

LAWS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF PENNSYLVANIA,

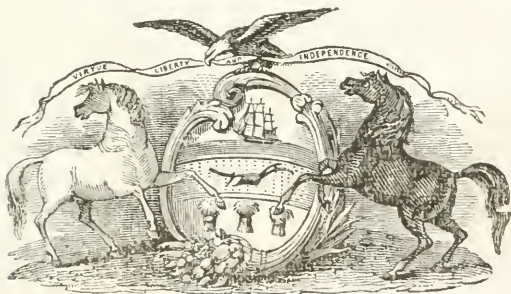
PASSED AT THE

SESSION OF 1853,

IN THE

SEVENTY-SEVENTH YEAR OF INDEPENDENCE.

WITH AN APPENDIX.



PUBLISHED BY AUTHORITY.

HARRISBURG:

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1853.

said borough, and cause the same to be collected, and all other taxes necessary for the support and well being of the corporation, in like manner as townships now have the right, and the burgess and town council are hereby authorized to levy a tax or taxes on dogs within said borough, and cause the same to be collected, as borough taxes are collected, if they deem proper. To have the care of the poor, to levy taxes &c.

SECTION 21. That the school directors first elected under the provisions of this act shall, immediately after their election, cause to be made an enumeration of the taxable inhabitants of said borough, and the president of the board of directors shall certify the same to the superintendent of common schools, who is hereby directed to adopt the number of taxables thus certified to him as the basis of the distribution to said borough of its share of the State appropriation, and the amount to which the said borough is entitled shall be deducted from the amount to which Providence school district in said county would otherwise be entitled, until after the next triennial enumeration of taxables for school purposes, and the said borough shall be entitled to its share of the proprietors' fund in said Providence township. Enumeration of taxables.

SECTION 22. That the high constable of the said borough shall have the power and authority vested by the laws of this Commonwealth in the constables of the different townships in the said county, and shall give bonds for the just and faithful discharge of the duties of his office, in the manner required of the constables of the different townships in the said county. Powers of high constable.

JOHN S. RHEY,

Speaker of the House of Representatives.

JOHN H. WALKER,

Speaker of the Senate.

APPROVED—The fourth day of May, one thousand eight hundred and fifty-two.

WM. BIGLER.

No. 416.

AN ACT

To authorize the Governor to incorporate the Pittston 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 Arlen Damore, Abraham Price, Isaac Everet, Cornelius Stark, Thomas Ford, Abraham Enigh, George Lazarus, Theodore Strong, James McFarlanes, William Ford, Abraham Bird, R. J. Wisner, Stephen B. Jenkins, John Howaith, James Searle, and Wm. H. Alexander, be and they are hereby appointed commissioners, to do and perform the several duties hereinafter mentioned, that is to say:—they or any five of them, shall procure a book or books, and therein enter as follows: Commissioners.

“We whose names are hereunto subscribed, do promise to pay to the Form of subscription.

president and managers of the Pittston Water company, the sum of twenty-five dollars for each and 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 said president and managers, in pursuance of an act of the General Assembly entitled "An Act to authorize the Governor to incorporate the Pittston Water company; witness our hands, the day of , in the year of our Lord one thousand eight hundred and ;" and shall thereupon give notice, in a public newspaper printed in Pittston, and such other papers as a majority of the said commissioners may think proper, of the time and place or places when and where the said book or books shall be opened to receive subscriptions for the stock of said company, at which time and place or places, one or more of the said commissioners shall attend, and permit and suffer all persons or bodies corporate who shall offer to subscribe in the said book or books, which shall be kept open for the purpose at least six hours in every juridical day for three days, if three days shall be necessary, and on the first of said days any person of the age of twenty-one years shall be at liberty to subscribe, in his own name or in the name of any other person or body corporate by whom he shall be duly authorized, for any number of shares not exceeding twenty, and on any succeeding day while the said book or books shall remain open, for any number of shares of the said stock, and if at the expiration of the said three days the said book or books shall not have eight hundred shares therein subscribed, the said commissioners may adjourn from time to time, and from place to place, until the said number of shares shall be subscribed, and when the said number of shares shall be subscribed the said book or books shall be closed: *Provided always*, That every person offering to subscribe in said book or books, in his own name or in the name of any other person or body corporate, shall at the time of subscribing be required to pay to the attending commissioner or commissioners one dollar on each share, to defray the expenses attending the taking of such subscriptions and other incidental charges, which expenses and charges the said commissioners shall pay out of the moneys so received by them, and the balance, if any, shall be paid over to the treasurer of the said company as soon as the same shall be organized, as hereinafter mentioned.

