

Pennsylvania. Laws, statutes, &c.

LAWS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF PENNSYLVANIA.

PASSED AT THE SESSION OF 1837-38.

IN THE

SIXTY-SECOND YEAR OF INDEPENDENCE.



PUBLISHED BY AUTHORITY.

HARRISBURG:

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1838.

had been regularly appointed and commissioned by the Governor of this commonwealth.

SECTION 29. That from and after the first day of May next, Churches &c all churches, meeting houses or other regular places of stated colleges, &c. religious worship, with the grounds thereto annexed for the court houses occupancy and better enjoyment of the same, all burial & jails, &c. grounds belonging to any religious congregation, all univer- exempted sities, colleges, academies and school houses belonging to from taxa- any county, borough or school district, or incorporated, tion. erected, endowed or established, by virtue of any law of this commonwealth, with the grounds thereto annexed, all court houses and jails be, and the same are hereby exempted from all and every county, road, city, borough, poor and school tax and all taxes heretofore assessed on any such property, shall not hereafter be collected, but the respective officers charged with the collection thereof shall and are hereby exonerated from the collection and paying over of the same.

LEWIS DEWART,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—The sixteenth day of April, one thousand eight-hundred and thirty-eight.

JOS. RITNER.

No. 90.

An Act

To incorporate the Luthersburg and Punxatawny Turnpike Road company, and for other purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met. and it is hereby enacted by the authority of the same,* That for the purpose of making a turnpike road from the town of Punxatawny, in the county of Jefferson, to the town of Luthersburg, in Clearfield county, Lebeous Luther, John Jordan, Benjamin Bonsall, David Irvin, Jacob Flick, Benjamin Carson, David Hoover, David Henney and Jeremiah Miles, of the county of Clearfield, William Campbell, Charles R. Barclay, Charles C. Gaskill, James Winslow, James W. Bell and John Hoover, (miller) of the county of Jefferson, are hereby appointed commissioners, to do and perform the several duties hereinafter mentioned,

Commission-
ers.

To procure books. that is to say, they shall procure a sufficient number of books, and in each of them enter as follows, to wit: We whose names are hereunto subscribed, do promise to pay the president and managers of the Luthersburg and Punxatawny Turnpike Road company, the sum of twenty-five dollars for every share by us subscribed, in such manner and proportions, and at such time and places as shall be determined on by the president and managers; witness our hands the day of Anno Domini, one thousand eight hundred and thirty ; and shall give notice in two newspapers of said counties of Jefferson and Clearfield, of the times when, and the places where the books shall be opened to receive subscriptions of stock of the aforesaid company, at which respective times and places some one or more of the aforesaid commissioners shall attend and receive subscriptions from all persons of lawful age who shall offer to subscribe in said books, which shall be kept open for the purpose aforesaid, at least six hours in every juridical day for the space of six days, or until the books shall have subscribed therein two hundred or more shares, and the said commissioners may adjourn from day to day, and from time to time and places suitable, until the whole number of shares aforesaid shall be subscribed.

Form of sub-
scription.

Who may
subscribe.

Number of
shares.

SECTION 2. When twenty or more persons shall have subscribed one hundred or more shares, the said commissioners or any three of them, shall certify under their hands or seals to the Governor, the names of the subscribers, and the number of shares subscribed by each, whereupon it may be lawful for the Governor, by letters patent under his hand and seal of state, to create and erect the subscribers, and also those who may afterwards subscribe, into one body politic and corporate, in deed and in law, by the name, style and title of "The Luthersburg and Punxatawny Turnpike Road company," and by the same name the said subscribers shall have perpetual succession, and the privileges and franchises incident to a corporation, for the purpose of making the said road, and shall be capable of taking and holding their capital stock and the increase and profit thereof, and of enlarging the same from time to time by new subscriptions to an amount not exceeding twenty thousand dollars, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing, taking and holding to them and their successors and assigns, and of selling, transferring and conveying in fee simple or for any less estate, all such lands, tenements, hereditaments and estates, real and personal as shall be necessary to them in the prosecution of their work, and suing and

Letters pat-
ent.

Name, style
and title.

Privileges.

being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

SECTION 3. The persons named in the letters patent shall, as soon as conveniently may be after issuing the same, give Organization notice in two newspapers printed in said county, of a time and place to be by them appointed, not less than twenty days from the time of the first notice, at which time and place the said subscribers, or as many of them as may be then present, shall proceed to organize said company, and shall choose by a majority of votes of the said subscribers, by ballot, either in person or by proxy duly authorized, one president, seven managers, one treasurer and such other officers as they may think necessary to conduct the business of said company for one year, and from thence until the next annual election, and until such officers shall be chosen and organized agreeably to the provisions of this act, and in case of death, removal or resignation of any president or manager, Vacancies the board of managers shall choose another to supply the vacancy until the next annual election of said company; they may make and have one common seal, and the same may Seal. break, alter or renew at their pleasure, and may make such by-laws, rules, orders and regulations not inconsistent with the constitution and laws of this state, or of the United States, as shall be necessary for the well ordering of the affairs of the corporation, and generally to have like powers, authority and privileges for carrying on and completing said turnpike road, and be subject to all the duties, qualifications, restrictions, penalties, fines and forfeitures, and be entitled to take the like tolls and profits in proportion to the distance, as are Like powers & penalties as those of the Bellefonte & Philipsburg turnpike Co. given and granted to the president, managers and company of the Bellefonte and Philipsburg Turnpike road, and it shall be the duty of the president and managers of the said company, to commence their road at the town of Luthersburg, in Clearfield county, thence by the nearest and best route to the town of Punxsatawny, in Jefferson county: *Provided*, Proviso. That if the said company shall not proceed to carry on the said work within eight years after the passage of this act, and shall not within ten years afterwards complete the said road, according to the true intent and meaning of this act, then and in either of the said cases it shall and may be lawful for the legislature of this commonwealth to resume all and singular the rights, privileges, liberties and franchises by this act granted to the said company.

SECTION 4. That Samuel Keller, Adam Keller, Christian H. Rauch, Jacob Minnich, George B. Shaffer, Jacob B. Tshudy, John Erb, Jacob Erb, Em'l C. Reigart, Col. George Mayer, John Michael, John Beck, George Ford, jr., and Commiss'rs.

