

LAWS

2411-2

OF THE

GENERAL ASSEMBLY

OF THE

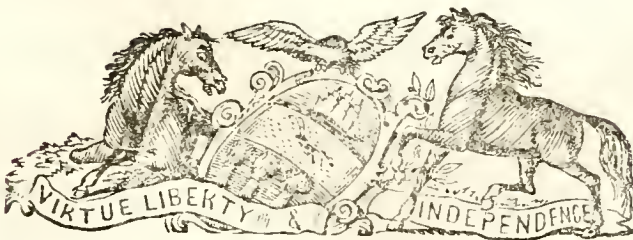
STATE OF PENNSYLVANIA,

PASSED AT THE SESSION OF 1855,

IN THE

SEVENTY-NINTH YEAR OF INDEPENDENCE.

WITH AN APPENDIX.



HARRISBURG:

A. BOYD HAMILTON, STATE PRINTER.

1855.

and eight hundred and fifty-five, be and the same is hereby repealed.

HENRY K. STRONG,
Speaker of the House of Representatives.

WM. M. HIESTER,
Speaker of the Senate.

APPROVED—The twenty-first day of April, Anno Domini one thousand eight hundred and fifty-five.

JAS. POLLOCK.

No. 574.

AN ACT

To incorporate the Monongahela Water Company.

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 James Salisbury, David Chess, James M. M'Elroy, Christian Ihensen, Thomas M'Kee, Alexander M'Lain, John D. Miller, Daniel Berg, Henry J. Metz, John Evans and R. A. Bausman, *Commissioners.* of the county of Allegheny, or any three of them, are hereby appointed commissioners, to perform the several things hereinafter mentioned; that is to say, they shall procure a suitable book or books, and therein enter as follows: "We whose names are hereunto subscribed, do promise to pay to the Monongahela water company, the sum of twenty-five dollars for every share of stock set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and managers of said company, in pursuance of an act of the general assembly of the commonwealth of Pennsylvania, entitled "An Act to incorporate the Monongahela water company." Witness our hands and seal this day of _____, Anno Domini one thousand eight hundred and _____; and shall thereupon give notice in two newspapers published in the county of Allegheny, for two weeks at least, of the time and place or places, when and where the said book or books shall be opened to receive subscriptions to the stock of the said company; at which time and place or places, one or more of the said commissioners shall attend, and furnish to all persons duly qualified who shall offer to subscribe, an opportunity of so doing; and it shall be lawful for all such persons, and for all firms and co-partnerships by themselves, or by persons duly authorized, to subscribe for shares in said stock; and the said book or books shall be kept open for the said purpose, at least six hours in each juridical day, for the space of three days, or until there shall have been subscribed four thousand shares; and if at the expiration of three days as aforesaid, *Their duties.*

Proviso.

the said book or books shall not have the number of shares aforesaid therein subscribed, the said commissioners may adjourn from time to time, or go elsewhere with the books and procure subscriptions, as the occasion may require; and when the whole number of shares shall have been subscribed, the book or books shall be closed: *Provided*, That every person offering to subscribe in said book or books in his own name, or in the name of any other person or firm, shall, at the time of subscribing, be required to pay to the attending commissioner or commissioners, one dollar on each share; and the money so received by said commissioner or commissioners, and the expenses attending the taking of said subscriptions, and other incidental charges, being first deducted therefrom, shall be paid over to the treasurer of the said company as soon as the same shall be organized.

Letters patent.

Style.

Privileges.

