

Pennsylvania, LAWS, statutes, etc.

L A W S

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF PENNSYLVANIA,

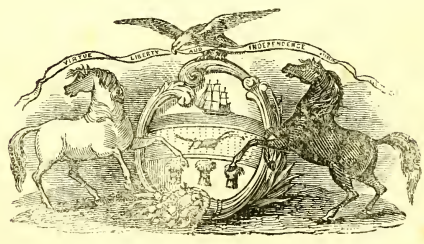
PASSED AT THE

SESSION OF 1851,

IN THE

SEVENTY-FIFTH YEAR OF INDEPENDENCE.

WITH AN APPENDIX.



PUBLISHED BY AUTHORITY.

HARRISBURG:

THEO. FENN & CO., PRINTERS TO THE STATE.

1851.

Proviso.

seventy-five: *Provided*, That the capital stock of the said company shall not exceed three hundred and fifty thousand dollars: *Provided also*, That the said coal company shall pay to the State Treasury one per cent. of their capital stock in five equal annual payments of seven hundred dollars each—the first payment to be made on or before the first Monday in January, Anno Domini, one thousand eight hundred and fifty-one.

J. S. McCALMONT,
Speaker of the House of Representatives.

V. BEST,
Speaker of the Senate.

APPROVED—The twelfth day of February, A. D., one thousand eight hundred and fifty.

WM. F. JOHNSTON.

No. 480.

A N A C T

To authorize the Governor to incorporate the Wilkesbarre 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
 Commissioners. J. Woodward, Lord Butler, Thomas W. Miner, Peter C. McGilchrist, Harrison Wright, Calvin Parsons, Ziba Bennet, George P. Steel, Samuel Puterbaugh, Oliver P. Hillard, Edward Covell, Sharp D. Lewis, Francis L. Bowman, and Joseph P. Lubeck, be, and they are hereby appointed commissioners to do and perform the several duties hereinafter mentioned; that is to say, they or any five of them shall procure a book or books and therein enter as follows: "We whose names are hereunto
 Form of sub- subscribed, do promise to pay to the president and managers of the
 description. Wilkesbarre Water Company the sum of fifty dollars for each and every share of stock set opposite to our respective names, in such manner and proportions and at such times as shall be determined by the said president and managers, in pursuance of an act of the General Assembly entitled 'An Act to authorize the Governor to incorporate the Wilkesbarre Water Company.' Witness our hands the day of in the year of our Lord, one thousand eight hundred and ." And shall thereupon give notice in the public newspapers printed in Wilkesbarre, and such other papers as a majority of the said commissioners may think proper, of the time and place or places when and where the said book or books shall be opened to receive subscriptions for the stock of said company, at which time and place or places one or more of the said commissioners shall attend, and permit and suffer all persons or bodies corporate who shall offer to subscribe in the said book or books, which shall be kept open for the purpose at least six hours in every

Books to be opened.

juridical day for three days, if three days shall be necessary; and on the first of said days any person of the age of twenty-one years shall be at liberty to subscribe in his own name or in the name of any other person or body corporate by whom he shall be duly authorized, for any number of shares not exceeding twenty, and on any succeeding day while the said book or books shall remain open, for any number of shares of the said stock. And if at the expiration of the said three days the said book or books shall not have eight hundred shares therein subscribed, the said commissioners may adjourn from time to time and from place to place until the said number of shares shall be subscribed; and when the said number of shares shall be subscribed the said book or books shall be closed: *Provided always*, That every person offering to subscribe in said book or books in his own name or in the name of any other person or body corporate, shall at the time of subscribing be required to pay to the attending commissioner or commissioners one dollar on each share, to defray the expenses attending the taking of such subscriptions and other incidental charges, which expenses and charges the said commissioner shall pay out of the moneys so received by them, and the balance, if any, shall be paid over to the treasurer of the said company as soon as the same shall be organized as hereinafter mentioned.

Who may subscribe.

Proviso.