Who may subscribe.

Provide.

Letters patent.

SECTION 2. That when ten or more persons shall have subscribed not less than four hundred shares of the said stock, the commissioners aforesaid, or any five of them, may, or when the whole number of the shares aforesaid shall be subscribed shall certify, under their hands and seals, the names of the subscribers, and the whole number of shares subscribed by each, and the amount paid on each share, to the Governor of this Commonwealth, and if it shall appear from such certificate that the subscriptions have been bona fide made, and the amount required by the said commissioners at the time of subscription actually paid, then the Governor shall, by letters patent under his hand and the great seal of the State, create and erect the said subscribers, and if the whole number of shares aforesaid be not then subscribed, then also all others who shall afterwards subscribe to the number of shares aforesaid, into one body politic and corporate, in deed and in law, with perpetual succession, and with all the privileges and franchises incident to a corporation, by the name, style and title of "The Pittston Water company," and by such name the subscribers, and such others as may thereafter become subscribers and shareholders, shall be capable of holding their said capital stock, and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions, in

Style.

such manner and form as they shall think proper, not exceeding forty thousand dollars, and of purchasing, taking and holding, to them and their successors and assigns, in fee simple or for any less estate, all such lands, tenements and hereditaments, goods, chattles or effects, as shall be necessary for them in the prosecution of their work and in the full enjoyment thereof, and the same to sell and dispose of at their pleasure, if necessary, and of doing every act, matter and thing which a corporation or body politic may lawfully do. Privileges.

SECTION 3. That the seven persons first named in the letters patent shall, as soon as conveniently may be, give notice in a public newspaper printed in the village of Pittston, of a time and place to be by them appointed, not less than thirty days after publishing such notice, at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers, by ballot, to be delivered in person or by proxy, one president and six managers to conduct the business of said company, who shall continue in office until the next succeeding annual election, as hereinafter provided, and until such other officers shall be elected, and shall make such by-laws and regulations not inconsistent with the constitution and laws of the United States and of this State, as may be necessary for the well ordering and conducting of the affairs of the said company: *Provided*, That no person or body corporate shall have more than twenty votes on his own account at any election, or in determining any question arising at such meeting, whatever number of shares such individual or body corporate may be entitled to, and that each person and body corporate holding one or more shares, not exceeding the number of twenty, shall be entitled to one vote for each and every share so held. Notice to be given of organization.
Proviso.

SECTION 4. That the said president and managers shall have full power and authority, immediately after obtaining their charter of incorporation, to construct, provide for, or erect all the works, materials or machinery necessary and proper for conducting or conveying pure water into the village of Pittston, and distributing the same for the use of the inhabitants of the said village, and also for the use of those who live contiguous thereto, as also to provide against the ravages of fire by erecting hydrants or other constructions, in suitable places within the limits of said village, for that purpose, and also for erecting within or contiguous to said village a reservoir of suitable dimensions, for the supply of the inhabitants of said village and of those who live contiguous thereto with pure water, and the said company shall have the privilege to convey water from any point which they may deem expedient, where pure water may be obtained in sufficient quantity, for the ordinary uses of the inhabitants, as aforesaid, and to convey and conduct the same in conduit pipes, or otherwise, as they may deem expedient, through any public or private grounds, roads, streets or alleys, to the said reservoir, and from said reservoir through any road, street or alley, or through any public or private ground within or without said village, necessary for the distribution of said water for public or private use, and to alter, renew and repair any of such constructions when necessary: *Provided*, That all damages to private property shall be ascertained and paid for before any work is done or commenced on such private property or grounds, as is hereinafter provided for, and the said company shall do no damage or injury to the Pennsylvania canal, or to the works of the Pennsylvania Coal company; that the said president and managers shall, in such streets and parts of said village when pipes have been laid down for conduct- Powers.
Proviso.

ing the said water, for a reasonable consideration, which shall be agreed upon by the said president and managers or their agent, and a duly authorized committee of the property holders of said village, erect hydrants, to be used solely for extinguishing fires and cleansing the streets of the said village, under the direction of said duly authorized committee of property holders, and they shall suffer individuals at all times to be supplied with water from the said pipes for domestic or manufacturing purposes, or for any machinery connected with the mining or carrying away coal or other minerals in said village, or lands contiguous thereto, for such a reasonable consideration and compensation as shall from time to time be agreed upon by the said president and managers and such individuals, according to certain uniform rates, as near as practicable, which the said president and managers shall adopt, and any person within the said village, or in the vicinity of the said village, who shall appropriate or draw off any of the said water for domestic, manufacturing or other purposes, except for the legitimate purposes contemplated by this act, without having previously contracted for the same with the president and managers, or their duly authorized agent, shall forfeit and pay for every such offence the sum of twenty dollars to the said president and managers, to be recovered before a justice of the peace, in such manner as debts of equal amount are now recoverable.

