

L A W S

2411-2

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF PENNSYLVANIA,

PASSED AT THE SESSION OF 1854,

IN THE

SEVENTY-EIGHTH YEAR OF INDEPENDENCE.

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WITH AN APPENDIX.

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HARRISBURG:

A. BOYD HAMILTON, STATE PRINTER.

1854.

other personal security as it may deem safe and advantageous, and sell or dispose of the same at pleasure, as the president and directors of said company may from time to time deem advisable.

SECTION 3. That this corporation shall not exercise any banking privileges, or issue any certificates or other paper to be circulated as bank paper. Not to exercise banking privileges.

E. B. CHASE,  
*Speaker of the House of Representatives.*

M. M'CASLIN,  
*Speaker of the Senate.*

APPROVED—The seventeenth day of February, one thousand eight hundred and fifty-four.

WM. BIGLER.

No. 45.

## A SUPPLEMENT

To the act incorporating the Pottsville Water Company, approved the eleventh day of April, Anno Domini, one thousand eight hundred and thirty-four.

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 Strange N. Palmer, Charles W. Pitman, Daniel Shartle, Bernard Reily, Ben Pott, Charles Lord, Jacob Huntzinger, junior, William Johns and Jonathan Johnson, or any four of them, are hereby appointed commissioners to do and perform the several matters and things hereinafter mentioned, that is to say: that they shall on or before the first day of March next, procure two or more books, and enter therein as follows: "We, whose names are hereunto subscribed, do promise to pay to the president and managers of the Pottsville water company, or the treasurer whom they may appoint, the sum of twenty-five dollars for each and every share set opposite to our names, in such manner and in such proportions, and at such times as shall be determined on by the said president and managers, in pursuance of an act of the General Assembly of this Commonwealth, entitled 'A supplement to the act incorporating the Pottsville water company.'"

Witness our hands this

day of

one thousand eight hundred and fifty-four;"

and shall thereupon give notice in two or more newspapers published in the borough of Pottsville, for the space of ten days' or more, when, and in what places within the boroughs of Pottsville and St. Clair the said books will be opened to receive subscriptions of additional stock to the capital of the said company, at which times and places, one or more of the said commissioners shall attend and shall permit all persons of lawful age, either in their own names, or in the names of others when they appear to be duly authorized to subscribe for any number of shares in the said stock; and shall keep the said books open for three

Provided

successive days, or until eight thousand shares shall have been subscribed, or if the whole number be not subscribed, the president and managers of the said Pottsville water company, may at any time after the first election hereinafter mentioned, open the said books for the subscription of shares, until the whole number aforesaid shall have been subscribed, or so many thereof as the said president and managers shall find necessary to carry into full effect the purposes of this act: *Provided*, That any person offering to subscribe in the said books in his or her name, or in the name of any other person, shall previously pay to the attending commissioner or officers, five dollars for every share to be subscribed, out of which shall be defrayed the expenses of taking such subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the said company as soon as one shall be appointed after the said election.

Ten days notice  
to be given.

SECTION 2. That when three thousand shares or more of said stock shall have been subscribed, the said commissioners or any three of them, shall give at least ten days' notice in two or more newspapers printed in the said borough of Pottsville, of the time and place for the said subscribers to meet, and in conjunction with the present stockholders in the Pottsville Water company, hold an election for managers of the said company, who shall choose from among the said subscribers and stockholders nine managers, six at least of whom shall be residents of the said borough or its immediate vicinity, to conduct the affairs of the said company until the second Monday of January then next ensuing, and in said election each subscriber and stockholder and in all elections afterwards, each stockholder shall be entitled to one vote for each share of stock bona fide held by him or her, and a majority of the votes given shall be sufficient to elect: It shall be the duty of one or more of said commissioners to attend the said first election with the said subscription books, also the president or some of the managers of the said company with their book of stockholders, in order that it may be known who are entitled to vote and for how many shares.