John Eberman, George W. Hamersly, Abraham Kauffman, of the county of Lancaster, be, and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say; they shall on or before the first day of May next procure two books, and in each of them enter as follows: We whose names are hereunto subscribed, do promise to pay the president and managers of the Lancaster and Litiz Turnpike Road 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 this commonwealth, entitled An act to incorporate the President and Managers of the Lancaster and Litiz Turnpike Road company; Witness our hands the day of _____ in the year of our Lord one thousand eight hundred and thirty-_____ ; and thereupon shall give notice in two or more public papers printed in the city and county of Lancaster, for twenty days at least of the time and places when and where the said books shall be opened to receive subscriptions for the stock of the said company, at which times and places one of the said commissioners shall attend, and permit and suffer all persons of lawful age who shall offer to subscribe in said books, in their own names or in the name or names of any other persons who shall duly authorize the same for any number of shares of stock, and the said books shall be kept open, respectively, for the purposes aforesaid, at least six hours in every juridical day for the space of six days, or until the said books shall have six hundred shares therein subscribed; and if at the expiration of the said six days, the books aforesaid shall not have the said number of six hundred shares therein subscribed, the commissioners, respectively, may adjourn from time to time, and transfer the said books from place to place until the whole number of shares shall be subscribed, of which adjournment and transfer the commissioners aforesaid shall give such public notice as the occasion may require; and when the whole number of shares subscribed shall amount to six hundred the same shall be closed: *Provided always*, That every person offering to subscribe in said books, in his own or any other name, shall previously pay to the attending commissioner or commissioners, the sum of two dollars for every share to be subscribed, out of which shall be defrayed such incidental charges and expenses as may be necessary for taking such subscription, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized and the officers chosen as hereinafter mentioned.

To procure books.

Form of subscription.

Who may subscribe.

No. of shares

Proviso.

SECTION 5. When twenty persons or more shall have subscribed four hundred shares of the said stock, the said commissioners, respectively may, or when the whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals the names of the subscribers, and the number of shares subscribed by each, to the Governor of this Commonwealth, whereupon it shall and may be lawful for the Governor, by letters patent, under his hand and seal of state, to create and erect the subscribers, and if the said subscription be not full at the time, then those who shall afterwards subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of the President and Managers of the Lancaster and Litiz Turnpike Road company, and by the said name the said subscribers shall have perpetual succession, and all privileges and franchises incident to a corporation, and shall be capable of taking and holding the capital stock and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing, taking and holding to them, their successors and assigns, and of selling, transferring and conveying, in fee simple or for any less estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Letters patent.

Name, style and title.

Privileges.

SECTION 6. The commissioners aforesaid, as soon as conveniently may be after the said letters patent shall be sealed and obtained, shall give public notice in two or more public papers printed in the county of Lancaster, of a time and place by them to be appointed, not less than twenty days from the publication of the first 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 subscribers, by ballot, to be delivered in person or by proxy, duly authorized, one president, seven managers, one treasurer, and such other officers as may be necessary to conduct the business of said company until the first Mouday in November next, and until such other officers shall be chosen, and shall and may make such by-laws, orders and regulations, not inconsistent with the constitution and laws of the

Organizati'n

- United States and of this commonwealth, as shall be necessary for the well ordering the affairs of said company: *Provided always*, That no person shall have more than five votes at any election, or in determining any question arising at such meeting whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share held by him under that number; and it shall be the duty of the said president and managers, as soon as they are elected, to proceed forthwith to lay out the track of the said road from the northern end of North Queen street, in the city of Lancaster, to a point at or near the tavern now kept by Jacob Zeigler, in the village of Litiz, as they may think will best promote the interest of the public as well as said company, and generally have like powers, authorities and privileges necessary to carry on and complete the said turnpike road, and be subject to all the duties, qualifications, restrictions, penalties, fines and forfeitures, and be entitled to like tolls in proportion to the distance as are given and granted to the president, managers and company of the Lancaster and Susquehanna Turnpike road, by the laws of this commonwealth, and generally to do and exercise all the powers and authorities as fully and absolutely as if the said laws herein referred to were hereby enacted.
- SECTION 7.** That if any stockholder, whether original subscriber or assignee, after thirty days notice in the public papers aforesaid, of the time and place appointed for the payment of any proportion or instalment of the said capital stock in order to carry on the work, shall neglect to pay such proportion for the space of thirty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum per month for every delay of such payment; and if the same and the said additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall have become equal to the sums before paid in part and on account of such share, then the same may be forfeited by and to the said company, at any public meeting of the managers thereof, and may be sold by them to any person or persons willing to purchase the same, for such price or prices as can be obtained therefor; or in default of payment by any stockholder of any such instalment as aforesaid, the said president and managers may, at their election, cause suit to be entered and brought in any court having competent jurisdiction for the recovery of the same, together with the penalty aforesaid: *Provided always*, That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special
- Proviso.**
- Ratio of votes.**
- Powers and penalties.**
- Penalty for neglecting to pay instalments.**
- Forfeiture.**
- Proviso.**

meeting of said company, unless the whole sum due and payable as aforesaid, on the share or shares by him held, at the time of such election or general or special meeting of the said company, shall have been fully paid and discharged as aforesaid.

SECTION 8. It shall and may be lawful for the said company, as soon as five miles of the said road shall be completed, and so in succession for every five miles, to erect a gate thereon, and to receive toll according to the rate established in and by the said recited act: *Provided*, That if the company shall not proceed to carry on the said work within six years, and complete the road within ten years, according to the true intent and meaning of this act, then and in either of those cases, all and singular the rights, liberties and franchises hereby granted to the said company shall revert to this commonwealth.

When gates maybe erected and toll received.
 Proviso.
 Time for commencing and completing the work.

SECTION 9. That Robert Wray of Armstrong county, Benjamin Walker, junior, and Edward Nixon of Indiana county, be, and are hereby appointed commissioners to view, lay out and mark a State road, beginning at the town of Warren in Armstrong county, to intersect the turnpike at the town of Shalockta, and thence to Johnston's mill on Plum creek, to intersect with the turnpike at the town of Smithsburg in Indiana county.

State road from Warren in Armstrong county, to Shalockta and Smithsburg, Indiana co.

SECTION 10. It shall be the duty of the said commissioners, or a majority of them appointed to view as aforesaid, after having been sworn or affirmed before some justice of the peace, who shall file and preserve the same in his office, to perform the duties enjoined on them by this act with impartiality and fidelity, carefully to view the ground over which the road by them laid out may pass, and lay out the same as near to a straight line between the aforesaid points as the nature of the ground and circumstances will permit, and so that the vertical departure from a horizontal line shall in no point exceed five degrees, except at the crossing of ravines and streams, where, by moderate filling and bridging, the declination of the road may be preserved within that limit; and further, it shall be the duty of said commissioners to have due regard to the crossing of waters, the nature of the ground and damages to private property, and all other circumstances that may affect the route, so that by a judicious combination of them, the route adopted may best promote the public good, and that they shall clearly and distinctly mark upon the ground the route agreed upon, in such manner as to enable the supervisors readily to find the same, and for the purpose of fulfilling the duties by this

Commiss'rs. to be sworn or affirmed.
 To locate the road, &c.
 Route, &c.
 Pay of commissioners and others.

act enjoined, the commissioners herein mentioned shall receive a per diem allowance of one dollar and fifty cents each, for every day they shall be necessarily employed in performing the duties of this act, together with provisions, and in case any of the said commissioners shall perform the duties of surveyor he shall receive fifty cents per day in addition, and the said commissioners are hereby authorized to employ one surveyor at two dollars per diem, two chain bearers and one axe man, at a per diem allowance not exceeding seventy-five cents.