SECTION 2. That when five hundred shares of stock shall have been subscribed, the commissioners who have acted, or a majority of them, shall certify to the governor, under their hands and seals, the names of the subscribers, and the number of shares subscribed by each, and the amount paid on each share, whereupon the governor shall, by letters patent under his hand and the seal of the commonwealth, create and constitute the subscribers, and if the subscription be not full at the time, those who shall thereafter subscribe to the number of shares aforesaid, their successors and assigns, into a body politic and corporate in deed and in law, by the name, style and title of "The Monongahela water company;" and by the said name, style and title, the subscribers shall have perpetual succession, with all the privileges, immunities and franchises incident to a corporation; and be able to sue and be sued, implead and be impleaded in all courts of record and elsewhere; and to purchase, receive, have, hold, use and enjoy to them and their successors, goods, chattels and estate, real and personal, of what kind and nature soever, and the same from time to time to sell, exchange, mortgage, grant, alien, or otherwise dispose of; and to make dividends of such part of the profits as they may deem proper; and also to make and have a common seal, and the same to alter or renew at pleasure; and also to ordain, establish, and put in execution such by-laws, ordinances and regulations, as shall appear necessary or convenient for the government of said corporation, not being contrary to the constitution and laws of the United States, or of this commonwealth; and generally to do all and singular the matters and things which to them it shall lawfully appertain to do for the well being of said corporation, and the due management of the affairs thereof: *Provided*, That nothing herein contained shall be construed as, in any way, giving to said corporation any banking privileges, or any other privileges, liberties or franchises, but such as may be necessary, convenient, or incident to the distribution and supplying of water to the citizens of the boroughs of Birmingham, East Birmingham and South Pittsburg, as hereinafter mentioned: *Provided further*, That the said company shall, at no time, hold or possess any land for any other purpose than the construction thereon of the necessary works and offices of the company.

Proviso.

Proviso.

Organization.

SECTION 3. That when letters patent shall have been obtained the commissioners aforesaid, or such of them as shall have acted, shall appoint a time and place for the subscribers to meet to organize the company, and shall give at least two weeks' no-

tice thereof, in the manner provided for in the first section of this act; and the subscribers, when met, shall elect by a majority of the voters present, to be given in person or by proxy, a president and eight managers, who shall manage and conduct the business of the company until the first Tuesday in May thereafter, and until like officers are chosen.

SECTION 4. That the stockholders shall meet on the first Tuesday in May in every year, at such place as may be fixed on by the by-laws, of which meeting notice shall be given by the secretary in the manner provided for in the first section of this act, and choose by a majority of the voters present, to be given in person or by proxy, a president and eight managers for the ensuing year, who shall continue in office until the next annual election, and until others are chosen; the stockholders may also meet at such other times and places as they may be summoned by the president and managers, in such manner and form and giving such notice as may be prescribed by the by-laws, at which annual or special meeting the stockholders shall have power to make, alter or repeal, by a majority of votes given, all by-laws, orders or regulations, and to do and perform every other corporate act: *Provided*, That the president, on the request in writing of any number of stockholders, representing in the aggregate not less than one hundred shares, shall call a special meeting of the stockholders, giving such notice as may be prescribed by the by-laws, and stating specifically the objects of the meeting; and the objects stated in said notice, and no other, shall be acted on at such special meeting.

Annual meetings.

Election of president and directors

Proviso.

SECTION 5. That the election of officers provided for in this act shall be conducted in the following manner, to wit: at the first election the commissioners shall appoint two stockholders to be judges of said election, shall hold the same, and at every subsequent election the managers for the time being shall appoint two stockholders for the like purpose, and the persons so appointed by said commissioners or managers shall not be eligible to an election as president or manager at such election, and shall respectively take and subscribe an oath or affirmation, before an alderman or justice of the peace, well and truly and according to law to conduct such election to the best of their knowledge and ability; and the said judges shall decide upon the qualification of voters, and when the election is closed shall count the votes; and the stockholders having the highest number of votes shall be declared duly elected; and if it shall happen that an election of president or managers shall not be made the corporation shall not for that cause be deemed to be dissolved, but it shall be lawful to hold and make such election of president or managers on the same day or any day thereafter, the secretary giving notice of the time and place of holding said election in the manner provided in section first; and the president and managers of the preceding year shall in that case continue to act and be invested with all powers belonging to their respective stations, until an election shall take place; and in case of the death or resignation, or removal from the state, of any president or manager, or a failure to elect, in case of a tie vote, the vacancy shall be filled by the board of managers until the next annual election; at all elections by the stockholders, and upon all questions submitted to any annual or special meeting of stockholders, each share of stock shall entitle the holder thereof to one vote: *Provided*, That no person shall

Manner of conducting election.