May enter upon
lands.

SECTION 5. That it shall and may be lawful for the said president and managers, by and with their officers, agents, artists and workmen, with their tools and implements, carts, wagons, carriages, and beasts of draught and burden, to enter upon the lands over, contiguous and near to which the route, track and line where the water shall or may be conducted in manner aforesaid, in conduit pipes or otherwise, or for constructing a reservoir, or for any other purpose necessary for the accomplishment of the object of this act: *Provided*, That the said president and managers shall give, or cause to be given, notice to the owner or occupier of lands thus entered upon, and doing as little damage as possible.

Proviso.

To enter upon
lands for the
purpose of loca-
tion.

SECTION 6. That it shall and may be lawful for the said president and managers, by and with their officers, artists and workmen, with their tools and implements, to enter in and upon the lands and tenements of any person or persons, for the purpose of locating the route by which the water is to be conducted, and defining and marking the courses and distances thereof, and of locating any bridges, aqueducts or culverts necessary in the prosecution of said works, and also for the purpose of locating the site for a reservoir, as aforesaid, and for establishing any other works or fixtures connected therewith, first giving notice to the owner or occupiers of said lands through which the said water is to be conducted or reservoir constructed, doing as little damage thereto as possible.

To contract for
lands.

SECTION 7. That it shall and may be lawful for the said president and managers, or their duly authorized agent, to contract and agree with the owner or owners of any lands and tenements, hereditaments and privileges which may be affected thereby, over, through, or upon which it may be necessary to conduct the water, as aforesaid, or to construct or erect said reservoir, bridges, aqueducts, culverts, dams, or other works or fixtures, which by the said president and managers may be deemed necessary and connected therewith, for the purchase of so much of said lands as they may deem necessary for the accomplishment of the objects of this act, or the privilege of entering upon and passing over the said lands in the prosecution, repair and protection of their works, if they or their duly authorized agent can agree with such owner or

owners, but in case of disagreement, or in case the owner thereof be feme covert, under age, non compos mentis, or out of the State, or otherwise incapacitated to sell or convey, then it shall and may be lawful for the president and managers of the said company, or for the owner or owners of or persons interested in such lands or tenements, hereditaments and privileges, to apply to the court of common pleas of Luzerne county by petition, whose duty it shall be forthwith to appoint three reputable and disinterested persons, not connected with the parties, to view and assess the damages sustained by the owner or owners **Damages.** or occupiers of any such lands and tenements, hereditaments and privileges, or which may probably be sustained in the prosecution of said work, or by reason of the appropriation or occupation of such lands and tenements, hereditaments and privileges, for the purposes aforesaid, and it shall be the duty of the persons appointed by the said court, after being duly sworn or affirmed to do impartial justice between the parties, according to the best of their judgment and abilities, to go upon the premises and view the same with regard to the damage and injury complained of, and taking into consideration any advantage the said owner or owners may derive from the location and construction of the said works through their said lands and tenements, hereditaments and privileges, make report to the said court as soon as convenient, of the amount of the damages so found and assessed by them, to each individual through or upon whose lands said works may be constructed, if any, and if the said report shall be approved by the said court, the court shall direct the amount or several amounts thus found and approved to be entered on the records of the said court, with costs, as in cases of roads, to be paid by the company: *Provided*, That either party shall have a right to appeal from any report made in pursuance of this section, by giving security for all costs, in that case it shall be the duty of the court of common pleas to direct an issue to try the same, and in case the party appealing shall not recover a verdict more favorable than the report of the said viewers, then and in that case the said party shall pay all the costs that shall accrue by reason of such trial by jury: *And provided also*, That such appeal shall be made **Proviso.** within twenty days from the approval by said court, and shall not delay the operations of the said company in the prosecution of their work, but the same may proceed upon entering two or more sureties, to be approved by the said court, for the payment of the sum finally adjudged to be due, with costs, or upon depositing in court an amount which the said court shall adjudge sufficient to cover the same.