SECTION 2. That when ten or more persons shall have subscribed not less than four hundred shares of the said stock, the commissioners aforesaid, or any five of them, may, or when the whole number of the shares aforesaid shall be subscribed, shall certify under their hands and seals the names of the subscribers and the whole number of shares subscribed by each, and the amount paid on each share, to the Governor of this Commonwealth; and if it shall appear from such certificate that the subscriptions have been bona fide made, and the amount required by the said commissioners at the time of subscription actually paid, then the Governor shall by letters patent under his hand and the great seal of the State, create and erect the said subscribers, and if the whole number of shares aforesaid be not then subscribed, then also all others who shall afterwards subscribe to the number of shares aforesaid, into one body politic and corporate in deed and in law, with perpetual succession and with all the privileges and franchises incident to a corporation, by the name, style, and title, of "The Wilkesbarre Water Company," and by such name the subscribers and such others as may thereafter become subscribers and shareholders shall be capable of holding their said capital stock and the increase and profits thereof, and of enlarging the same from time to time by new subscription, in such manner and form as they shall think proper, not exceeding eighty thousand dollars, and of purchasing, taking, and holding to them and their successors and assigns, in fee simple or for any less estate, all such lands, tenements, and hereditaments, goods, chattels, or effects, as shall be necessary for them in the prosecution of their work and in the full enjoyment thereof, and the same to sell and dispose of at their pleasure, if necessary, and of doing every act, matter, and thing which a corporation or body politic may lawfully do.

Letters patent.

Style.

Privileges.

SECTION 3. That the seven persons first named in the letters patent shall, as soon as conveniently may be, give notice in at least two of the public newspapers printed in the borough of Wilkesbarre, of a time and place to be by them appointed, not less than thirty days after publishing such notice, at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers by ballot, to be delivered in person or by proxy, one president and six managers to conduct the business of said com-

Organization.

pany, who shall continue in office until the next succeeding annual election as hereinafter provided, and until such other officers shall be elected; and shall make such by-laws and regulations, not inconsistent with the Constitution and laws of the United States and of this State, as may be necessary for the well-ordering and conducting of the affairs of the said company: *Provided*, That no person or body corporate shall have more than twenty votes on his own account at any election or in determining any question arising at such meeting, whatever number of shares such individual or body corporate may be entitled to; and that each person and body corporate holding one or more shares not exceeding the number of twenty, shall be entitled to one vote for each and every share so held.

Proviso.

President and managers, powers of

SECTION 4. That the said president and managers shall have full power and authority, immediately after obtaining their charter of incorporation, to construct, provide for, or erect all the works, materials, or machinery necessary and proper for conducting or conveying pure water into the borough of Wilkesbarre, and distributing the same for the use of the inhabitants of the said borough, and also for the use of those who live contiguous thereto, as also to provide against the ravages of fire by erecting hydrants or other constructions in suitable places within the limits of said borough for that purpose; and also for erecting within or contiguous to said borough a reservoir of suitable dimensions for the supply of the inhabitants of said borough, and of those who live contiguous thereto with pure water; and the said company shall have the privilege to convey water from any point which they may deem expedient where pure water may be obtained in a sufficient quantity for the ordinary uses of the inhabitants as aforesaid, and to convey and conduct the same in conduit pipes or otherwise, as they may deem expedient, through any public or private grounds, roads, streets, or alleys to the said reservoir, and from said reservoir through any road, street, or alley, or through any public or private ground within or without said borough necessary for the distribution of said water for public or private use, and to alter, renew, and repair any of such constructions when necessary: *Provided*, That all damages to private property shall be ascertained and paid for before any work is done or commenced on such private property or grounds as is hereinafter provided for; and the said company shall do no damage or injury to the Pennsylvania canal. That the said president and managers shall in such streets and parts of said borough where pipes have been laid down for conducting the said water for a reasonable consideration which shall be agreed upon by the said president and managers or their agent, and the town council of the said borough erect hydrants to be used solely for extinguishing fires and cleansing the streets of said borough, under the direction of the said town council, and they shall suffer individuals at all times to be supplied with water from the said pipes, for domestic or manufacturing purposes, for such reasonable compensation as shall from time to time be agreed upon by the said president and managers and such individuals, according to certain uniform rates as near as practicable which the said president and managers shall adopt; and any person within the said borough, or in the vicinity of the said borough, who shall appropriate or draw off any of the said water for domestic or manufacturing use, or for any other purpose, except for the legitimate purposes contemplated by this act, without having previously contracted for the same with the said president and managers or their duly authorized agent, shall forfeit and pay for every such offence the sum of twenty dollars to the said president and managers, to be recovered before a justice of

To supply inhabitants with water.

Damages.

Hydrants.

the peace in such manner as debts of equal amount are now recoverable.

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

Enter upon lands.

Proviso.

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

Enter upon lands for the purpose of locating route, &c.

