

Pennsylvania. Laws, statutes, &c.

LAWS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF PENNSYLVANIA.

PASSED AT THE SESSION OF 1837-38.

IN THE

SIXTY-SECOND YEAR OF INDEPENDENCE.



PUBLISHED BY AUTHORITY.

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1838.

Damages.

Proviso.

SECTION 65. That whenever, by application to the court of Common Pleas of York county, any individual or individuals complain and allege that he, she or they have sustained injury by such water being taken from or across their land or enclosures, it shall be lawful for the said court, and the said court is hereby directed to appoint three discreet individual citizens of the county of York, not interested in the question to be decided, who after viewing the premises and hearing the parties, their proofs and allegations, shall award such damages, under oath, as they may deem just and equitable: *Provided*, That from such award either the party complaining or the company may appeal as from the award of arbitrators, under the act of assembly, passed the twentieth day of March, eighteen hundred and ten.

LEWIS DEWART,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—The sixteenth day of April, Anno Domini one thousand eight hundred and thirty-eight.

JOS. RITNER.

 No. 91.
An Act

Supplementary to the resolution relative to the claim of Brown and Sawyers, passed the thirty-first of March, one thousand eight hundred and thirty-six, & for other purposes.

Brown and
Sawyers'
claim to be
examined &
settled.

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 words in said act, "under their contract," shall not be so construed or understood as to confine the Canal Commissioners to a strict and exclusive regard to the contract, but the same is meant and intended to be one of the items of evidence to guide them to a proper and just conclusion, and that the Canal Commissioners, as soon after the passage of this act as is convenient, shall proceed to examine the claim of Brown and Sawyers, and if, in their opinion, there was any thing in the character of the work which the contractors had no reason to expect, or if the said contractors have suffered any injustice through mistake in measure

or calculation, the Canal Commissioners shall settle the said claim on principles of justice and equity, only having regard to the provisions of the contract so far as the same may assist them in a just and proper settlement.

SECTION 2. The general militia trainings, within the bounds of the second brigade, ninth regiment of the Pennsylvania militia, shall hereafter take place on the third Monday in June, annually. 9th reg't. 2d
brig. P. M.
train 1st
Monday in
June.

SECTION 3. That Charles C. Howard, now or late of the city of Philadelphia, be and he is hereby authorized to change his name from Charles C. Howard to that of Charles Howard Haven, and he shall be henceforth called and known by the name of Charles Howard Haven, and by the same name shall be able and capable in law to sue and be sued, grant and receive, and do all other legal acts, as effectually, to all intents and purposes, as he could have done by his former name if no change had been made therein. Name of C.
C. Howard
changed to
C. H. Haven

SECTION 4. That the name of William J. Kerrison, now of the city of Philadelphia, be and the same is hereby changed to William J. Cantelo. Name of W.
J. Kerrison
changed to
W. J. Cantelo

SECTION 5. That Thomas T. Hayes, Zenas H. Russell, Abiram Winton, Samuel S. Jessup, John Torrey, John D. Delezeuno, Amory Prescott, Daniel P. Fuller, Joseph D. Walton, Isaac P. Hoster, Nathan M. Bartlet, T. H. R. Tracy, Hastings Frisbie, Stephen North, jr., C. K. Robinson, David Sarbor, Wm. H. Dimmich, Leonard Graves, E. W. Hamlin, Paul S. Preston, James Manning, Thomas Clark, Jacob Faatz, Enos Woodward, Wm. Greele, and Phineas Arnold, and all other persons who may hereafter associate with them in the manner herein prescribed, shall be a corporation, by the name of the Wayne County Mutual Insurance company, for the purpose of insuring their respective dwelling houses, stores, shops and other buildings, household furniture, merchandise and other property against loss or damage by fire. Wayne co.
Mutual Insu-
rance Co. in-
corporated.

SECTION 6. All persons who shall hereafter insure with the said corporation, and also their heirs & executors, administrators and assigns, continuing to be insured with said corporation as hereinafter provided, shall thereby become members thereof, during the period they shall remain insured by said company and no longer. Persons in-
sured to be
members.

SECTION 7. The affairs of said company shall be managed by a board of directors, consisting of thirteen members, chosen or appointed as hereinafter provided; all vacancies happening in said board to be filled by the remaining directors for the remainder of the year for which they were elected, or until a new election; and a majority of the whole Board of di-
rectors.
Vacancies,
how filled.

