

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.

WITH AN APPENDIX.



HARRISBURG:

A. BOYD HAMILTON, STATE PRINTER.

1854.

No. 537.

AN ACT

To incorporate the West Ward 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* Francis A. Gwinner, William Barnet, J. B. Odenwelder, H. M. Mutchler, Henry Keller, Melchoir H. Horn, Joseph Hiester, Thos. Bishop, Philip Johnson and W. H. Pompe, and they are hereby appointed commissioners, and authorized and empowered to establish a company to be called the West Ward Water company, for the purpose of introducing into that portion of the borough of Easton, lying west of a newly laid out street, called Sitgreaves street, and into such portions of Forks township, as are adjacent, a supply of pure water for the use of the inhabitants of the same; and it shall be the duty of the said commissioners or a majority of them, to procure a book in which they shall enter as follows: We, whose names are hereunto subscribed, do promise to pay the West Ward Water company, the sum of twenty-five dollars for every share of stock in said company set opposite to our names, in such manner and proportions as shall be determined on by the board of managers of said company. Witness our hands the _____ day of Anno Domini, one thousand eight hundred and fifty-four. The said book shall be kept open for the purpose aforesaid, for ten days, due notice being given, or until four hundred shares shall have been subscribed, but no subscription shall be valid unless the person so subscribing, shall pay to the said commissioners at the time of subscribing, two dollars and a-half on each share subscribed.

SECTION 2. When one hundred shares or more of said stock shall have been subscribed, and the sum of ten per cent. paid thereon, the commissioners or a majority of them, shall certify to the Governor, under oath or affirmation, the names of the subscribers, and the number of shares subscribed by each, and that ten per cent. has been paid thereon; the Governor shall by letters patent, under his hand and seal of the Commonwealth, create and erect the subscribers, and if the subscription shall not be full at the time, then also, those that shall thereafter subscribe to the number of shares aforesaid, into a body politic and corporate in deed and in law, by the name, style and title of The West Ward water company, and by that name the subscribers shall have perpetual succession with all the privileges, franchises and immunities incident to a corporation, and be able to sue and be sued, to plead and be impleaded, in all courts of record and elsewhere: *Provided*, That nothing herein contained, shall be so construed as in any way giving to the said corporation any banking or trading privileges whatsoever.

SECTION 3. That any five or more of said commissioners shall, as soon as conveniently may be after the letters patent are obtained, give at least two weeks' notice in two newspapers published in Easton, of the time and place for the subscribers to

meet and hold an election for officers of said company, when such subscribers shall choose by ballot five managers, who shall be stockholders, to conduct the affairs of the company until the last Monday in January then next ensuing; and in all elections each stockholder shall be entitled to one vote for every share bona fide held by him; and the said managers shall appoint one of their number president of the board, who shall sign all certificates of stock; the president and managers shall have power to appoint a treasurer, secretary, and such other officers and agents as may be necessary, and to take such security from their treasurer, for the faithful discharge of his duties, as they shall see proper; and the election shall be held annually on the last Monday in January, at such place as may be appointed by the managers, of which at least two weeks' notice shall be given in one or more newspapers published in said borough; and when vacancies happen, the managers shall supply them from among the stockholders, until the next annual election: *Provided*, That no misnomer, nor failure of election of officers on the day appointed, shall discontinue or dissolve the said corporation, but the managers and officers shall continue in office until a new election, which shall be made at such time and place, and after such notice, as the board of managers may prescribe.

Proviso.

By-laws.

SECTION 4. That the president and managers, or any four of them, shall have power to adopt such by-laws, rules and regulations, as may be deemed expedient for the well-governing the affairs of the said company; and also, shall have power to call special meetings of the stockholders, whenever any circumstances occur which may render it necessary to consult them. *Provided*, That such by-laws, rules and regulations, shall in no wise contravene the constitution of the United States, nor of this Commonwealth.

Seal.