Vacancies.

Proviso.

be permitted to vote at the first election of said company, unless he or she has paid one dollar on each share of stock by him or her subscribed; and at all subsequent elections, and at the annual or special meetings of the stockholders, no person shall be permitted to vote unless he or she shall have fully paid all the instalments called for and then due on the shares by him or her subscribed: *Provided further*, That none but stockholders shall be eligible to be elected president or managers.

Proviso.

Powers of president and directors

SECTION 6. That the president and managers of said company, for the time being, are hereby authorized to exercise all the powers granted to the corporation; they shall meet at such times and places as shall be deemed most convenient for the transaction of their business, and when met, five shall be a quorum to do business, and in the absence of the president may choose a president *pro tempore*; they shall keep minutes of their proceedings, fairly entered in a book; they shall choose a secretary and treasurer for the current year, and a quorum being formed, they shall have power to purchase land for the necessary works and offices of the company, and erect the same; to appoint all such architects, surveyors, superintendents and other artists and officers as they may deem necessary to construct and carry on the intended water works, and to fix their salaries and wages; to enter into and execute contracts and covenants in relation to the objects of said incorporation, and to enforce the same; to draw orders on the treasurer for moneys, which orders shall be signed by the president, or, in his absence, by the president *pro tempore*, and countersigned by the secretary, and generally to do all such other acts, matters and things as by this act and the by-laws and regulations of the company they may be authorized to do.

Objects and powers of company.

SECTION 7. That said company shall have power to raise and introduce into the boroughs of Birmingham, East Birmingham and South Pittsburg, in the county of Allegheny, a sufficient supply of Monongahela river water for the use of the inhabitants of said boroughs; and for this purpose the said company shall have full authority to provide, erect and maintain all necessary and proper buildings, works, machinery and reservoirs, and to convey water from said river, in conduit pipes or otherwise, through any public or private grounds, roads, streets or alleys, to the reservoir or reservoirs of said company, and the same to distribute, by conduit pipes or otherwise, for the use of the inhabitants of said boroughs; and for said purposes the said company shall at all times have authority, by themselves or their agents, to enter upon, dig and lay pipes in and through all lands, grounds and enclosures, public or private, and also shall at all times have liberty to dig and lay pipes in and along the streets, roads and highways of the said boroughs, shutting up and mending as soon as possible any breaches which they may make, and the said pipes, wheresoever laid, to renew and repair as circumstances may require; and it shall be lawful for said company to enter into and appropriate to their use any land, whether situate in the said boroughs or in the township of Lower Saint Clair, which may be necessary for the location of the aforesaid buildings, works and reservoirs: *Provided*, That before said company shall take possession of any lands which they may appropriate for the site of their aforesaid buildings, works and reservoirs, they shall make compensation to the owner or owners, or tender adequate security therefor.

Proviso.

SECTION 8. That if the said company cannot agree with the owner or owners of any lands appropriated to the use of said company, as aforesaid, or through which said company may have laid their pipes, as to the compensation which should be paid to said owner or owners, or if by reason of absence or legal incapacity the said company cannot treat with said owner or owners, the company or said owner or owners, or some one on behalf of either may apply to the court of common pleas of Allegheny county by petition, and it shall be the duty of said court to appoint three disinterested persons to view and assess the damages sustained by the said owner or owners, or which may probably be sustained in the prosecution of said work, and it shall be the duty of the person so appointed to meet upon the premises on a day to be fixed by the court, of which meeting ten days' notice shall be given by the petitioners to the other party, and to each of the viewers, and the said viewers having been first duly sworn or affirmed to do impartial justice between the parties, according to the best of their judgment and abilities, shall proceed to view the premises with regard to the damage and injury complained of, and taking into consideration the advantages and disadvantages likely to result to said owner or owners from the location and construction of said works through or upon their land, shall make report to the said court of the amount of damages so found and assessed by them to said owner or owners, if any, and if the said report shall be approved by the court, judgment shall be entered thereon in favor of said owner or owners, for the amount of the damages so assessed; and the same shall be collected as other debts: *Provided*, That the costs of such proceeding shall be paid by the company.

