

L A W S

2411-2

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF PENNSYLVANIA  
///

PASSED AT THE

SESSION OF 1872

In the Ninety-sixth year of Independence.

WITH AN APPENDIX.

BY AUTHORITY.

HARRISBURG:

B. SINGERLY, STATE PRINTER.

1872.

that this act shall continue in force ten years, after which time the said road shall be subject to the laws relating to roads and highways in the counties in which said road is located.

How long act to  
continue in  
force.

WILLIAM ELLIOTT,

Speaker of the House of Representatives.

JAMES S. RUTAN,

Speaker of the Senate.

APPROVED—The fourth day of April, Anno Domini one thousand eight hundred and seventy-two.

JNO. W. GEARY.

No. 910.

## An Act

To authorize the borough of Phoenixville to erect water and gas works, and to supply the said borough with water and gas.

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 for the purpose of introducing into the borough of Phoenixville, in the county of Chester, a sufficient supply of gas, fresh and pure water, the corporate authorities of the said borough be and are hereby authorized and empowered to purchase and hold, in the name of said borough, in fee simple, or for any less estate, any water power or powers that may be appurtenant to or in said borough, or to take the supply of water from the river Schuylkill, French creek or any stream or streams, spring or springs, in Chester county, within five miles of the said borough of Phoenixville, with full power, the same or any part thereof, to grant, bargain, sell, alien, convey, mortgage, pledge, charge, encumber and demise, and dispose of at their will and pleasure.

Corporate au-  
thorities may  
purchase water  
powers, &c.

SECTION 2. That the said corporate authorities of the borough of Phoenixville shall have full power and authority to provide, erect, construct and maintain all works and machinery or engines, necessary or proper for introducing into the said borough a sufficient supply of gas, fresh and pure water; and shall provide, erect, construct and maintain, all proper buildings, cisterns, reservoirs, machinery, dams, trenches, pipes, fire plugs and all works and things necessary or proper to the full and entire completion of the same; 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 draught, from time to time, and at all

Authorized to  
erect works.

May enter enclosures, make ditches, &c.

times hereafter, to enter into and upon any lands or enclosures, and public or private roads or highways or streets, as may be necessary, and to occupy, dig, ditch and lay pipes through the same, and to erect and maintain thereon such cisterns and reservoirs as may be needful and proper for the purpose aforesaid, and the same to raise, alter and repair, doing as little damage to private property as possible, and making compensation to the owner or owners thereof, in the manner hereinafter provided for.

May enter upon lands contiguous to works, and take materials.

SECTION 3. That the said corporate authorities of the borough of Phoenixville, their superintendents, engineers, workmen and laborers, with their tools, instruments, carts, wagons and other carriages, and beasts of burden or draught, may enter into and upon lands contiguous to the dam or dams, works, cisterns or reservoirs which they may erect on the route upon which they may lay their pipes, and from thence take and carry away, earth, stone, sand or gravel, or any other material necessary to the construction, maintenance or repair of said dam or dams, works, cisterns and reservoirs, or to the proper laying down, maintenance or repair of said pipes, doing as little damage as possible to private property, and making compensation to the owner or owners thereof in the manner hereinafter provided.

Proceedings in cases of disagreement as to damages.

SECTION 4. If the parties cannot agree upon the compensation to be made to the owner or owners of such water power, lands or enclosures required for the use of said works, or for materials taken, damages sustained, or to be sustained, in the construction, maintenance and use of said works, it shall and may be lawful for the parties to refer the matter to suitable and judicious persons, to be mutually chosen, who, or a majority of whom, shall carefully examine the premises, and according to the best of their skill and judgment estimate the value of the water power, land, enclosure or materials taken or necessary to be taken, and if the injury sustained thereby; or if the parties cannot agree upon such viewers, then either of them may apply to the court of common pleas of the county of Chester, who, upon such application, are hereby authorized and required to appoint five disinterested citizens of said county, who, after being duly sworn or affirmed faithfully to perform their duties enjoined on them by this act, shall proceed to view the premises as before prescribed, and they, or four of them, shall make report to the next term of said court what damage has been done, if any, which report shall be accompanied with a map or draft describing the bounds of the land taken by said corporation, on which report being confirmed by the said court, judgment shall be entered thereon, and execution may be issued in case of non-payment of the sum awarded, with such reasonable costs as may be allowed by the court: *Provided*, That either party may appeal to the court within thirty days after such report shall have been filed in the prothonotary's office, in the same manner as appeals are allowed in other cases, upon which appeal such proceedings shall be had as are usual in actions for damages at common law: *And provided further*, That it shall be lawful for the said corporation of the borough

of Phoenixville to enter at once into the possession or use of such water powers, lands and premises, upon giving or tendering to the claimant or claimants, their bond or bonds in such amount and with such security as may be approved by one of the judges of said court, conditioned for the payment of such sum as the said claimant or claimants shall be entitled to receive after assessment made as aforesaid.