Draft of the road.

SECTION 11. It shall be the duty of the said commissioners to make out a fair and accurate draft of the location of said road, noting thereon the courses and distances as they occur, the improvements passed through, and also the crossing of county and township lines, roads and waters, with such other matters as may serve for explanation, one copy whereof shall be deposited in the office of the Secretary of the Commonwealth, on or before the first day of January next, and one copy in the office of the clerk of the court of Quarter Sessions of the county through which said road may pass, on the day aforesaid, or as much sooner as practicable, which shall be a record thereof, and from thenceforth the said road shall be, to all intents and purposes, a public highway, and shall be opened and repaired in all respects as roads are opened and repaired, which are laid out by orders of the court aforesaid.

Acc'ts. how to be adjusted and paid.

SECTION 12. The accounts of the said commissioners, for their own pay and for the pay of surveyors, chain carriers, markers, and for provisions, shall be adjusted by the commissioners of the respective counties through which said road shall pass, and paid by the treasurers thereof, on warrants drawn in the usual way, in proportion to the length of the road in such county respectively.

Time and place of the meeting of commiss'rs.

SECTION 13. The said commissioners shall meet on or before the third Monday in May next, or as soon thereafter as practicable, at such places as a majority of them shall agree upon, and complete the location of said road as soon as practicable; and if any vacancy or vacancies shall happen, by resignation or any other cause, the court of Quarter Sessions of the proper county, as the case may be, are hereby authorized to fill the vacancy or vacancies by a suitable appointment.

Releases.

SECTION 14. It shall be the duty of the said commissioners to take from each and every person or persons owning lands along the road by them laid out, acquittances or releases from any claim or damages: *Provided*, Such releases can be obtained upon the condition that such road shall pass

Proviso.

through such person or persons' land or lands, and file the same in the commissioners' office of the proper county.

SECTION 15. That the time for finishing and completing Muncy and the Muncy and Monroe turnpike, be, and the same is hereby Monroe extended for five years from and after the passage of this turnpike act.

SECTION 16. That Francis McClure, Henry Kulp, John Lewistown R. Wickes, William McCoy, James McCord, Reuben C. Water Co. Hale, David R. Reynolds, Joseph Milliken, Abraham Bly- incorporated myer, William Cogshall, James Parker, James McDowell, Commiss'rs Daniel Eisenbeise, Alexander C. Wilson, James Wareham, appointed. Daniel Bloom, Jacob Mutersbaugh and William Mark, be and they are hereby appointed commissioners, who, or a majority of them, are hereby authorized and empowered to carry into effect the establishment of a company to be called the Lewistown Water company, for the purpose of introducing into the borough of Lewistown, in the county of Mifflin a sufficient supply of fresh and pure water, for the use of the inhabitants of said borough.

SECTION 17. It shall be the duty of said commissioners, or a majority of them, to procure a book or books in which they shall enter as follows: We whose names are hereunto subscribed, do promise to pay to the Lewistown Water company the sum of twenty dollars, for every share of stock in said company set opposite to our names, in such manuer and proportions as shall be determined on by the board of managers of said company; witness our hands the day of in the year of our Lord one thousand eight hundred and thirty-eight, and the said commissioners, or a majority of them, shall fix on a time and place in the said borough of Lewistown, for the opening of said book or books to receive subscriptions of stock to said company, and shall give notice thereof of such time and place, for at least two weeks previous, in the newspapers published in said borough, at which time and place said commissioners, or a majority of them, shall attend for the purpose of receiving such subscriptions, and shall permit all persons of lawful age who shall offer to subscribe in the said books, in their own names for shares in said stock, and the said book or books shall be kept open for the purposes aforesaid at least six hours in each juridical day for the space of three days, or until there shall have been subscribed seven hundred and fifty shares; and if at the expiration of three days the books aforesaid shall not have there- Number of shares. subscribed the number of shares aforesaid, the commissioners may adjourn from time to time, and transfer the books elsewhere until the whole number of seven hundred and fifty shares shall be subscribed, of which adjournment

Form of subscription.

Who may subscribe.

and transfer the commissioners shall give such public notice as they may deem just and necessary, and when the whole number of shares shall be subscribed, then the books shall be closed : *Provided*, That no person be permitted to subscribe more than twenty shares on the first day, and not more than ten on the second day, after which any person may subscribe for any number of shares until the whole of the stock is taken : *Provided*, That no subscription shall be valid unless the persons so subscribing shall pay to the said commissioners, at the time of subscribing, at least ten per cent. on the amount by them subscribed.

SECTION 18. When two hundred shares or more of the 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 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 who 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 Lewistown 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 considered, as in any way giving to the said corporation any banking or trading privileges whatsoever, or any other privileges, liberties or franchises that may be necessary and incident to the constructing and maintaining the works necessary to conduct the water, as aforesaid, into said borough : *And provided further*, That the said commissioners be, and are hereby authorized to take and receive subscriptions from the commissioners of the county of Mifflin, in their corporate name, and from the burgesses and town council of the borough of Lewistown aforesaid, in their corporate name, so many shares of stock in said company, as the said commissioners of Mifflin county, and the said burgesses and town council shall agree to subscribe for the use of the public offices and buildings of said county and borough.

SECTION 19. That any five or more of said commissioners shall, as soon as conveniently may be after the letters patent are obtained, give at least fourteen days notice in the newspapers published in the borough of Lewistown, of the time and place for the subscribers to meet and hold an election

Proviso.

2d Proviso.

Letters patent.

Name, style and title. Privileges.

Proviso.

2d Proviso.

Organization.

for officers of the company, who shall choose by ballot seven managers, who shall be stockholders, to conduct the affairs of the company, until the first Monday in February, then next ensuing, and in all elections each stockholder shall be entitled to one vote for each share bona fide held by him not exceeding three shares, and one vote for every two shares above three and not exceeding seven, and one vote for every four shares held by him above seven and not exceeding twenty, and one vote for every five shares above twenty and not exceeding forty, but no stockholder shall be entitled to vote on any number of shares held by him above forty; and the commissioners of the county of Mifflin, and the burgesses and town council of the borough of Lewistown, shall have the same privileges to vote for the stock held by them that is hereby given to individual stockholders; 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 take such security from their treasurer, for the faithful discharge of his duties, as they shall see proper; and the election for officers shall be held, annually, on the first Monday of February, at such place as may be appointed by the managers, of which at least fourteen days notice shall be given in one or more of the newspapers printed 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.