SECTION 7. That it shall and may be lawful for the said president and managers, or their duly authorized agent, to contract and agree with the owner or owners of any lands and tenements, hereditaments and privileges which may be affected thereby, over, through, or upon which it may be necessary to conduct the water as aforesaid, or construct or erect said reservoir, bridges, aqueducts, culverts, dams, or other works or fixtures which by the said president and managers may be deemed necessary and connected therewith, for the purchase of so much of said lands as they may deem necessary for the accomplishment of the objects of this act, or the privilege of entering upon and passing over the said lands in the prosecution, repair, and protection of their works, if they or their duly authorized agent can agree with such owner or owners. But if in case of disagreement, or in case the owner thereof be feme covert, under age, non compos mentis, or out of the State, or otherwise incapacitated to sell or convey, then it shall and may be lawful for the president and managers of the said company, or for the owner or owners of or persons interested in such lands and tenements, hereditaments and privileges, to apply to the Court of Common Pleas of Luzerne county by petition, whose duty it shall be forthwith to appoint three reputable and disinterested persons not connected with the parties to view and assess the damages sustained by the owner or owners or occupiers of any such lands and tenements, hereditaments and privileges, or which may probably be sustained in the prosecution of said work, or by reason of the appropriation or occupation of such lands and tenements, hereditaments and privileges, for the purposes aforesaid. And it shall be the duty of the persons appointed by the said court, after being duly sworn or affirmed to do impartial justice between the parties according to the best of their judgment and abilities, to go upon the premises and view the same with regard to the damage and injury complained of, and taking into consideration any advantage the said owner or owners may derive from the location and construction of the said works through their said lands and tenements, hereditaments and

Further powers and privileges.

Damages, how adjusted.

privileges, make report to the said court as soon as convenient of the amount of the damages so found and assessed by them to each individual through or upon whose lands the said works may be constructed, if any. And if the said report shall be approved by said court, the court shall direct the amount or several amounts thus found and approved to be entered on the records of the said court, with costs as in cases of roads to be paid by the company: *Provided*, That either party shall have a right to appeal from any report made in pursuance of this section, by giving security for all costs; and in that case it shall be the duty of the Court of Common Pleas to direct an issue to try the same. And in case the party appealing shall not recover a verdict more favorable than the report of the said viewers, then and in that case the said party shall pay all the costs that shall accrue by reason of such trial by jury: *And provided also*, That such appeal shall be made within twenty days from the approval by said court, and shall not delay the operations of the said company in the prosecution of their work; but the same may proceed upon entering two or more sureties, to be approved by the said court, for the payment of the sum finally adjudged to be due, with costs, or upon depositing in court an amount which the said court shall adjudge sufficient to cover the same.

Proviso.

Company after having paid for and tenements, &c., to have and to hold the same.

SECTION 8. That when the said president and managers shall pay to the said owner or owners of any lands and tenements, or to his, her, or their representatives, the full amount of damages found and assessed according to the provisions of the sixth section of this act, for the lands and tenements occupied by said company in the construction of their works or for the right of way over or through any lands for the construction, protection, and repair of the same, with the costs allowed by the said court, or shall pay into the said court for the use of the said owner, owners, or occupants, his, her, or their representatives, the said company shall be entitled to have and hold the said lands and tenements so paid for and described in the report of the said viewers, and set out in and by the draft accompanying and filed of record with the report of the viewers aforesaid to them and their successors and assigns for the purposes aforesaid.

Annual meeting of stockholders.

SECTION 9. That the stockholders of the said company shall meet on the first Monday in May in each year after they shall have received their letters patent as hereinbefore provided, at such place as shall be fixed by the rules and orders of the said company to be made as aforesaid for the purpose of choosing one president and six managers as aforesaid for the ensuing year and until other officers are elected, and at such other times as they shall be assembled by the said president and managers. Of all which meetings of the said stockholders it shall be the duty of the president, or in case of his absence or other disability, of at least two of the managers, to give at least two weeks' notice in the newspapers published in the borough of Wilkesbarre of the time and place of such meeting; at which annual or special meeting the said stockholders shall have full power and authority to make, alter, or repeal by a majority of votes, all such by-laws, rules, and regulations as aforesaid, and to do and perform every other corporate act: *Provided*, That if such election of president and managers shall not be made on the day above specified, the corporation shall not for that cause be dissolved, but it shall be lawful on any other day within sixty days thereafter, due notice having been first given as above provided by the president or at least two of the said managers of the time and place of meeting, to hold and make an election in such manner as the by-laws of the said corporation shall prescribe. And in case of the death, resignation, removal from the State, or other inability to act, of

Managers.