SECTION 5. That the said corporate authorities, authorized in council assembled, shall have full power and authority to pass, enact and ordain all laws and ordinances necessary to enable them to convey the said water and gas through the said borough in all directions, and to fix hydrants, fire plugs and stops, and lay down pipes wheresoever they may deem proper, and to fix and determine, from time to time, the rate of prices to be paid by the citizens and others for the use of said water and gas, and the penalties for non-payment, and to protect the water and gas works, cisterns, reservoirs, dams, pipes, plugs, lamps 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.

SECTION 6. That the said corporate authorities are hereby authorized and empowered, for the purpose of carrying into full effect the provisions of this act, to borrow, in the name and upon the faith, credit and responsibility of said borough, such sum or sums of money, not exceeding in the whole two hundred thousand dollars, as they may deem necessary for the purpose aforesaid, and to issue bonds or certificates of indebtedness in the name of the borough of Phoenixville, under the corporate seal, attested by the signature of the burgess, president of the town council and treasurer of said borough, to the purchaser or purchasers of said loan, in such sums as the borough authorities may see proper, and bearing such rate of interest, not exceeding seven and three-tenths per centum per annum, as may be agreed upon; and also to borrow money, in the manner aforesaid, for the purpose of redeeming and paying off such loan, and shall have all power necessary for levying, assessing and collecting a tax of not exceeding one per centum on the dollar on the adjusted valuation for county purpose, for the purpose of redeeming and paying off the said bonds or the interest thereon: *Provided*, That said loan shall be subject to the payment of state tax only.

SECTION 7. That all money received or realized from the sale of bonds issued in pursuance of the provisions of this act, together with all water rents and gas consumed, income or forfeit from the water and gas works, shall be kept apart from other money belonging to the corporation, and shall be designated the water and gas fund, and shall be expended only in the construction, maintenance and repair of said works, the expense incident thereto, the payment of the interest of said bonds, or in the payment and redemption of said bonds.

SECTION 8. That the said borough authorities are hereby authorized to levy and assess yearly, and every year, a tax, to be called a protection tax, upon the owner or occupier of

May take immediate possession of lands, &c., upon tendering bonds to claimants.

May pass ordinances relative to conveyance of water and gas, fix hydrants, &c.

May borrow money and issue bonds.

May borrow money to redeem loan, and levy tax,

Loan subject to state taxation only.

Moneys realized from sale of bonds, water rents, &c., to be kept separate.

How to be expended.

Authorities may levy and collect protection tax.

lots having any building or buildings thereon, bounding on a street where a water pipe is or shall be laid opposite thereto, and where a fire plug is situated within one hundred and fifty yards therefrom, and that the said authorities shall have full power and authority to collect the said protection tax, in the same manner that borough tax in said borough is now collected; and that said authorities shall have the right to make such abatements and exonerations as to them may seem just and reasonable: *Provided*, That such protection tax shall not exceed the sum of seven dollars on each building or tenement, not exceeding twenty-five feet front, and a proportionate rate per foot front of building in excess of twenty-five feet: *And provided further*, That no protection tax shall be assessed and collected upon any building, where the owner or occupier of said building shall take and use the water and pay the water rent therefor.

Proviso.

Proviso.

Penalty for taking water or gas without authority.

SECTION 9. That if any person or persons shall open a communication into the water, or gas main or other pipe aforesaid, without authority from the proper officer of the said corporation, or shall let the water or gas on, after the same shall have been stopped by order of the said corporation or proper officer for repairs, or any other cause or purpose, or shall put up any hydrant or hydrants, pipe or pipes, in addition to those originally put up and inspected, and introduce into them water or gas without authority aforesaid, he or she or they shall be subject to a penalty of not less than ten nor more than one hundred dollars, recoverable before the burgess or any justice of the peace of said borough, as debts of like amount are recoverable, one-half to be paid to the informer and one-half to the water and gas fund of said borough.

Punishment for injuring works, &c.

SECTION 10. That if any person or persons shall wilfully or maliciously do, or cause to be done, any act or acts whatever, whereby any building, construction, reservoir or works of the said corporation, gas or water power, or any matter or thing pertaining to the same, shall be destroyed, injured, contaminated, stopped or obstructed, the person or persons so offending shall be guilty of a misdemeanor, and may be therefor indicted in the court of quarter sessions of said county, and on conviction thereof shall be punished by fine not exceeding five hundred dollars, or be imprisoned not exceeding one year, or both, or either, at the discretion of the court: *Provided*, That such criminal prosecution shall not in any manner impair the right of the said corporation to a full compensation in damages by civil suit.

WILLIAM ELLIOTT,

Speaker of the House of Representatives.

JAMES S. RUTAN,

Speaker of the Senate.

APPROVED—The fourth day of April, Anno Domini one thousand eight hundred and seventy-two.

JNO. W. GEARY.