SECTION 20. 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 said company, and shall also 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 and laws of the United States nor of this commonwealth.

SECTION 21. 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 the stock of said company, and shall deliver one

Ratio of votes.

Annual election.

Proviso.

Powers of the president & managers.

Proviso.

Seal.

Certificates.

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 five dollars shall be paid on such share, and 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, subject however to all payments due, and to become due thereon, and the assignee holding any such certificate shall be a member of the corporation, 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.

Transfer of shares.

Meetings.

Quorum.

Transactions to be enter'd in a book.

Powers.

SECTION 22. That the president and managers shall meet at such times and places as shall be directed by their by-laws, and when met, four members shall be a quorum, and in the absence of the president, a chairman may be chosen of their number met, and all their transactions, as well as every matter and thing 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, artists 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 times and manner, and in what proportion the stockholders shall pay the monies due on their respective shares, and to draw on the treasurer for all monies 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 their by-laws, rules and regulations they shall be authorized to do.

Authority to purchase springs of water, &c.

SECTION 23. 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 borough, 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 borough, 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, to grant, bargain, sell, alien, convey, mortgage, pledge, charge, encumber and demise, and dispose of at their will and pleasure; and shall convey said water into the borough of Lewistown, 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 pipes through the same, the company doing as little damage as possible to private property, and paying for whatever injury shall be done by them previous to entering thereon, and the said president and managers shall at all times, paying damages as aforesaid, have liberty to renew and repair the pipes or trunks whenever laid 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 the streets and alleys of the borough of Lewistown, and to renew and repair the same, shutting up and amending any breaches which they may make as soon as possible, and it shall be lawful for them to make cisterns and reservoirs in the streets or public grounds in said borough, where the same may be necessary.

SECTION 24. That the said president and managers shall, in such streets or parts of the borough where trunks or pipes shall be required, erect hydrants to be used for extinguishing fires, and they shall have liberty, at all times where the trunks and pipes shall be laid in and through any part of said borough, to suffer individuals to be supplied with water for domestic or manufacturing use, for such reasonable compensation as shall from time to time be agreed on by said company and such individuals, according to such rates as the president and managers shall hereafter adopt, having regard to the probable quantity of water which applicants are likely to consume.

Hydrants for extinguish'g fires.
Compensat'n for water.

SECTION 25. That the president and managers shall 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 published 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 whenever the debts of the company shall be paid, and the income shall exceed the expenses of the company, the president and managers shall declare a dividend on the stock, paid in half yearly, on the first Monday of January and July in each year, which dividend shall not exceed the sum of eight per cent. per annum on said stock actually paid, and shall publish the said dividend and the place where the same will be paid, and shall cause the same to be paid accordingly.

Payment for instalments enforced.
Dividenda.

SECTION 26. If the owner or owners of land and tenements, through and upon which such pipes, trunks, aqueducts, reservoirs and cisterns pass or are laid and constructed, or the

How damages to be ascertained and paid.

owner or owners of lands upon which it may be found necessary to enter for the purpose of digging, taking and carrying away clay, gravel and other materials necessary for the purposes contemplated by this act, or the person or persons who may be injured by the diversion of the waters used by the said company, cannot agree with said company upon the damages or compensation to be paid to said owner or owners, person or persons, it shall and may be lawful for the parties to appoint, or in case the parties cannot agree, then on application by the party complaining, the court of Common Pleas of Mifflin county shall appoint three disinterested and suitable persons, to ascertain and report on oath or affirmation, to said court what damages, if any, has been done by said company, which report being returned and confirmed by said court, judgment shall be entered thereon, and execution may issue in case of non payment for the sum awarded, with reasonable costs to be assessed by the court:

Provided, That either party may appeal from such award to the court, within twenty days after the same shall have been filed in the office of the prothonotary of said county, in the same manner as appeals are allowed in other cases, whether the said report was made by persons agreed upon by the parties or appointed by the court, upon which appeals such proceedings shall be had as are usual in other cases of damages.

Proviso.

Penalty for
injuring the
works.

SECTION 27. That any person who shall wilfully destroy or injure, in any manner, the pipes, aqueducts, cisterns, reservoirs, hydrants, or any of them, or any of the works belonging to said company, erected in pursuance of this act, or shall wilfully corrupt or otherwise render unwholesome, the stream or streams of water which shall be conveyed and brought into said borough of Lewistown by said company, or shall in any way 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 fifty dollars, at the discretion of the magistrate before whom sued for, and to be recovered with costs, in the corporate name of the company, in the same manner as debts under one hundred dollars 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 such judgment shall be rendered, 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 the county of Mifflin, for any period of time not less than one

nor more than fifty days, at the discretion of the justice rendering such judgment, and shall, moreover, remain liable for all damages to the company.

SECTION 28. That if the said company shall not proceed Time for to carry on the said work within three years after the passing commencing of this act, or shall not within five years thereafter complete and comple- the same, so far as to have conveyed the water within the ting the limits of said borough, in either of these cases, all and sin- work. gular the rights, liberties and franchises hereby granted to the said company, shall revert to the commonwealth.

SECTION 29. That J. Price Wetherill, David Hoops, Cad- Phil'a Tide wallader Evans, John Jones, (city) Charles Graff, Francis Lock Canal B. Nichols, Bird Patterson, J. R. Tyson, J. B. Sutherland, company. , Edward King, Alexander Dougherty, B. T. Bioren, J. R. Walker, Thomas Mitchell, John Hemphill, Robert C. Whar- Commiss'rs. ton, N. C. Foster, W. E. Lehman, H. M. Provost, Joseph C. Burden, S. G. Walker, John Hare Powell, Robert Pat- terson, Thomas D. Grover, Walter Thompson, John M. Justice, Thomas J. Malony, James Ronaldson, George G. Thomas, Alexander W. Reed, John Lentz, Richard Peltz, Henry Helmuth, Oliver Evans, William Robinson, Charles D. Lybrand, N. H. Graham, Joshua Lippencott, Isaac Otis, Henry Troth, James F. Macaully, Jacob B. Lancaster, Frederick Graff, Almon Davis, George F. Lehman, Timothy Caldwell, Daniel M. Broadhead, Samuel J. Pearson, R. H. Butler, Thomas Lewellin, William Rheiner, James Hutch- inson, John Naglee, Adam Everly, Joseph A. Dean, Joseph J. Shipman, John W. McGrath, Alexander Trotter, John Gray, J. M. G. Lescure, Henry Leech, Thos. S. Smith, Thomas U. Walter, George Wise, George Eckert, Edward Coleman, George Griscom, George Wevill, of the city and county of Philadelphia, George Ford, jr., George W. Ham- mersly, of Lancaster county, John Wever, John C. Offer- man, William Hagerty, of Schuylkill county, William Robertson, jr., Benj. Darlington, of Allegheny county, or a majority of them, be, and they are hereby appointed com- missioners to do and perform the several things hereinafter mentioned, that is to say; they shall on or before the first To procure Monday of June next procure books, one or more of which shall be opened at some convenient place or places in the city or county of Philadelphia, in which the following shall Form of sub- be written: "We whose names are hereunto subscribed, do scription. promise to pay the Philadelphia Tide Lock company, fifty 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 to authorize the Governor