SECTION 5. That the president and managers shall procure a common seal, and the certificates of stock, and other official acts, shall be authenticated by affixing the same; and the president and managers shall procure certificates for all the shares of stock of said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed as aforesaid, unto each person, for each share held by him or her, as soon as the amount due thereon shall be paid; every such certificate shall be transferable in person, or by attorney duly authorized in the presence of the president or treasurer of said company, in a book to be kept by the company for that purpose; and the assignee holding such certificate, shall be a member of the company, and possess and enjoy all the rights and privileges, benefits and emoluments, to which he would have been entitled if he had been an original subscriber.

Meetings of president and managers.

SECTION 6. The president and managers shall meet at such times and places as shall be directed by their by-laws, and when met a majority shall be a quorum and in the absence of their president, a president pro tempore may be chosen from the number met, and all their transactions as well as every matter and things relating to the affairs of the corporation shall be entered in a book or books to be kept for that purpose, and a quorum being formed they shall have full power to employ and contract with the engineers, artist and such workmen as they may deem necessary to carry on and complete their intended works as well as to maintain, alter and repair the same, and also to fix the time and the manner and in what proportion the stockholder

shall pay the money due on their respective shares, and to draw on the treasurer for all moneys that may be required to carry into full effect this act or that may be required by their by-laws, rules and regulations and generally to do all such other matters and things as by this act or the by-laws, rules and regulations they shall be authorized to do.

SECTION 7. That it shall be the duty of the president and managers, as soon as may be after the company shall be organized for the purpose of introducing water into said West Ward, to purchase and hold in fee simple, or for any less estate, any spring or springs, stream or streams of water, or any water power or powers near or convenient to said West Ward, or any lands, tenements or hereditaments to which any spring or springs, stream or streams of water, or any water power or powers may be appurtenant with full power, the same or any part thereof in the whole of their works, to grant, bargain, sell, alien, convey, mortgage, pledge, charge, encumber and devise, and dispose of at their will and pleasure, and shall convey said water into the said West Ward and Forks township, by means of pipes, trunks, aqueducts or in such manner as they shall deem most advisable and convenient, and should they find it necessary to provide proper cisterns or reservoirs for the reception thereof, and for these purposes may enter into such lands and enclosures as may be necessary, and to dig, ditch and lay pipe through the same, the company doing as little damage as possible to private property, and the said president and managers shall at all times have liberty to renew and repair the pipes or trunks, cisterns or reservoirs wherever laid and constructed on and through private property, doing as little damage as possible, and shall also have liberty at all times to dig and lay pipes and trunks along roads and highways and streets of the said West Ward and Forks township, lying west of Sitgreaves street as described in the first section of this act, and to renew and repair the same, shutting up and amending any breaches which they may make as soon as possible.

Duties of president and managers.

SECTION 8. That the said West Ward water company shall from time to time and at all times furnish water for the extinguishment of fires free of charge to the borough, at points and places along improved property supplied with water by said company: *Provided*, That the town council of the said borough shall be at the expense of erecting and keeping in repair fire plugs, at the point and places above designated, and the said water company is also authorized to supply individuals and corporations with water for family and other purposes, for such compensation as may be agreed upon between the said company and individuals or corporations, or according to the rates adopted by said company.

Furnish water for extinguishment of fire, &c.

Proviso.

SECTION 9. That the president and managers may call in the capital stock by instalments as the same may be required, and if any stockholder shall neglect to pay after thirty days notice published in one or more newspapers in said borough, payment may be enforced by action of debt in the corporate name of said company against such delinquents as in other cases, and in case of inability to collect such instalment or instalments, said company may declare said delinquent stock and the money paid thereon forfeited for the use of the company, the president and managers shall declare dividends on the amount of stock paid in at such times as they may deem, meet and proper.

Instalments.

Damages, how
ascertained and
settled.