Officers

SECTION 3. The managers thus elected shall appoint one of their number, (who shall reside in the borough of Pottsville,) president, and the board being thus organized, they shall appoint one of the said subscribers or stockholders residing in the borough of Pottsville, and not a member of the board of managers, treasurer; and they shall also procure certificates for the shares of stock now authorized to be subscribed to the capital of the said company, and shall deliver one of such certificates signed by the president with the seal of the company affixed, and countersigned by the treasurer, to each person for all the shares held by him or her, or for such number thereof as he or she may chose to have in one certificate, as soon as five dollars shall have been paid on each share: After which the said subscribers shall have all the rights and privileges conferred by the act to which this is a supplement, on the subscribers to the original stock of said company, and the said shares shall be transferrable in the same manner as the original shares: The said board shall also have all the rights, powers and privileges conferred on the president and managers of said company by the said act to which this is a supplement, and shall in all respects immediately succeed to their duties the same as if the term for which they were elected had expired: *Provided*, That should the aforesaid commissioners refuse to act or fail in pro-

Provided



curing three thousand shares of stock, to be subscribed within fifteen days after they first open said books for receiving subscriptions, or to give notice of said election, all and singular the powers and duties of the said commissioners then remaining unperformed, shall be exercised and performed by the board of managers of said Pottsville Water company, as hereinbefore directed, or the said board may appoint other commissioners to do and perform the same thing.

SECTION 4. That the election for managers of said company shall be held annually thereafter on the second Monday in January, of which the president and managers shall give notice as required by the aforesaid act. Annual election

SECTION 5. The said Pottsville Water company shall have power and are hereby authorized, to bring into the borough of Pottsville a sufficient supply of fresh and pure water from Mill creek or any of its branches, or elsewhere in the county of Schuylkill, by means of pipes or trunks, or in any other way, and to construct reservoirs for the reception thereof, and to connect the same with their pipes now laid in said borough, and lay such other pipes therefrom as they shall deem proper, and for the purposes aforesaid they shall have the power of purchasing, taking and holding to them, their successors and assigns, any such lands, tenements, hereditaments and estate, real and personal, as shall be necessary for the prosecution and erection of all works necessary for the purposes aforesaid, and of entering on and into all such land and enclosures as may be necessary, and to dig ditches or trenches and lay pipes or trunks through the same, and also to divert any of the aforesaid streams of water from their present channels, and to build dams or tanks on or near the same, doing as little damage as possible to private property, and paying for whatever injury may be done by them and for what land they may occupy, in the following manner. Powers.

SECTION 6. The said president and managers shall have the right to enter on and into any lands or enclosures with their engineers, artists, assistants and workmen, to lay out and locate the said dams, tanks, and reservoirs, and the route for the said pipes or trunks; and after the same shall have been laid out and located, to the satisfaction of the said president and managers, they shall give notice to the owners of said lands (if they are known or can be found) on which the same has been so laid out and located, of the location thereof, and of the desire of the company to occupy and use the land and route so marked and laid out; and if the said president and managers, and owners, cannot agree on the amount of damages or compensation therefor, either of them may apply to one of the judges of the court of common pleas of said county of Schuylkill, or to said court when in session, who shall appoint a jury of three disinterested and judicious men to view said land and route, and make report to said court what damage (if any) the owners of said land shall or may sustain by the use and occupancy thereof by the said company, for the construction of their works, or by the diversion of the waters of the aforesaid streams; whose report or award shall be subject to the right of appeal by either party, and when appealed from, shall be tried as other cases in which damages are claimed by the plaintiff; or if no appeal be entered within twenty days from the filing of said award, it shall have the effect of a judgment, and be collected in like manner; and if upon the filing of said award, the said president and mana- Right to enter upon lands

gers shall pay the same, or give adequate security, to the satisfaction of one of the judges of the said court, for the payment thereof, or of such sum as may be finally awarded against them with costs, they shall be allowed and are hereby authorized and empowered to enter on, and in said land and enclosures with the necessary engineers, workmen, teams, tools and implements, and proceed forthwith to the construction and completion of all works necessary to carry into full effect the objects and purposes aforesaid, and of the act to which this is a supplement, and the same to alter, repair or renew whenever and wherever they may deem necessary, without any let or hindrance from the owners of said land: and where the owners of any of the lands on which the said company has located any part of its works as aforesaid are not known, or cannot be found, or if known are not legally capable of entering into an agreement with said company, the said president and managers shall proceed to have the damages ascertained in the manner hereinbefore provided for where the owners are known and capable of acting, and give security as aforesaid, for the amount of damages found or awarded by the jury, or what may be ultimately adjudged against them with costs; after which they shall be allowed to proceed with their works on said land as hereinbefore set forth.

Right to dig  
ditches, &c.

SECTION 7. The said company shall, at all times, have the liberty and privilege to dig ditches or trenches, and to lay pipes or trunks in, across, and along all public roads, highways and streets, and to alter, repair and renew the same as often as they may find necessary, shutting up and amending any breaches they may make as soon as practicable.

Additional powers.