to incorporate the Philadelphia Tide Lock company; Witness our hands and seals, this day of
 Anno Domini one thousand eight hundred and thirty- ;”
 and shall thereupon give notice in at least two newspapers of the city of Philadelphia, for two successive weeks, of the times and place or places when and where the books are to be opened to receive subscriptions for the stock of the said company; and it shall be the duty of at least three of the said commissioners to attend at such times and places, and permit all persons of lawful age to subscribe in said book, in their own names or in the names of such persons as shall authorize the same, for any number of shares in the said stock, and the said books shall be kept open for the purpose aforesaid, for at least four hours in each day for three days, or until there shall be subscribed two thousand shares, and if at the expiration of the said three days there shall not be subscribed the number of shares aforesaid, the said commissioners may adjourn from time to time, until the whole number of two thousand shares shall be subscribed, of which adjournment the commissioners shall give such notice as they may think reasonable, and when the whole number of two thousand shares shall be subscribed, the said books shall be closed: *Provided always*, That every person offering to subscribe in said books, in his own or any other person's name, shall previously pay to the attending commissioners the sum of five dollars on each share to be subscribed, out of which shall be defrayed the expenses attending the taking of the subscriptions and other incidental expenses, and the remainder shall be paid to the treasurer of the company as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

SECTION 30. When the said two thousand shares shall have been subscribed, and the sum of five dollars paid on each share, the commissioners, or any ten 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, whereupon the Governor shall, by letters patent, under the greater seal of the commonwealth, create and constitute the subscribers a body politic and corporate, by the name, style and title of the Philadelphia Tide Lock Canal company, and by the same name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their capital stock and the increase and profits thereof, and of enlarging the same by new subscriptions, in such manner and form as they may think proper, and of purchasing and holding, to them, their successors and assigns, in fee or for any

Who may
 subscribe.

No. of shares

Proviso.

Letters patent.

Name, style
 and title.

Privileges.

less estate, such lands, tenements, hereditaments and estates, real and personal, as shall be necessary to them in the prosecution of their business as a tide lock canal company, and of suing and being sued, and doing all other things which a body politic and corporate may lawfully do, and of borrowing such sum or sums of money on loan, from time to time, as may be necessary to enable them to finish their work or put the same in repair, and of giving mortgages, certificates, or other evidences and securities therefor; the said loan or loans to be convertible or not convertible into stock, as shall be agreed upon between said company and the lender or lenders.

SECTION 31. The commissioners hereinbefore named, or a majority of them, as shall soon as conveniently may be after the said letters patent have been obtained, give at least ten days notice in two daily papers of the city of Philadelphia, of the time and place by them appointed for the subscribers to meet in order to organize said company, and to choose by a majority of votes of the subscribers, given in person or by proxy duly authorized, one president, seven managers and a treasurer, and such other officers as shall be deemed necessary to conduct the business of the said company until the first Monday of January next ensuing, and may make then, or at any subsequent meeting, such by-laws, rules, orders and regulations, as do not contravene the constitution and laws of the United States or of this state, as may be necessary to the government of the affairs of the said company.

SECTION 32. The stockholders shall meet annually on the first Monday of January in every year, at such place as may be fixed on by the board of managers, of which not less than ten days notice shall be given by the treasurer, in at least two daily newspapers of the city of Philadelphia, and choose by the votes of a majority of those present, in person or by proxy as aforesaid, the officers of the said corporation, who shall continue in office one year and until others are chosen: *Provided always,* That no one person shall be entitled to more than ten votes at any election or meeting, whatever number of shares he or she may hold, and that each person shall be entitled to one vote for each share held by him or her, not exceeding that number.

SECTION 33. The said president and managers shall meet at such times as shall be found by them most convenient, and when met five shall form a quorum, who, in the absence of the president, shall choose a chairman, and keep minutes of all their proceedings, and a quorum being formed shall have

Powers. power to appoint surveyors, engineers, superintendents, and all other artists and officers necessary to carry on the intended works, to fix their salaries and wages, to ascertain the times, manner and proportions in which the stockholders shall pay the monies due on their respective shares, to draw orders on the treasurer: *Provided*, Such orders be signed by the president, or in his absence by a majority of the quorum present, and generally to do all such other acts, matters and things as by this act and by the by-laws and regulations of the company they are authorized to do.

Certificates of stock. SECTION 34. The president and managers shall, as soon as convenient, procure certificates or evidences for the stock of the said company, and shall deliver one such certificate, signed by the president, countersigned by the treasurer and sealed with the corporate seal of the company, to each person, for such share or shares of stock by them respectively subscribed or held, he, she or they paying five dollars on account of each share, which certificate or evidence of stock, or any share or shares thereof, shall be transferable at his, her or their pleasure, in person or by attorney, duly authorized, in the presence of the president or treasurer, who shall keep a book for that purpose, 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 on the books of the company kept for the transfer of stock, shall be a member of said corporation, and be entitled to the estates, emoluments and dividends of the said company incident to their respective shares, and to vote as aforesaid at the meetings thereof, and to be subject to all the penalties and forfeitures, and to be sued for all balance and penalties due on such share, as the original subscribers would have been.

Transferable

Penalty for neglecting to pay in-ments. SECTION 35. If after thirty days notice in the newspapers, as aforesaid, of the time and place so appointed for the payment of any proportion or instalment, at the place appointed, for the space of twenty days after the time so appointed, every such stockholder or his or her assignee, shall, in addition to the instalment so called for, pay at the rate of two per centum per month for the delay of such payment, and if the same and additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sums before paid in part and on account of such shares, the same shall be forfeited to the said company, and may be sold to any person or persons willing to purchase for such price as can be obtained for the same; or in default of payment by any stockholder of any

such instalment as aforesaid, the said president and managers may, at their election, cause suit to be brought before any alderman or justice of the peace, or in any court having competent jurisdiction, for the recovery of the same together with the penalties as aforesaid: *Provided*, That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, on whose share or shares any instalment or arrearages may be due and payable more than twenty days previously to the said election or meeting. Proviso.