Proviso.

the president or any of the managers, the remaining members of the board of managers shall choose another to supply his place until the next election; and the said president and managers, or a majority of them, shall at their first meeting after their election choose a suitable person as a treasurer and a secretary for the ensuing year, both of whom shall be selected from the list of bona fide stockholders.

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

SECTION 11. That the said president and managers shall procure certificates, to be printed or written, for the shares of the capital stock of the said company, and deliver one thereof signed by the president and countersigned by the treasurer and sealed by the common seal of the corporation, to each person for every share by him or her subscribed and held—which certificate shall be transferable by the owner at his or her pleasure, in person or by attorney, in presence of the president or treasurer, subject however to all payments due or to become due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for that purpose, shall be a member of the corporation, and shall be entitled to all the privileges and emoluments incident and belonging thereto: *Provided*, That to entitle the transferee to vote at any election or meeting of the stockholders, the transfer shall be bona fide made at least three months previous to such election or meeting.

SECTION 12. That if any stockholder, after thirty days' public notice in the newspapers printed in Wilkesbarre of the time and place appointed in pursuance of the ninth section of this act for the payment of any portion of the capital stock in order to carry on the work, shall neglect to pay such proportion at the place appointed for the space of thirty days after the time so appointed for the payment thereof, every such stockholder, or his or her assignee, shall in addition to the proportion so called for pay at the rate of one per centum per month for such delay of payment; and if the same and additional penalty shall remain unpaid for such a space of time as that the accumulated penalties shall be equal to the sums previously paid on account of the said share, then the said share and all the money thereon paid shall be forfeited to the company and may be sold by them to any person or persons willing to purchase for such price as may be obtained therefor: *Provided however*,

That nothing herein contained shall be so construed as to prevent the said company from recovering the amount of capital stock so called for and remaining unpaid, together with the penalty, from any delinquent stockholder.

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

Accounts. SECTION 14. That the said president and managers of the said company shall keep fair and just accounts of moneys received by them from the subscribers to the said undertaking for their subscriptions thereto, and all penalties for delay or non-payment thereof, and of all moneys by them expended, and on what account the same was expended, and shall in every year, not more than sixty nor less than thirty days' previous to the time for holding an election for officers of the said company, prepare a particular statement thereof in writing, which together with the vouchers and other evidences thereto belonging shall be placed in the office of the treasurer of the company for the free inspection of any stockholder or member of the said company who may think proper to examine the same until the work shall be completed, and all the costs and charges affecting the same shall be fully paid and discharged; and it shall be the further duty of the said president and managers after the completion of the said work, and the costs and expenses thereof paid and settled, to keep just and fair accounts of all moneys received by them by their treasurer or other officers or agents arising from the sale of water-rights, water-rents, or otherwise, and of the amount by them expended, and shall make and declare a dividend of the profits and income thereof among all the stockholders respectively, and shall on the first Monday of January and July in every year publish the half-yearly dividend to be made of the income and profits to and among the stockholders, and of the time and place when and where the same shall be paid, and shall cause the same to be paid accordingly: *Provided*, That no dividend shall be made to impair the capital stock of the said company: *And provided also*, That no person shall be entitled to any share of the dividend declared who has not paid such amount on the stock held by him as has been required by the president and managers: *Provided*, That nothing contained in this act shall be construed to authorize the said corporation to issue notes in the nature of bank notes or to endorse notes in their corporate capacity, or to make discounts or to receive deposits after the manner of any bank or banks; and in case at any time the said company shall violate the provisions of this section, all and every of their chartered privileges shall cease and determine.