Quorum.

First directors.

shall constitute a quorum for the transaction of business; the first thirteen persons named in the first section of this act shall be the first directors, and the business of the said corporation shall be done and transacted at such place in the borough of Honesdale, in the county of Wayne, as shall be designated by a majority of the directors present at any regular meeting of the board; and said board shall continue in office for one year after the passage of this act, and until others are chosen in their place, which board of directors shall thereafter be elected yearly, at such time and place in the borough of Honesdale, aforesaid, as the corporation in their by-laws shall appoint, of which election public notice shall be given in at least one of the public newspapers printed in said county, at least thirty days immediately preceding such election; such election shall be holden under the inspection of three members, not being directors, to be appointed by the directors previous to every election, and such election shall be made by ballot, and by a plurality of the members or their proxies then present, allowing to each member one vote for every one hundred dollars insured for him with said incorporation.

Election.

Rates of insurance to be determined.

Payment of insurance by deposite notes.

SECTION 8. The directors shall determine, as nearly as practicable, by their by-laws, the rates of insurance on the different classes of property, and the sum to be deposited for any insurance, they shall also fix the sum to be insured.

SECTION 9. Every person who shall become a member of said corporation by effecting insurance therein, shall, before he receives his policy, deposite his promissory note for such sum of money as shall be determined by the directors, a part, not exceeding ten per centum of said note shall be immediately paid, and the remainder of said deposite note shall be payable in part or the whole, at any time when the directors shall deem the same requisite, for the payment of losses by fire, and such incidental expenses as shall be necessary for transacting the business of said corporation, and at the expiration of the time of insurance the said note, or such part of the same as shall remain unpaid after deducting all losses and expenses during said term, shall be relinquished and given up to the maker thereof, and it shall be lawful for said company to loan such portion of their money on hand as shall not be wanted immediately for the purposes of said corporation, to be secured by bond or mortgage, on real estate of double the value of the sum loaned, above all encumbrances, for a term of time not exceeding one year, the interest to be paid half yearly, and in default of such payment the principal, as well as the interest, to become immediately due and collected.

Money on hand may be put to interest.

SECTION 10. And said company shall have a lien in the nature of a judgment, waiving the right of inquisition upon all the said property of the insured to the amount of his deposite note, or so much thereof as may be unpaid, which shall continue until the amount of such note, with interest and costs of execution, if any, shall have been paid or satisfied, according to the provisions of this act: *Provided*, Said company shall file in the office of the prothonotary of the county wherein such real estate shall lie, a memorandum of the name of the individual insured, a description of the property, the amount of the deposite note unpaid, and the term for which the insurance shall continue, and the prothonotary with whom the same shall be filed is hereby required, forthwith, to enter the same, without tax or fee, at large upon his judgment docket, and the same when so entered shall be deemed and taken in all respects, as a judgment entered upon confession by virtue of a warrant of attorney, and execution may at any time be had thereof for so much as, by virtue of the provisions of this act, may be due and demandable, but the lien thereof shall commence with the filing of the memorandum in the office of the prothonotary.

Lien of the company.

Proviso.

SECTION 11. When property insured by this corporation shall be alienated by sale or otherwise, the policy shall therefore be void, and be surrendered to the directors of said company to be cancelled, and upon such surrender the assured shall be entitled to receive his deposite notes, with an order, signed by the president and secretary of the board of managers, directing the prothonotary in whose office a memorandum of said notes may have been entered, as hereinbefore provided, to enter satisfaction thereon: *Provided*, That the assured shall first pay his proportion of the balance of losses and expenses, if any, which have accrued prior to such surrender, but the grantee or alienee having the policy assigned to him, may have the same ratified and confirmed to him for his own proper use and benefit, upon application to the directors and with their consent, within thirty days next after such alienations, on giving security, to the satisfaction of said directors, for such portion of the deposite or premium note as shall remain unpaid, and by such ratification and confirmation the party causing such security to be given shall be entitled to all the rights and privileges, and be subject to all the liabilities to which the original party was liable and subjected to under this act.

Alienation of the property to make void the policy.

Proviso.