SECTION 36. The said president, managers and company shall construct, on the western side of the river Schuylkill, a tide lock canal, commencing at a point at or near Mill creek, and to terminate at a point at or near the locks of the Schuylkill Navigation company, at Fair Mount Dam, so as to be supplied for its purposes with tide water, in such manner as to admit of basins, docks, wharves and places of deposit being constructed by the owners of the adjoining soil, with the right of attaching and discharging boats at any point on said canal, and with not less than four tide locks to admit of communication with the opposite shore and the Southwark canal: *Provided*, There shall be left at all times sufficient space for the free passage of all boats in said canal: *And provided further*, That said president, managers and company shall complete that portion of said canal between High street and a point on the Alms House property, opposite the Delaware and Schuylkill canal, together with an out-let lock at said point, within three years from the passage of this act. Location of the canal.

SECTION 37. The said president, managers and company shall have power and authority, by themselves or their superintendents, engineers, artists and workmen, after paying the damages to be assessed or agreed on, as hereinafter provided, to enter into and upon and occupy for the purpose, all the land which shall be necessary and suitable for constructing said tide lock canal, on the west side of the river Schuylkill, from a point at or near Mill creek and terminating at a point at or near the Fairmount locks, doing as little damage as possible, and there to raise, construct and erect said canal, first satisfying the owners thereof for the damage caused by the raising of said dam and constructing the said canal; but if the parties cannot agree upon the compensation to be made to such owner or owners, it shall and may be lawful for the parties to appoint six suitable and judicious persons, who shall be under oath or affirmation, and who shall reside in the city or county of Philadelphia, or if they cannot agree on such persons, then either of the parties may apply to the District Court of the city and county of Authority to enter upon and occupy lands, &c.

Damages how to be assessed and paid.

Philadelphia, and the said court shall award a venire, directed to the sheriff, to summon a jury of disinterested men, in order to ascertain and report to said court what damages, if any, have been sustained by the owner or owners of said ground by reason of said canal passing through his, her or their land, which report, being confirmed by the court, judgment shall be entered thereon, and execution may issue in case of non payment of the sum awarded, with reasonable costs, to be assessed by the court; and it shall be the duty of the jury, or the six appraisers as the case may be, in valuing damages, to take into consideration the advantage derived to the owner or owners of the premises from the navigation passing through the same: *Provided*, That either party may appeal to the court within thirty days after such report may have been filed in the prothonotary's office of the said court, in the same manner that appeals are entered in other cases: *And provided also*, That if any person owning land or other property which may be affected by this act, be *feme covert*, under age, non compos mentis, or out of the state, then and in either of the said cases the said company shall represent the same to the said court, and they shall proceed in the manner aforesaid, after such notice, as they may think proper, in the public papers or otherwise, to have the damages, if any, assessed and paid or secured to their satisfaction, before entering upon or commencing operations on any part of the said canal.

Proviso.

2d Proviso.

SECTION 38. The president and managers, their superintendents, engineers, artists, workmen and laborers, with their hands, instruments, carts, wagons and other carriages and beasts of burden and draft, may enter upon the lands contiguous to the route of the said canal, giving ten days notice to the owners thereof, and from thence, with the consent of the borough officers, take and remove any gravel, sand, stone or earth, doing as little damage as possible and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done thereon, and paying for the materials taken away, the amount thereof, if the parties do not agree, to be assessed and valued by any three disinterested freeholders of the said city or county, under oath or affirmation, to be appointed by consent of the parties, or if they cannot agree, by the said District Court, upon petition by either party, from whose decision an appeal may be entered as is provided by the thirty-sixth section of this act.

Authority to enter upon lands for materials.

SECTION 39. As soon as the said company shall have completed the said canal and navigation, they shall give notice thereof to the Governor, who shall thereupon nominate

and appoint three disinterested persons to view and examine Governor to the same, and report to him in writing, under oath or affirmation, whether the said canal and navigation is executed in a workmanlike manner, according to the true intent and meaning of this act, and if their report shall be favorable, the Governor shall, by license under his hand and the lesser seal of the commonwealth, permit the said corporation, by such persons as shall from time to time be appointed, as aforesaid, as toll collectors, or their agents or deputies, to demand and receive toll of and from persons having the charge of any boat, ark or other vessel passing on or through the said canal: *Provided*, That if, at the expiration of three years after the said work shall be completed, the tolls should enable the said company, after paying repairs and other necessary expenses, to divide more than ten per cent. per annum on the capital stock expended, then and in such case the tolls shall be so reduced that the dividends shall not exceed ten per cent. per annum, and shall hereafter, from time to time, be so regulated as that they shall not exceed ten per cent. per annum upon the capital stock, after paying all repairs and necessary expenditures.

viewers.

License.

Proviso.

SECTION 40. The toll collectors appointed as aforesaid shall, and they are hereby authorized, not to permit the passage of any boat or vessel through the said canal, or any part thereof, until the tolls fixed by the said company are first paid and discharged by the owner, skipper or person having the charge thereof, or may bring suit therefor against the owner, skipper or person having the charge thereof, before any competent tribunal, in the name of the said company.

Authority to enforce the paym't of toll

SECTION 41. The said company shall keep fair and just accounts of all monies received by them from the subscribers, and from the subscribers to the said undertaking on account of the said subscriptions, and for all penalties for delay in the payment thereof, and the profits on the shares that may be forfeited, and of all monies expended by them in the prosecution of the said work, and shall in every year submit such accounts to the stockholders at their annual meeting; and if it shall be found that the capital stock will be insufficient to complete the said canal, according to the true intent and meaning of this act, it shall and may be lawful for the said company, at a stated or special meeting to be convened for the purpose, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to receive and demand the monies for shares so subscribed, in like manner and under like penalties as are

Just acc'ts to be kept.
Number of shares may be increased.

hereinbefore provided for the original subscription, or as shall be provided by their by-laws.

Dividends. SECTION 42. The said company shall keep a just and true account of all monies received by their several and respective collectors of tolls, and other emoluments, and shall make and declare a dividend of the clear profits and income thereof among all the stockholders, all necessary expenses for repairs and other contingent costs and charges being first deducted, and shall, on the first Monday in February, and the first Monday in August in every year, publish the half yearly dividends made of the clear profit, and the time when and where the same will be paid to the stockholders, not exceeding twenty days thereafter, and shall cause the same to be paid accordingly.

Time of commencing and completing the work. SECTION 43. If the said company shall not proceed to carry on said work within one year from the passing of this act, and shall not complete the navigation as aforesaid in three years, according to the true intent and meaning of this act, then and in either case all and singular the rights, privileges, liberties and franchises hereby granted, shall revert to the commonwealth.

Security to be taken from officers of the Co. SECTION 44. The said company may demand and take such security from their officers and agents, and in such sums as may be fixed by the by-laws, for the faithful discharge of their respective duties.

Banking prohibited. SECTION 45. The said company shall not engage, directly or indirectly, in any banking, moied, commercial or manufacturing concern.