SECTION 9. That when the said president and managers shall pay to the said owner or owners of any lands and tenements, or to his, her or their representatives, the full amount of damages found and assessed according to the provisions of the sixth section of this act, for the lands and tenements occupied by the said company in the construction of their works, or for the right of way over or through any lands for the construction or protection and repair of the same, with the costs allowed by the said court, or shall pay into the said court for the use of the said owner, owners and occupants, his, her or their representatives, the said company shall be entitled to have and to hold the said lands and tenements so paid for and described in the report of the said viewers, and set out in and by the draft accompanying and filed of record, with the report of the viewers aforesaid, to them and their successors and assigns, for the purposes aforesaid.

SECTION 9. That the stockholders of the said company shall meet **Meeting of stockholders** on the first Monday in May in each year after they shall have received their letters patent as hereinbefore provided, at such place as shall be

Officers.

fixed by the rules and orders of the said company, to be made as aforesaid, for the purpose of choosing one president and six managers, as aforesaid, for the ensuing year, and until other officers are elected, and at such other times as they shall be assembled by the said president and managers, of all which meetings of the said stockholders it shall be the duty of the said president, or in case of his absence or other disability, of at least two of the managers, to give at least two weeks notice in the newspapers published in the said village, of the time and place of such meeting, at which annual or special meeting the said stockholders shall have full power and authority to make, alter or repeal, by a majority of votes, all such by-laws, rules and regulations as aforesaid, and to do and perform every other corporate act: *Provided*, That if such election of president and managers shall not be made on the day above specified, the corporation shall not for that cause be dissolved, but it shall be lawful on any other day within sixty days thereafter, due notice having been first given as above provided, by the president, or at least two of the said managers, of the time and place of meeting, to hold and make an election, in such manner as the by-laws of the said corporation shall prescribe, and in case of the death, resignation, removal from the state, or other inability to act, of the president or any of the managers, the remaining members of the board of managers shall choose another to supply his place until the next election, and the said president and managers, or a majority of them, shall at their first meeting after their election choose a suitable person as treasurer, and a secretary, for the ensuing year, both of whom shall be selected from the list of bona fide stockholders.

Proviso.**Meeting of president & managers.**

SECTION 10. That the said president and managers aforesaid, shall meet at such times and places and be convened in such manner as shall be agreed on, for transacting their business, and at such meetings four members shall form a quorum, and shall, by themselves or secretary, keep minutes of all their transactions, recording the votes of all the members of the board present, particularly designating each member by name who shall vote in the affirmative, and each who shall vote in the negative, upon every proposition, rule or order, which shall be decided, established, or acted upon by the said board of managers, fairly entered in a book to be kept for that purpose, and a quorum being met, they shall have full power and authority to agree with and appoint all such agents or persons as they may judge necessary to conduct and carry on the said works contemplated by this act, and to fix their salaries and wages, and to fix the times, manner and proportions, when and where the stockholders shall pay the moneys due on their respective shares in order to carry on the works, to draw on the treasurer for all moneys necessarily expended in the prosecution thereof by orders, which shall be signed by the president, in pursuance of a resolution of said board, or in his absence by a majority of a quorum, and generally to do and perform all such other acts, matters and things as by this act, and the by-laws, orders and regulations of the company, shall be committed to them.

Certificates of stock.

SECTION 11. That the said president and managers shall procure certificates, to be printed or written, for the shares of the capital stock of the said company, and deliver one thereof, signed by the president and countersigned by the treasurer, and sealed by the common seal of the corporation, to each person for every share by him or her subscribed and held, which certificate shall be transferable by the owner, at his or her pleasure, in person or by attorney, in presence of the president or treasurer, subject, however, to all payments due or to become due thereon, and the assignee holding any certificate, having first caused the

assignment to be entered in a book of the company to be kept for that purpose, shall be a member of the corporation, and shall be entitled to all the privileges and emoluments incident and belonging thereto: *Provided*, That to entitle the transferee to vote at any election or meeting of the stockholders, the transfer shall be bona fide made at least three months previous to such election or meeting. Proviso.

