deem proper, and to fix and determine the uniform rates of prices to be paid by the citizens for the use of the said waters, and to protect the water-works, cisterns, reservoirs, pipes, plugs, and hydrants from damage or destruction, and generally to do all things requisite and necessary for carrying into full and perfect effect the objects contemplated by this act. Ordinances and by-laws

**SECTION 7.** That if any person or persons shall wilfully take, lead, conduct, or carry off; or shall knowingly suffer or permit to be taken, led, conducted, or carried off any offal, or any putrid, noxious, or offensive matter, from any dye-house, still-house, brew-house, tan-yard, or shall drain the water from the barn-yard or stable, or from any manufactory, into the canal, that may be constructed by the president and town council of the borough of Harrisburg, for introducing water into said borough, or shall throw, cast, or wilfully suffer to fall into the canal, or head of the water-works, or into any reservoir or reservoirs to be erected by the said corporation, of the said borough of Harrisburg, or shall go in to bathe, or swim in said canal, race, reservoir or reservoirs, or shall entice, throw, lead, or conduct any animal therein, or shall cut, deface, mutilate, or otherwise injure any part of the buildings, machinery, or work that may be erected or purchased by the said corporation, in pursuance of the powers given by this act, every such person or persons so offending, shall forfeit and pay a sum not less than five, nor more than fifty dollars, at the discretion of the justice, to be recovered with costs of suit, in the same manner, as debts under one hundred dollars are by law recoverable, by any person that shall sue for the same, before any alderman or justice of the peace of the borough of Harrisburg, one-half of the said fine for the use of the informer, and the other to go to the borough treasury; and in all suits for fines or penalties under this act, the informer or person suing, shall be a competent witness, notwithstanding his interest in the fine or penalty; and if any person or persons, so offending against the provisions of this section, shall neglect or refuse to pay the amount, for which judgment may be, as aforesaid, rendered against him, and no goods or chattels can be found whereof, to levy the same by execution, then every person or persons so offending, shall To be fined  
Injury to water and works how punish'd  
Penalty  
Informer to be witness

- be committed to the jail of the county of Dauphin, for any period of time, not less than twenty-four hours, nor more than sixty days, according to the discretion of the justice or alderman rendering the said judgment.
- Penalty**
- Steam power** SECTION 8. Nothing in this act shall be taken to prevent the use of steam power, in introducing water into the borough of Harrisburg: *Provided*, The same shall be deemed by the president and council of the borough of Harrisburg, to be preferable to water power.
- Proviso**
- Corporation may build a dam in Susquehanna** SECTION 9. That if the corporation of the borough of Harrisburg desire to create a water power, not only for introducing water into the borough of Harrisburg, but for the creating of additional power for manufacturing purposes, they shall be permitted to build and erect a dam in across the river Susquehanna, at any point from the borough of Harrisburg, to the head of Miller's Ripples, in the township of Susquehanna, not exceeding in height four feet six inches, with a sufficient sluices to permit all kinds of craft to descend said river, on the eastern and western side of the same, and shall extend their canal, if necessary, from said dam to the lower line of the borough of Harrisburg, by wall and embankment, of such dimensions, as to form and create a sufficient head, for the purposes of throwing and introducing water into the borough, and also for manufacturing purposes: *Provided*, The said dam shall be so constructed as in no wise to injure or obstruct the descending navigation of said river, and the said borough shall pay all damages which may be suffered by persons navigating said river, in consequence of the erection of said dam: *Provided further*, That the damages done, or injury sustained, shall not be occasioned by the neglect or mismanagement of the owner, or those having the care of the craft.
- Height**
- Sluices**
- Proviso**
- Net to injure navigation**
- Surplus water—disposal of** SECTION 10. That the corporation of the borough of Harrisburg, after the erection of the aforesaid dam, and the construction of the canal, may dispose of to such persons as they may think proper, all the surplus water for mills, saw-mills, or any other machinery, at such points along the bank of the Susquehanna, between the lower line of the borough of Harrisburg and Miller's Ripples: *Provided*, The sale of such water power shall not interfere in any way or manner with the borough water-works, for supplying the borough with pure fresh water; and the said president and town council, and their successors in office, in their corporate capacity, shall be permitted to do all and every act necessary to carry out the object and intention of sections nine and ten of this act, under the same restrictions and regulations as to the taking of property and materials, as is contained in the aforesaid sections, and the president and council, when in council assembled,
- Proviso**
- Sale not to interfere with water works**

shall have full power to pass all laws and ordinances necessary for any proper regulations of the water-works, or other machinery within the limits of the borough, so that nothing shall be done to the injury of the health of the citizens nor the injury of public or private property, except in the manner hereinbefore pointed out or provided for.

SECTION 11. The said president and town council of the borough of Harrisburg, in their corporate capacity, are hereby authorized and empowered, for the purpose of carrying into full effect the objects of this act, to borrow any sum of money not exceeding one hundred thousand dollars, in the name, and upon the faith, credit, and responsibility of the said borough of Harrisburg; and to impose and assess such tax or taxes, from time to time, as may be necessary to pay the interest upon such loan, and to redeem the principal at such time, and in such manner, as may be conformable to the terms upon which the same is taken; that the income arising to the borough of Harrisburg from water rents, together with the amounts which may be received for the sale of water power, shall be paid into the borough treasury, first to be applied to the payment of the interest upon the money borrowed by this act, and then to reduce the principal, until all is paid.

SECTION 12. That the president and town council of the borough of Harrisburg, shall hereafter levy and assess a borough tax, on all the taxable property of said borough, not exceeding one cent on the dollar, in any one year, on the valuation of taxable property taken for the purpose of raising county rates and levies; and that so much of the sixth section of the act of assembly, incorporating the borough of Harrisburg, passed the first day of February, eighteen hundred and eight, be and the same is hereby repealed.

WM. HOPKINS,

*Speaker of the House of Representatives.*

CHARLES B. PENROSE,

*Speaker of the Senate.*

APPROVED—The twenty-sixth day of March, eighteen hundred and thirty-nine.

DAVID R. PORTER.