SECTION 10. That in case the owner or owners of any lands, through and upon which such ditch, pipes, trunks, aqueducts, reservoirs and cisterns are laid and constructed, or the owner or owners of land upon which it may be found necessary to enter, for the purpose of digging, taking and carrying away clay, gravel or other materials necessary for the purposes aforesaid, or the owner or owners of any spring or springs, stream or streams of water which may be used and appropriated by the company, or any person who may be injured by the appropriation or division of the waters used by said company, cannot agree with the said company upon the damages or compensation to be paid to the said owner or owners, person or persons, it shall and may be lawful for the parties to appoint, or if the parties cannot agree, then on application of the person or party complaining for the court of common pleas of Northampton county, to appoint three disinterested and suitable persons to ascertain and report to said court on oath or affirmation, what damages if any, have or will be done by said company, which report having been returned and confirmed by the court, judgment shall be thereon entered, and execution be issued therefor with costs, as in other cases: *Provided*, That either party may appeal from the report, or award to the court within twenty days after the same shall have been reported in open court, in the same manner that appeals are allowed from the award of arbitrators.

Proviso.

Penalty for injury
to works.

SECTION 11. That any person who shall wilfully destroy or injure in any manner, the ditches, pipes, aqueducts, trunks, cisterns, reservoirs or any other of the works belonging to said company, erected in pursuance of this act, or shall wilfully corrupt or render unwholesome, or unfit for use the spring or springs, stream or streams of water used by said company, or the water in any ditch, dug or erected by the said company, or shall in any manner pollute or render noxious or offensive the said water, every such person so offending, shall forfeit and pay a sum not less than five nor more than one hundred dollars at the discretion of the magistrate, before whom suit may be brought for the same, and which penalty may be recovered with costs in the name of the said corporation, in the same manner that debts of one hundred dollars and under are recoverable, the one-half for the use of the person who shall give information, and the other half for the use of the company; and if any person against whom judgment shall be rendered as aforesaid, shall neglect or refuse to pay the amount of such judgment, and no goods or chattels of such person can be found whereof, to levy the same by execution, then such person or persons shall be committed to the jail of Northampton county, for any period of not less than one nor more than fifty days, at the discretion of the justice rendering such judgment, and shall, moreover, remain liable for the full amount of damages to the said company, in any other action instituted by them, and shall be subject to indictment for a misdemeanor, in the court of quarter sessions, of said county of Northampton.

Fine for using
water without
authority.

SECTION 12. That any person or persons who shall take or use any of the said water for any purpose or use whatever, without having previously contracted for the same, with the said company, shall forfeit and pay for every such offence, the sum of three dollars to the said company, to be recovered before a jus-

vice of the peace, in the name of said company, by action of debt.

SECTION 13. That the said company, if necessity require, shall have power at any time to borrow any sum of money, not exceeding ten thousand dollars, to be applied to the prosecution or improvement of the said work or works, and to pledge their goods and chattels, property, franchises and effects, by mortgage or otherwise, for security and re-payment of the same: *Provided*, That no bonds for a less sum than one hundred dollars shall be issued. Power to borrow money.

SECTION 14. That the owners of the said freehold on and upon which the water of the said company is taken and used, shall in all cases be the parties with whom contracts, for the use of the water, shall be made, and the said real estate be bound for, and liable for the payment of the same. Contracts.

SECTION 15. That it may be lawful for the said company to increase the number of shares to eight hundred, in case it shall be found necessary for the due completion and extension of the objects and purposes intended by this act. Increase of shares.

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

M. M'CASLIN,
Speaker of the Senate.

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

WM. BIGLER.

No. 538.

A SUPPLEMENT

To an act authorizing the School Directors of the borough of Washington to borrow money

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 any loan which may be made in pursuance of the provisions of the act of twenty-eighth of January, one thousand eight hundred and fifty-four, authorizing the school directors of the borough of Washington to borrow money, shall be exempted from taxation; and the said school directors are hereby empowered to provide for the gradual liquidation of the said loan, by increasing the school tax within said district, above the rate fixed by existing laws: *Provided*, The same shall not exceed ten mills on the dollar yearly.

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

M. M'CASLIN,
Speaker of the Senate.

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

WM. BIGLER.