SECTION 12. That if any stockholder after thirty days public notice in the newspapers printed in said Pittston village, of the time and place appointed in pursuance of the ninth section of this act for the payment of any portion of the capital stock, in order to carry on the work, shall neglect to pay such proportion at the place appointed, for the space of thirty days after the time so appointed for the payment thereof, every such stockholder or his or her assignee shall, in addition to the proportion so called for, pay at the rate of one per centum per month for such delay of payment, and if the same and additional penalty shall remain unpaid for such a space of time as that the accumulated penalties shall be equal to the sums previously paid on account of the said share, then the said share, and all the money thereon paid, shall be forfeited to the company, and may be sold by them to any person or persons willing to purchase, for such price as may be obtained therefor: *Provided, however*, That nothing herein contained shall be so construed as to prevent the said company from recovering the amount of capital stock so called for and remaining unpaid, together with the penalty, from any delinquent stockholder. Penalty for neglect to pay installments.

SECTION 13. That the said president and managers of the said company may require of and from the treasurer, and of and from all and every person and persons employed by them, bonds in sufficient penalties and with sufficient securities, for the due and faithful discharge of the several duties and trusts to them or any of them respectively committed. Treasurer &c., to give bonds.

SECTION 14. That the said president and managers of the said company shall keep fair and just accounts of moneys received by them from the subscribers to the said undertaking for their subscriptions thereto, and all penalties for delay or non payment thereof, and of all moneys by them expended, and on what account the same was expended, and shall in every year, not more than sixty nor less than than thirty days previous to the time for holding an election for officers of the said company, prepare a particular statement thereof in writing, which, together with the vouchers and other evidences thereto belonging, shall be placed in the office of the treasurer of the company, for the free inspection of any stockholder or member of the said company who may think proper to examine the same, until the work shall be completed, and all the costs and charges affecting the same shall be fully paid and discharged, and it shall be the further duty of the said president and managers, after the completion of the said work, and all the costs and expenses thereof paid and settled, to keep just and fair accounts of all moneys received by them by their treasurer or other officers or agents, arising from the sale of water-rights, water-rents, or otherwise, and of the amount by them expended, and shall make and declare a dividend of the profits and income thereof among all the stockholders respectively, and shall on the first Monday of January and July in every year publish the half-yearly dividends to be made of the income and profits to and among the stockholders, and of the time and place when and where the same shall be paid, and shall cause the same to be paid accordingly: *Provided*, That no dividend shall be made to impair the capital stock of said company: *And provided also*, That no person shall be entitled to any share of the dividends declared who has To keep fair & just accounts.

Proviso.
Proviso.

Proviso.

not paid such amount on the stock held by him as has been required by the president and managers: *Provided*, That nothing contained in this act shall be construed to authorize the said corporation to issue notes in the nature of bank notes, or to endorse notes in their corporate capacity, or to make discounts, or to receive deposits, after the manner of any bank or banks; and in case at any time the company shall violate the provisions of this section, all and every of their chartered privileges shall cease and determine.

Completion of works.

SECTION 15. That if the company to be incorporated by the provisions of this act, shall not within ten years from and after the date of their charter erect and complete the works herein contemplated and authorized, then all the privileges hereby granted shall cease and determine.

To afford a supply of pure water at all times.

SECTION 16. That the said company shall at all times, to the utmost capacity of their works, afford a supply of pure water to all the citizens of the village of Pittston, and to citizens contiguous thereto, the citizens of the said village having the preference, for culinary and other domestic purposes, who shall apply for the same and agree to pay therefor, and for the extinguishment of fires, at the usual rates, and in case of any scarcity of water in consequence of extreme droughts, or otherwise, the said citizens shall be supplied for culinary or domestic purposes in preference to those who may apply the water to any other purposes, except the extinguishment of fires and mining operations.

Injuries to works.

SECTION 17. That if any person or persons shall wilfully mutilate, injure, or spoil any of the works of said company, or shall wilfully corrupt the water in any reservoir, dam, or conduit pipe, established by said company, on conviction thereof before the court of quarter sessions of said county, shall pay a fine, at the discretion of said court, not exceeding fifty dollars, and suffer an imprisonment in the jail of said county, in any term not exceeding two months, as the court aforesaid may determine.

Reservation.

SECTION 18. That the Legislature reserves the right to revoke or annul the charter hereby granted.

JOHN S. RHEY,

Speaker of the House of Representatives.

JOHN H. WALKER,

Speaker of the Senate.

APPROVED—The fourth day of May, one thousand eight hundred and fifty-two.

WM. BIGLER.