SECTION 12. Suits at law may be maintained by said corporation against any of its members, for the collection of said deposite notes, or for any cause relating to the business of said corporation, or against any person for monies due said

Of suits at law.

corporation, or for injury done to their corporate property, books or papers, or for causing the destruction by fire of any property by them insured, and for no other cause, but said corporation shall not hold any property, except what may be absolutely necessary for the transaction of their corporate business, and all real estate, purchased by said company for the purpose of collecting or securing debts, shall escheat to this commonwealth, unless the same shall have been sold and disposed of, and passed, bona fide, from the possession and ownership of said corporation, within six years next succeeding such purchase.

How loss or damage to be ascertained and determined.

SECTION 13. In case of any loss or damage by fire, happening to any member, upon property insured in and with said company, the said member shall give notice thereof in writing to the directors, or some one of them, or to the secretary of said company, within thirty days from the time such loss or damage may have happened, and the directors upon view of the same, or in such other way as they may deem proper, shall ascertain and determine the amount of said loss or damage, and if the party suffering is not satisfied with the determination of the directors, the question may be submitted to referees, or said party may bring an action against the company for said loss or damage, at the first court in said county of Wayne competent to try the same, and if upon trial of said action a greater sum shall be recovered than the amount determined upon by the directors, the party suffering shall have judgment therefor against said company, with interest thereon from the time said loss and damage happened, and costs of suit; but if no more shall be recovered than the amount aforesaid the said company shall recover their costs: *Provided however*, That execution shall not issue on any judgment against said company until after the expiration of three months from the rendition thereof.

Proviso.

How loss or damage is to be settled and paid.

SECTION 14. The directors shall, after receiving notice of any loss or damage by fire, sustained on property insured by said corporation, and ascertaining the same, or after the rendition of any judgment, as aforesaid, against said company for loss or damage, settle and determine the sums to be paid by the several members thereof as their respective proportions of such loss, and publish the same as they may see fit, or in such manner as their by-laws shall have prescribed, and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the treasurer within thirty days next after the publication of said notice; and if any member shall, for the space of thirty days after the publication of said notice, neglect or refuse to pay the sum assessed on him as

his proportion of the loss aforesaid, in such case the directors may sue for and recover the whole amount of his deposit note or notes, with costs of suit, or may have execution for the whole amount, as provided for in the sixth section of this act; and the amount thus collected shall remain in the treasury of said corporation, subject to the payment of such delinquent's proportion of prior or future losses and expenses, and the balance, if any remain, shall be returned to the party from whom it was collected, on demand, after thirty days from the expiration of the term for which insurance was made.

SECTION 15. If the available funds on hand and the amount of deposit notes should be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by said company shall receive, toward making good their respective losses, a proportionate dividend of the whole amount of said deposit, according to the sums to them respectively insured, and in addition thereto, a sum to be assessed on all the members of said company on the same principles as regulated the amounts of their respective deposit notes, but not exceeding one dollar on every hundred dollars to them respectively insured; and no member shall be required to pay for any loss occasioned by fire, at any time, more than one dollar on every hundred dollars insured in said company in addition to his deposit note, nor more than that amount for any such loss after his said note shall have been paid in and expended, but any member, upon payment of the whole of his deposit note and surrendering his policy before any subsequent expense or loss has occurred, may be discharged from said company.

If the available funds be insufficient to pay losses other sums to be raised, and how.

Members may be discharged from the comp'y.

SECTION 16. No policy shall be issued by said company till application be made for insurance for twenty-five thousand dollars at least.

When policies shall be issued.

SECTION 17. No insurance shall be made by said company for a longer period than seven years.

Time of insurance.

SECTION 18. This act shall take effect immediately after its passage, and shall continue in force for twenty years, but the legislature of this commonwealth may at any time alter, modify or annul its provisions.

Continuance of this act.

SECTION 19. That the town council of the borough of West Philadelphia, shall have full power and authority to pave, or cause to be paved, agreeably to the regulations from time to time made and established, the footways and gutters fronting on any public street, lane or alley in the said borough, and may value and assess the expense thereof on the freeholders in front of whose ground such footways

Borough of W. Philad'a authorized to pave gutters and streets.

and gutters shall be paved, and for grading, curbing and keeping the same in repair in front of their respective lots, and the said assessments shall be collected as other borough taxes are by law collected, and in default of payment may be entered in the proper office and shall be a lien on said lots until paid : *Provided always*, That all and every, the owner and owners of ground, shall have the privilege of grading and paving the footways on their own front, aforesaid, so that they have it completed within thirty days after due notice in writing, given for that purpose by the said town council, or by any other person by them appointed : *And provided also*, That no person shall be obliged to have any footway to a greater breadth than four feet, on that portion of the front of any lot whereon a dwelling house has not been erected, nor shall any person be required to grade, curb and pave, as aforesaid, until the wagon or cart-way shall be McAdamized or paved in front of his or her lot or lots, nor shall the said owners be required to grade, curb and pave, as aforesaid, any lot or lots situated more than one thousand feet beyond the densely built portion of said borough.