Bridges to be built and maintained by the Co. SECTION 46. Whenever the said canal shall cross any public or private street, lane, road or alley now made or to be hereafter made by public authority, laid out road, or highway, the said company shall cause a bridge fit for the passage of carts and wagons, with a protected foot path, in such manner as shall be approved by the county commissioners or the officers of the borough as the case may be, to be built and forever hereafter maintained and kept in repair at the costs and charges of the said company, but nothing herein contained shall prevent any person from erecting and keeping in repair any foot or other bridge across the said canal at his own expense, when the same shall pass through his ground: *Provided*, That the same shall be of such height above the water as the bridges erected by the company: *And provided*, That such bridges shall not interfere with the navigation of the canal or with the buildings or works of the said company.

Proviso.

2d Proviso.

SECTION 47. In case the said canal shall be found injurious to the water works of the city of Philadelphia, or shall

diminish the supply of water to the said city or districts, or if the canal in any manner injure the same, or if the said company be injurious shall violate any of the provisions of this act, or if the privileges hereby granted shall be found to be injurious to the public, the legislature reserves the right to revoke, alter or amend the charter hereby granted, at any time they may think proper.

SECTION 48. That the twenty-fourth section of the act entitled "An act to enable the Governor of this commonwealth to incorporate a company for opening a canal and lock navigation, between the rivers Delaware and Schuylkill, through the southern section of Philadelphia county, passed twelfth day of April, one thousand eight hundred and twenty-eight, which authorizes the state to purchase said canal at the expiration of twenty-five years after the passage of said act, be and the same is hereby repealed.

SECTION 49. That Charles S. Williams, John White, F. B. Nichols, Chas. S. Baker, Robert Colum and their associates, be and they are hereby incorporated under the name and style and title of the Schuylkill Steam Tow-boat company, with the same powers and privileges, and subject to the same restrictions as are contained in "An act to incorporate the Philadelphia Steam Tow-boat company," passed the seventh day of April, one thousand eight hundred and thirty-two, and its supplements; the annual election to be held on the first Monday of May, in the city of Philadelphia, and five directors to be elected.

SECTION 50. That the president, managers and company of the Mercer and Meadville Turnpike road, and the president, managers and company of the Susquehanna and Washington Turnpike road, be, and they are hereby authorized to open their respective roads to the width of one hundred feet through marshy places, so as to let the light and air upon the same: *Provided*, That all damages occasioned thereby shall be adjusted and paid in the manner prescribed by their respective charters.

SECTION 51. That Michael Doudel, Jonathan Jesup, Calvin Mason, John Evans, Thomas Kelly, Israel Gardner, John Stahley, Jacob Barnitz and Christian Buchanan, Wm. Patterson, Jacob Deitz, Luke Rouss, T. N. Haller, James Webb, David Buehler, Jacob Smyser, John Schlosser, Samuel C. Bonham, Jacob Hay and Andrew Duncan, or any three of them, are hereby appointed commissioners to do and perform the several matters and things hereinafter mentioned, that is to say; they shall, on or before the first day of June next, procure a book and enter therein as follows: We, the subscribers, promise to pay to the president and managers

The 24th sec. of act of 12th April, 1828, rel. to Delaware & Schuyl. canal repealed.

Schuylkill Steam Tow-boat Co. incorporated.

Certain turnpike companies authorized to widen their roads. *Provided*.

York Boro' Water Co. Commiss'rs.

To procure books, Form of subscription.

of the York Borough Water company, the sum of twenty dollars for every share set opposite to our names, in such manner, in such proportions, and at such times as shall be determined by said president and managers, in pursuance of the powers vested in them by their charter and the acts of assembly by which they were incorporated; witness our hands and seals the day of eighteen hundred and thirty-eight; and shall thereupon give notice, in two or more newspapers in the borough of York, during two successive weeks, of the time and place in said borough when and where they will attend to receive subscription for stock in said company, at which time and place said commissioners, or a majority of them, shall attend for the purpose of receiving such subscriptions, and shall permit all persons of lawful age who shall offer to subscribe in the said books, in their own name, for shares in said stock, and the said book or books shall be kept open for the purposes aforesaid at least six hours in each juridical day for the space of three days, or until there shall have been subscribed a sufficient number of shares to complete the work: *Provided*, That no person be permitted to subscribe for more than five shares on the first day, and not more than ten on the second day, after which any person may subscribe for any number of shares until the whole of the stock is taken: *Provided*, That no subscription shall be valid unless the person so subscribing shall pay to the said commissioners one dollar on each share so subscribed, which, after deducting the expenses of taking the subscriptions and other incidental expenses, the commissioners shall pay over to the treasurer of the company when it shall have been organized: *And provided further*, That the corporation of the borough of York shall not be authorized to subscribe, in their corporate capacity, for any shares in said company, until at least six hundred shares shall have been subscribed for by individuals, and shall not then be authorized to subscribe for said stock until a majority of the taxable inhabitants of said borough shall have requested them in writing so to do, nor shall the said corporation be authorized to purchase any of said stock which may have been subscribed for by individuals, unless authorized as before directed.

Who may
subscribe.

Proviso.

2d Proviso.

3d Proviso.

Letters pa-
tent.

SECTION 52. That when five hundred shares shall have been subscribed, the commissioners shall certify the same, with the names of the subscribers, under the hands and seals of the commissioners, to the Governor, who thereupon shall, under his hand and the seal of the state, create and erect the subscribers, and also those who shall afterwards subscribe, and their assigns, into one body politic and corporate, in

deed and in law, by the name, style and title of the York Name, style
 Porough Water company, by which the said company shall and title.
 have power of perpetual succession, and all the privileges and
 franchises incidental to a corporation, and shall be able and Privileges.
 capable of taking and holding the capital stock, and the
 increase and profits thereof, and of enlarging the same and
 increasing it by new subscriptions, if found necessary to
 fulfil the intention of this act, and of purchasing, holding,
 selling and transferring, in fee simple or for any less estate,
 such lands, tenements and hereditaments, real or personal,
 as shall be necessary in the prosecution of the works, and
 of suing and being sued, and of doing any and every matter
 and thing which a corporation may lawfully do.

SECTION 53. That any three or more of the commission- First elec-
 ers, as aforesaid, may and shall, as soon as conveniently tion of offi-
 may be after the letters patent have been issued by the Go- cers.
 vernor, give at least ten days notice in two of the public
 papers published in the borough of York, of the time and
 place of holding an election for officers of the company, to
 serve from that time until the next annual election of the
 burgesses and other officers of the borough of York; and the
 officers of the said corporation shall be ten managers, who
 shall out of their number elect a president, and shall also
 appoint a secretary, treasurer and such officers and agents as
 they may from time to time deem necessary.