Assessment of damages.

Proviso.

SECTION 9. That when the company shall pay to the said owner or owners of any lands the full amount of damages found and assessed, according to the provisions of the eighth section of this act, for the lands occupied by said company in the construction of their works, the said company shall be entitled to have and hold said lands so paid for, to them, their successors and assigns, as fully to all intents and purposes as if the same had been conveyed to said company by the agreement of the parties.

Rights of company on payment of damages.

SECTION 10. That the president and managers first chosen shall procure certificates or evidences of stock for all the shares of the said company, and shall deliver one or more certificates or evidences signed by the president and countersigned by the secretary, and sealed with the common seal of the said corporation, to each person or party entitled to receive the same according to the number of shares by him, her or them, respectively subscribed or held, which certificates or evidences of stock shall be transferable at the pleasure of the holder, in a suitable book or books to be kept by the company for that purpose, in person or by attorney duly authorized in the presence of the president or secretary; subject, however, to all payments due or to become due the company; and the assignee or party to whom the same shall have been transferred, shall thereupon be a member of said corporation, and shall have and enjoy all the immunities, privileges and franchises, and be subject to all the liabilities, conditions and penalties incident thereto, in the same manner as the original subscriber would have been: *Provided*, That no certificate shall be transferred so long as the holder thereof is indebted to said company, unless the president and

Certificates of stock.

Proviso.

managers shall consent thereto; and no such transfer of stock shall have the effect of discharging any liabilities or penalties theretofore incurred by the owner thereof.

Capital stock.

SECTION 11. That the capital stock of said company shall be divided into shares of twenty-five dollars each, and shall be called in and paid in such proportions and at such times and places as the president and managers may determine, of which public notice shall be given for at least two weeks next preceding the time or times appointed for that purpose, in the manner before mentioned; and if any subscriber or his assignee, shall neglect to pay such proportion at the time and place appointed, he, she, or they shall be liable to pay in addition, at the rate of one per centum a month for the delay of payment; and if the same and the additional penalty, or any part thereof, shall remain unpaid for the period of three months, he, she, or they shall at the discretion of the president and managers, forfeit to the use of the company all right, title and interest in and to every and all share or shares on account of which such default in payment may be made, or the president and managers may at their option cause suit to be brought before any competent tribunal, for the recovery of the amount due on such shares, together with the aforesaid penalty; and in the event of a forfeiture, the share or shares so forfeited, may be disposed of in the manner prescribed by the by-laws: *Provided*, That the president and managers shall not call for instalments oftener than once in every thirty days, and not more than five dollars per share shall be called for at any one time.

Proviso.

Fire plugs.

SECTION 12. That the president and managers of the said company may in such streets, alleys and highways of the aforesaid borough, where pipes shall be laid down, erect fire plugs or hydrants, to be used solely for extinguishing fires and cleansing the streets, alleys and highways, for a reasonable compensation, to be agreed upon between the said president and managers; and the proper authorities of the respective boroughs aforesaid, and the said company, shall at all times where trunks and pipes shall be laid, in or through any of the streets, alleys and highways of said boroughs, suffer individuals to be supplied with water for domestic use and such other uses as the president and managers shall permit, for such reasonable compensation and upon such terms as shall from time to time be agreed on by said president and managers and such individuals, according to such uniform rates as said president and managers shall hereafter from time to time adopt; regard being had to the probable quantity of water which applicants are likely to consume; and any person or persons within the said boroughs, who shall take any of said water or domestic or other uses, without having previously contracted for the same with the said president and managers, or after such contract has expired or been annulled, shall forfeit and pay for every such offence the sum of ten dollars to the president and managers for the use of the company, to be recovered before a justice of the peace by action of debt or assumpsit, in the same manner as other debts are recoverable.