Proviso

2d Proviso.

Norristown
Water Co.
Commiss'rs.
to procure
book.

Form of sub-
scription.

Letters pat-
ent.

SECTION 20. That John B. Sterigere, Joseph Thomas, John Freedley, Thomas M. Jolly, Adam Slemmer, James M. Pawling, William H. Slingluff, John Boyer, Isaiah W. Davis, William Powell, Samuel Jamison, Bernard McCree-dy, Jacob Spang, Joseph Fornance and Levi Roberts, or any four of them, are hereby appointed commissioners, who shall, on or before the first day of January next, procure a book and enter therein as follows : " We, the subscribers, promise to pay to the president and managers of the Norristown Water company, the sum of twenty-five dollars for every share set opposite to our respective names, in such manner and proportions and at such times as shall be determined by the said company, in the manner that is provided by the act of assembly, entitled " An act authorizing the Governor to incorporate the Pottsville Water company," passed the 11th day of April, 1834 ; witness our hands the day of _____ in the year of our Lord one thousand eight hundred and _____ ;" and shall thereupon give notice, in one or more newspapers published in the borough of Norristown, for the space of two weeks, and shall take and receive subscriptions in the manner provided by the first section of the act above recited, and under the restrictions and provisions of said section in all respects ; and when twenty-five or more persons shall have subscribed four hundred or more shares of the said stock, the commissioners shall certify, under their hands and seals, the names of the subscribers and the number of shares subscribed by each,

to the Governor, who shall, under his hand and seal of the state, erect the subscribers, and those who shall afterwards subscribe, and their assigns, into one body politic and corporate, in deed and in law, by the name, style and title of **Name, style** "The Norristown Water company," by which name the **and title.** said subscribers shall have perpetual succession, and all the **Privileges.** privileges and franchises incident to a corporation, and shall have all the powers and authority, and shall be subject to the same restrictions, limitations and provisions as are contained in the said recited act incorporating the Pottsville Water company, and as if the said act, word for word, was herein re-enacted with the word "Norristown" substituted for the word "Pottsville," and may receive and take, purchase and hold, and dispose of at pleasure, any tract or tracts of land, not exceeding in the whole twenty-five acres; and all offences against said company shall be cognizable before any justice of the peace in and for the county of Montgomery.

SECTION 21. That the time allowed for the payment of **Time for** the balance of stock in the Berks County Bank, is hereby ex- **paying bal-** tended for the term of three years from the first day of **arce of stock** April, A. D. 1838. **extended.**

SECTION 22. That from and after the passage of this act, **Chester co.** the commissioners of the county of Chester shall, respec- **commission-** tively, receive out of the county treasury two dollars and **er's pay in-** fifty cents for each day that they shall necessarily attend to **creased.** the duties of their offices.

SECTION 23. That from and after the passage of this act, **Dauphin co.** the county commissioners and directors of the Poor of **commiss'rs** Dauphin county, in addition to the pay allowed them by **& directors'** law, shall be allowed six cents and one fourth of a cent, for **mileage al-** each mile circular necessarily travelled in the execution of **lowed to** the duties of their office. **them.**