SECTION 8. The said president and managers are hereby authorized to supply, with water, the inhabitants of the boroughs of St. Clair and Port Carbon, and of the towns of Palo Alto and Mount Carbon, for all domestic and manufacturing purposes, and for all stationary and locomotive engines belonging to individuals or companies within the said limits, or within the borough of Pottsville, and all that may be along or near the route of the said company's pipes, and shall have all the rights, powers and privileges as to entering upon land and enclosures, and laying down pipes in streets, roads and highways, and of erecting hydrants or fire plugs within the said boroughs, towns, and limits as is hereinbefore conferred, or is conferred by the act to which this is a supplement, in relation to the borough of Pottsville, and of contracting with the said inhabitants, or any companies, for the use of said water within the limits aforesaid, who shall be liable to the same penalties for taking water from their pipes without contracting for its use, as are contained in said act, and shall be subject to all such rules and regulations respecting the use and waste of said water, as the said president and managers may, from time to time, prescribe and adopt: *Provided*, That before the boroughs of Port Carbon and Saint Clair shall be supplied as aforesaid, the councils of the said boroughs shall respectively enter in an agreement with said company, to guaranty semi-annual dividends of three per cent. on the additional cost of supplying said boroughs with water respectively, if the net income from each shall not be equal to six per cent. per annum on the said additional cost of supplying water to each, under the same provisions as hereinafter contained respecting the guaranty to be given by the borough of Pottsville.

Proviso.



SECTION 9. It shall be the duty of the treasurer of the said company to keep fair and correct accounts of all moneys received and paid out by him, which payments shall be made only on orders drawn on him, signed by the president of the said company; and the said president and managers shall keep a correct account of all orders drawn by them on the treasurer, and for what purpose the money was expended for which said orders were drawn; and it shall be the duty of the said president and treasurer as early as practical after the completion of the works authorized by this act, and the introduction through them of the water from Mill creek, or any of its branches, or elsewhere, into the borough of Pottsville, to make out a correct list of the subscribers to the stock hereby authorized, and the number of shares held by each; and also, an account of the receipts and expenditures up to that time, particularly stating the amount of money expended in bringing in and introducing the water from Mill creek, or elsewhere, as authorized by this act, into the said borough of Pottsville, which shall be verified by the oaths or affirmations of the said president and treasurer, which said amount shall then be examined by the auditors elected to audit the borough accounts, and compared with the vouchers and books of the said president and treasurer; and if the said auditors shall find the said list and account correct, and it shall appear to them that the money has been expended in effecting the objects authorized by this act, they shall certify the same to the town council of the borough of Pottsville, which said account and list shall be accompanied by the best estimate the said president and managers can make of the probable net income applicable to dividends of the said company for the ensuing year; and if it shall appear from said account and estimate that there will not be sufficient net income from the works of the said company to pay semi-annual dividends of three per cent. on the amount of capital paid in on the subscriptions of stock hereby authorized, except such portions thereof as may have been expended in introducing water into the boroughs of Port Carbon and St. Clair, the said council is hereby empowered and required to assess on the last county valuation of all property taxable for borough purposes, a tax sufficient to make up any deficiency that may be in the net income of the said company to pay the said semi-annual dividends, which said tax shall be known as the water tax, and shall be collected in cash, and the account of it shall be kept separate and apart from the account of the general tax for borough purposes; and it shall be the duty of the president and managers of said company, to give notice to the said council at least thirty days before the days for declaring dividends, which shall be the same as in the act to which this is a supplement, (of the amount that will be required of the borough to make up the next ensuing dividend,) which in such case shall not be made payable until fifteen days after it is declared; the town council shall immediately on the receipt of such notice, proceed to collect so much of said tax as will pay the amount required, for which they shall draw an order on their treasurer in favor of the treasurer of said company; and the said president and treasurer shall on the first Monday in January in each year afterwards, furnish to the said town council a fair and correct account, verified by their oaths or affirmations as aforesaid, of the receipts and expenditures of the said company for the preceding year, with an estimate of

Accounts of treasurer.

the probable net income for the ensuing year, and if it shall appear from the account and estimate that there will not be sufficient net income to pay dividends as aforesaid in any year, it shall be the duty of said council to levy a tax as aforesaid and on notice of the amount required to collect, and pay over so much thereof as may be necessary to enable said company to pay half yearly dividends as aforesaid: *Provided*, That should the net annual income of the said company at any time exceed the amount of six per cent. on the capital stock paid in, such excess shall be paid over to the said town council, until the whole amount advanced by the said council as aforesaid to the said company shall have been repaid: *And provided further*, That while the net annual income of the said company shall not be equal to six per cent. on the capital paid in, the said president and managers shall not expend any money for the enlargement of their works, or for any other purpose, except for keeping them in repair and for the superintendence thereof without the consent of the said town council, excepting as herein provided with respect to supplying the boroughs of St. Clair and Port Carbon with water.