Use of water to be granted.

Collection of water charges.

SECTION 13. That if any person or persons shall neglect to pay their water rents according to the terms of their contract with the said company, the same may be recovered by action as debts of a like amount are recoverable.

SECTION 14. That the said company shall have power, from May borrow time to time, to borrow money to an amount not exceeding money. thirty thousand dollars, and to make and execute a mortgage or mortgages, pledge or pledges of the property and effects of said corporation, for the security of the repayment of the amount borrowed, or give such other evidences of indebtedness as may be agreed upon: *Provided*, That no bond or other evidence of Proviso. loan shall be issued for a less sum than one hundred dollars.

SECTION 15. That the aforesaid boroughs of Birmingham, East Birmingham and South Pittsburg, or either of them, are hereby authorized to subscribe to the capital stock of the said company, not exceeding eight hundred shares respectively, the same to be subscribed by the proper authorities of the said boroughs respectively; and they are hereby respectively authorized to borrow money to pay therefor, and to make provision for the payment of the principal and interest of the money so borrowed, as in other cases of loans to said boroughs; and the said boroughs are respectively authorized to issue their bonds to the amount of their respective subscriptions to said stock, in sums of not less than one hundred dollars each, bearing interest, payable semi-annually, which bonds may be received by said company in payment of the stock subscribed, as aforesaid, and the said bonds shall be made payable at such times as may be agreed upon between the said company and the authorities of the respective boroughs: *Provided*, That for every four hundred shares subscribed by either of the aforesaid boroughs of Birmingham, East Birmingham or South Pittsburg to the capital stock of said company, the borough so subscribing shall, by its town council, annually appoint one manager of said company, and in that event the elections by the stockholders shall be confined to the president and the other remaining managers, and other stockholders shall alone have power to vote at such elections. Certain corporations may subscribe.

SECTION 16. That when the Monongahela water company shall have erected their works, and the same are in operation, the property thereof shall be vested in the said company, and their successors and assigns, during and unto the end of forty years, to commence from the time when said company shall first begin to distribute water to the citizens of either of said boroughs: *Provided*, That when the moneys and revenue received by the said Monongahela water company shall exceed twelve per centum net annual profit, the excess shall compose a fund for the redemption of the property owned by said Monongahela water company; and if at the expiration of the forty years aforesaid, the amount of the said fund shall be found adequate to the redemption of the said water works, (providing at the same time for its repairs,) then the said company shall be obliged to take such sum of money therefor as shall be allowed, on a fair appraisement by five disinterested persons, to be appointed by the court of common pleas of the county of Allegheny, and the property of the said corporation shall then be vested in the burgess and town council of either or all of said boroughs, or the existing authorities at that time and their successors forever; but if the said property shall not be redeemed and paid for at the expiration of said term of forty years, the said Monongahela water company may and shall continue to hold the same, on the Property to vest in loan company.

terms of this act, beyond the said term, and until the same shall be redeemed and paid for in the manner herein directed.

HENRY K. STRONG,
Speaker of the House of Representatives.

WM. M. HIESTER,
Speaker of the Senate.

APPROVED—The twenty-first day of April, Anno Domini one thousand eight hundred and fifty-five.

JAS. POLLOCK

No. 575.

A SUPPLEMENT

To the act incorporating the Cornwall and Phoenixville Railroad Company.

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 time specified for commencing and completing the Cornwall and Phoenixville railroad, incorporated by act of assembly, approved the twenty-first day of April, Anno Domini one thousand eight hundred and fifty-two, be and the same is hereby extended for the term of five years, from the time of the expiration of said charter.

SECTION 2. That the seventh section of the aforesaid act, be and the same is hereby repealed.

HENRY K. STRONG,
Speaker of the House of Representatives.

WM. M. HIESTER,
Speaker of the Senate.

APPROVED—The twenty-third day of April, Anno Domini one thousand eight hundred and fifty-five.

JAS. POLLOCK.

Time for commencement and completion extended.

Repealed.