WHEREAS, a certain Sarah Desilver, of the county of Phi- **Preamble** ladelphia, now deceased, did, on the twenty-fifth day of **relative to** August, Anno Domini one thousand eight hundred and **estate of S.** twenty-five, make and execute a certain deed of conveyance **Desilver,** unto a certain Thomas J. Kitts, pastor of the Second Bap- **dec'd.** tist church and congregation in the city of Philadelphia, of **Description** certain real estate, to wit: all that certain lot or piece of **of the pro-** ground and premises, situate on the west side of Delaware **perty.** second street, continued above Poplar lane, containing in breadth on said street forty feet and in length on the north side forty-three feet eight inches, and on the south line forty-nine feet seven inches and a half, subject to the payment of a yearly rent charge of seven pounds ten shilling; also two certain

lots or pieces of ground, situate on the west side of Delaware Second street, in the Northern Liberties north of Poplar lane, one of said lots on which a frame messuage is erected, containing in breadth on said street twenty-four feet, and extending in depth seventy-one feet, or thereabouts, gradually narrowing, especially on the south side thereof, to the breadth of eleven feet on the line of land formerly of Samuel Wallace, and the other of said lots beginning at a post for a corner on the west side of said Second street, thence extending along a line of a lot, formerly of Martin Deits, westward fifty-four feet, more or less to the line of land of said Wallace, thence northward along said land about nine feet to the lot hereinbefore mentioned, and thence by the same eastward to Second street, aforesaid, to the place of beginning, be the same more or less; also a certain frame tenement and lot or piece of ground, situate on the west side of Delaware Second street, aforesaid, containing in breadth, north and south eighteen feet, and in length or depth on the north side twenty-six feet, and on the south side thereof seventy-eight feet; also a certain frame tenement and lot or piece of ground, situate on the west side of Delaware Second street north of Poplar lane, containing in breadth, north and south twenty-seven feet, and in length or depth on the south side eighty-two feet, and on the north side seventy-eight feet more or less, under and subject to the payment of the several yearly rent charges, and also that the rents, issues and profits thereof, to be for the only proper use and benefit of her the said Sarah Desilver, during her natural life, and after her decease, then the said Thomas J. Kitts, his heirs and assigns, to make and execute unto the trustees of the Second Baptist church and congregation of the city of Philadelphia, a lawful deed for that certain brick house and lot of ground, situate on the west side of Delaware Second street aforesaid, bounded east by Second street, south by a straight line running through the middle of the gable end wall of the said house, until it intersects the line of land late of Samuel Wallace, on the west bounded by said Wallace's land, subject to a yearly rent charge of seven pounds ten shillings, and the remainder of said real estate to vest in the said Thomas J. Kitts, his heirs and assigns forever.

Thos. J. Kitts
to make
deed to the
trustees of
the Second
Baptist Ch'h

Sarah Desil-
ver's will.

And whereas, Prior to the said deed or conveyance, the said Sarah Desilver, to wit, on the eighth day of December, Anno Domini one thousand eight hundred and twenty-four, made and executed a certain last will and testament, wherein she devised her said real estate in the manner aforesaid.

And whereas, Information has been made since the said Information Sarah Desilver's decease, and filed with the Auditor General, filed as of an that said Sarah Desilver died intestate, without leaving any escheated known heirs or representatives capable of inheriting said estate. estate, and proceedings have been had thereon in the court of Common Pleas of the county of Philadelphia, as of an escheated estate, which proceedings are now pending before said court and undetermined: Therefore,

SECTION 24. *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 all the right, title and interest this commonwealth may have acquired by reason of an escheat Right to the estate vested in the heirs of T. J. Kitts and the trustees of the 2d Baptist ch'h. or a supposed escheat, on the ground of her alleged insanity at the time of making such last will and testament and deed of conveyance, and for the want of heirs of the said Sarah Desilver, of Philadelphia county, deceased, in and to the real estate whereof she died seized as aforesaid, be and the same is hereby vested in the heirs of the said Thomas J. Kitts, deceased, and in the trustees of the Second Baptist Church and congregation in the city of Philadelphia, their heirs, successors and assigns forever, in such portions and purparts as stated in said deed of conveyance, of the said Sarah Desilver before recited: *Provided,* That no other claim or right by this commonwealth, except what is derived by said escheat or supposed escheat, shall pass by this act, or shall any vested interest in the informer be in any manner affected thereby. Proviso.

SECTION 25. That all the right, title and interest which Right to C. Reger's escheated estate vested in the next of kin. has escheated to this commonwealth, in and to all property, real and personal, late of Charles Reger of the county of Philadelphia, deceased, be and the same hereby is vested in the next of kin of Rudolph Reger, late of said county deceased, father of the said Charles Reger, as fully and in the same manner as though the said Charles Reger had been born in lawful wedlock and died intestate.

LEWIS DEWART,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—The sixteenth day of April, Anno Domini one thousand eight hundred and thirty-eight.

JOS. RITNER.