Subscription to  
capital stock

SECTION 10. The town council of the borough of Pottsville, on behalf of said borough, the burgess and town council of the borough of Port Carbon, on behalf of said borough, and town council of the borough of St. Clair, on behalf of said borough, and any incorporated company having occasion to use the water that may be supplied by the said Pottsville water company, are hereby authorized to subscribe to the capital stock of said company any number of shares that each of them, respectively, may deem proper, in which event the said boroughs and corporations shall have the right to vote at the elections of the said company, under the same provisions as individual subscribers or stockholders, and are hereby authorized to issue their bonds, payable at such times as they may deem proper, to such an amount as will produce enough of money to pay for the shares of stock they may each subscribe for respectively: *Provided*, That no bond or certificate shall be issued of a less denomination than one hundred dollars.

Stock exempt  
from all taxation.

SECTION 11. The stock in said company shall be exempt from all taxation whatsoever, but when the net annual income from the works of said company, after having repaid the boroughs of Pottsville, Port Carbon, and St. Clair, whatever sums they may have respectively advanced to the said company to pay dividends with, as aforesaid, shall exceed six per cent. on the capital paid in, the said excess shall be taxable for State purposes only, at the same rates as are now imposed on the dividends of banks for said purposes, and the remainder of such excess may either be divided among the stockholders, or be allowed to accumulate as a reserved or contingent fund for extraordinary repairs, or future enlargement of their works, as the said president and managers may deem best.

Punishment for  
injury to works.

SECTION 12. Any person or persons who shall wilfully destroy or injure in any manner, the pipes, aqueducts, dams, tanks, cisterns, reservoirs, hydrants, buildings, or machinery, of the said company, erected in pursuance of this act, or shall wilfully corrupt, or permit anything to run or fall into any stream from which the said company shall take water to be introduced into the borough of Pottsville, which shall tend to corrupt the same, or to render it unpalatable, unwholesome, or unfit for do-



mestic or manufacturing use, or for the supply of stationary or locomotive engines, or shall bathe in any dam or reservoir of said company, or throw, lead, or entice any animal into the same, on being convicted thereof, before any justice of the peace of the county of Schuylkill, on the oath or affirmation of one or more credible witnesses, shall pay a fine of not less than five, nor more than twenty dollars, one half to the use of the said company, and the other half to the informer, and shall, moreover, remain liable to the said company for all damages.

SECTION 13. The owners of the freehold in and upon which the said water is taken and used, shall in all cases be the parties with whom the contract for the use of the water shall be made, and the said real estate shall be bound and liable for the use of the same, reserving to the said president and managers the right to contract with the lessees or tenants on the responsibility of said lessees or tenants alone, if they see fit to do so.

Who to be parties to contracts for water.

SECTION 14. If the said company shall not proceed to carry on said works, within two years after the passage of this act, or shall not complete the same within three years afterwards, so far as to bring within the limits of the borough of Pottsville, a sufficient supply of good water for the inhabitants thereof, all and singular, the rights, liberties, and franchises, hereby granted to the said company, shall revert to this Commonwealth.

Commencement and completion of works.

SECTION 15. The several jurors hereinbefore directed to be appointed, or auditors required to act, shall, before they enter on the duties of their appointments respectively, be sworn or affirmed to discharge the duties of their appointments with impartiality and fidelity, and to the best of their judgments, and shall receive the same compensation as jurors in other cases.

Jurors or auditors to be sworn or affirmed.

SECTION 16. So much of the act to which this is a supplement, as is hereinbefore altered or supplied, is hereby repealed.

Repeal.

E. B. CHASE,

*Speaker of the House of Representatives.*

M. M'CASLIN,

*Speaker of the Senate.*

APPROVED—The eighteenth day of February, one thousand eight hundred and fifty-four.

WM. BIGLER.

No. 46.

## A FURTHER SUPPLEMENT

To the act relative to the Pennsylvania State Lunatic Hospital, passed the fourteenth day of April, one thousand eight hundred and forty-five.

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 in all cases where any court in this Commonwealth shall commit or have committed any person to the State Lunatic Hospital, under the provisions of the eleventh section of the act to which this is a supplement, where such person has no legal settlement