SECTION 54. That whenever the burgesses and assistant Annual elec-
 burgesses shall hold, for the citizens, as aforesaid, one or tion.
 more tenth parts of the whole stock of the said company,
 they shall certify the same to the citizens of the borough,
 who shall at the time, place and in the same manner as they
 elect the burgesses, elect annually as many managers of the
 water company, aforesaid, as the burgesses shall have sub-
 scribed or purchased tenth parts of the whole stock of the
 said company; the balance of the ten managers not elected
 by the citizens, as aforesaid, shall be elected, annually, by
 the individual stockholders, by ballot, on the same day that
 the election for burgesses and other officers shall take place
 for the borough of York: *Provided*, That if the day of elec- *Proviso*.
 tion for the first managers do not come on the day of electing
 burgesses, &c.; for the borough, the commissioners shall
 hold an election of the citizens of the borough of York for as
 many managers as the burgesses shall have subscribed tenth
 parts of the stock subscribed, which managers so elected
 shall serve until the next annual election of burgesses and
 managers: *And provided also*, That each stockholder shall *2d Proviso*.
 be entitled to one vote for each of the first two shares he
 may own, one vote for each of the next four shares above

two and not exceeding ten, one for each of the ten shares and not exceeding thirty, one for each of the twenty shares above thirty and not exceeding fifty, but no votes for any shares exceeding fifty.

Stock of York Water Co. may be vested in York Borough Co SECTION 55. That the managers of the York Borough Water company shall have power to treat with the York Water company, and to admit that company to vest in the York Borough Water company the stock of the said York Water company, on such equitable terms as they may deem for the interest of the York Borough Water company: *Provided*, It be done within one year from the time of the charter of the York Borough Water company, taking effect by the election of the first managers thereof.

By-laws. SECTION 56. That the president and managers, or any five of them, shall have power to adopt such by-laws, rules and regulations as may be deemed expedient for the well being of the company, to call special meetings of the stockholders whenever they shall deem it necessary to consult them: *Provided*, That no by-laws, rules or regulations contravene the constitution and laws of this commonwealth.

Seal. SECTION 57. That the president and managers shall have power to procure, and shall procure a common seal, by which the certificates of stock shall be authenticated, which certificates of stock shall be transferable either in person or by power of attorney, attested by two witnesses, subject however to all dues and payments due or to become due thereon.

Of transfer. SECTION 58. That the managers shall meet at stated times, or by adjournment, or by a call of any two or more of the managers, and six managers, including the president, shall have power to transact all business of the board, and generally to transact and do all such matters and things as by this act or their by-laws, rules and regulations they shall be authorized to do: *Provided*, That, if practicable, all the managers have notice of the time and place of the meeting of the board.

Meetings.

Quorum.

Proviso.

Powers of the managers. SECTION 59. That the managers aforesaid shall have power, and it shall be their duty, as soon as practicable after the organization of the company aforesaid, to proceed to bring into the borough of York an abundant supply of water from such spring or springs, stream or streams as they may select, not now owned by the York Water company, and shall have power, for that purpose, to force water, if necessary, by water or steam power into a reservoir or reservoirs which they may construct for its reception, and to bring the same in trunks or pipes through or across any field or enclosure, along any road or highway, and through any of the streets and alleys of the borough of York, or of Buttstown and Freystown, and

shall at all times have liberty and power to repair or re-construct such trunks, pipes, reservoirs or works necessary to carrying into effect the object of this law.

SECTION 60. That the managers aforesaid shall, in such streets and alleys in the borough of York, and in Buttstown and Freystown, as they shall have laid pipes, cause hydrants or fire plugs to be erected, to be used for the purpose of extinguishing fires, and shall have liberty to supply or to suffer individuals to be supplied with water for domestic and manufacturing purposes, for such compensation as shall be agreed upon by the company and such individuals, according to uniform rates to be adopted by the managers, having regard to the quantity of water to be used. Hydrants for extinguish'g fires, &c.
Compensat'n for water.

SECTION 61. That the president and managers shall have the power of calling in the capital stock subscribed, by instalments as they deem advisable, and to collect the same by suit, after giving thirty days notice in two or more of the newspapers in the borough of York; and after the debts of the company shall have been paid, they shall, by the president declare a half yearly dividend on the stock paid in, on the first Mondays of January and July, publishing the time and place of paying the same, and causing the same to be paid accordingly. Instalments may be collected by suit.
Dividends.

SECTION 62. That any person who shall wilfully destroy or injure the works, pipes, reservoirs, cisterns or hydrants of the company, or shall wilfully corrupt or render unwholesome the water brought or conveyed into the borough of York, Buttstown or Freystown, by the company, or the stream or streams, spring or springs from which the same is brought, shall be deemed guilty of malicious mischief, and be liable, and also liable to the company, for damages sustained by such injury. Penalty for injuring the work.

SECTION 63. That if the company shall not proceed to commence and carry on the work hereby authorized to be done within three years from the time of the passing of this act, and do not within five years thereafter have brought the water within the limits of the borough, then, in either case, all and singular the rights and liberties hereby granted, or hereby intended to be granted to the company shall revert to the commonwealth. Time for commencing and completing the works.

SECTION 64. That the said company shall not have power to issue any note or notes in the nature of bank notes, or to be endorsers on any note or notes, or to use or exercise any banking privilege whatever, and in case they at any time act contrary to the provisions of this section their charter privileges shall be null and void. Banking prohibited.

Damages.

Proviso.

SECTION 65. That whenever, by application to the court of Common Pleas of York county, any individual or individuals complain and allege that he, she or they have sustained injury by such water being taken from or across their land or enclosures, it shall be lawful for the said court, and the said court is hereby directed to appoint three discreet individual citizens of the county of York, not interested in the question to be decided, who after viewing the premises and hearing the parties, their proofs and allegations, shall award such damages, under oath, as they may deem just and equitable: *Provided*, That from such award either the party complaining or the company may appeal as from the award of arbitrators, under the act of assembly, passed the twentieth day of March, eighteen hundred and ten.

LEWIS DEWART,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—The sixteenth day of April, Anno Domini one thousand eight hundred and thirty-eight.

JOS. RITNER.

 No. 91.

An Act

Supplementary to the resolution relative to the claim of Brown and Sawyers, passed the thirty-first of March, one thousand eight hundred and thirty-six, & for other purposes.

Brown and
Sawyers'
claim to be
examined &
settled.

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 words in said act, "under their contract," shall not be so construed or understood as to confine the Canal Commissioners to a strict and exclusive regard to the contract, but the same is meant and intended to be one of the items of evidence to guide them to a proper and just conclusion, and that the Canal Commissioners, as soon after the passage of this act as is convenient, shall proceed to examine the claim of Brown and Sawyers, and if, in their opinion, there was any thing in the character of the work which the contractors had no reason to expect, or if the said contractors have suffered any injustice through mistake in measure