Competent for the town council of the borough of Wilkesbarre, after twenty years, to purchase whole stock of said company, &c. SECTION 15. That at any time after the lapse of twenty years from the construction and completion of the works authorized by this act, it shall be competent for the town council of the borough of Wilkesbarre to purchase the whole stock of the said company by paying to the said president and managers for the use of the stockholders the whole amount paid in by all of the stockholders, and such amount in addition as including the dividends already divided amongst the stockholders, shall amount to ten per centum per annum on the stock paid in and on the payment of the same, the said president and managers shall assign and transfer to the said town council and their successors in office, for the use of the said borough, the

whole capital stock of the said company, with all the water works belonging to the said company, and all other appurtenances, privileges, and rents pertaining thereunto, from which period the said town council shall be vested with the same for the use of the said borough, who shall thereafter hold and possess the same, with all the rights, powers, and privileges which the said president and managers held and exercised previous to said transfer, expressly for the use of the said borough; and thereafter the business of the said company shall be conducted by the said town council or corporate authority of said borough, the corporate name, however, remaining the same as before the said transfer: *Provided*, That immediately after receiving said money, the said president and managers shall distribute the same amongst the stockholders who may severally be entitled to the same. *And on failure to do so when demanded within sixty days after the receipt of the money, the Court of Common Pleas of the county of Luzerne are hereby empowered, on the application of any one interested, to compel the payment of the same by attachment. And in case of fraud or embezzlement, the offender or offenders shall be liable, on complaint of any of the stockholders of the said company, to indictment and prosecution in the Court of Quarter Sessions of the said county of Luzerne, and on conviction of said fraud or embezzlement of any moneys or other property belonging or due to the said stockholders, or of the unlawful detention of the same contrary to the provisions of this act, the said court shall sentence him or them to pay such fine as in the discretion of the said court may be adequate to the offence, and further to suffer an imprisonment in the common jail of said county for any term not exceeding one year. And if any dispute as to the persons entitled to receive any part of the said moneys shall arise, the court are also hereby empowered to decide the same as to right and justice may belong.*

Provido.

Distribute among stockholders.

Penalty in case of embezzlement.

SECTION 16. That if the company to be incorporated by the provisions of this act shall not within ten years from and after the date of their charter erect and complete the works herein contemplated and authorized, then all the privileges hereby granted shall cease and determine.

Completion of the works.

SECTION 17. That the said company shall at all times to the utmost capacity of their said works afford a supply of pure water to all the citizens of the borough of Wilkesbarre, and to citizens contiguous thereto, the citizens of said borough having the preference for culinary and other domestic purposes, who shall apply for the same and agree to pay therefor, and for the extinguishment of fires at the usual rates. And in case of any scarcity of water, in consequence of extreme droughts or otherwise, the said citizens shall be supplied for culinary or domestic purposes in preference to those who may apply the water to any other purposes, except in the extinguishment of fires.

Preference in case of scarcity of water.

SECTION 18. That if any person or persons shall wilfully mutilate, injure, or spoil any of the works of said company, or shall wilfully corrupt the water in any reservoir, dam, or conduit pipe established by said company, on conviction thereof before the Court of Quarter Sessions of said county, shall pay a fine at the discretion of said court not exceeding fifty dollars, and suffer an imprisonment in the jail of said county in any term not exceeding two months, as the court aforesaid may determine.

Penalty for injuries to company's works.

SECTION 19. That the Legislature reserve the right, in the event of the said company violating any of the provisions of this act or of the

Reservation.

privileges hereby granted to the said company being found injurious to the public, to revoke or annul the charter hereby granted.

J. S. M'CALMONT,
Speaker of the House of Representatives.

V. BEST,
Speaker of the Senate.

APPROVED—The twelfth day of February, A. D., one thousand eight hundred and fifty.

WM. F. JOHNSTON.

No. 481.

AN ACT

For the sale of the real estate of William Sugden, deceased.

Preamble.

WHEREAS, William Sugden, late of the township of Brandywine (now East Brandywine), in the county of Chester, deceased, by his last will and testament, proved October eighth, Anno Domini, one thousand eight hundred and forty-two, devised a certain messuage and tract of land situate in said township, to his wife Catharine Sugden, for life, and after her decease to his three children, Jane Sugden, Ann Sugden, and William Sugden, jr., in fee;

And whereas, It has been represented to the Legislature by the petition of the said Catharine Sugden, Charles Zeigler, executor aforesaid, and Charles Downing, guardian of the persons and estates of said children, who are still minors, that said real estate is deteriorating, the buildings and improvements going out of repair, and that it would be for the benefit of all parties interested that messuage and tract of land should be sold, and the proceeds invested under proper restrictions for the benefit of the persons entitled to the same; therefore,

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* Charles Zeigler, executor of the last will and testament of William Sugden, late of the township of Brandywine, in the county of Chester, deceased, be, and he hereby is authorized and empowered to sell at public sale, at such time as he shall deem most advisable, the messuage and tract of land above mentioned, devised in and by the last will and testament of said deceased; and that the said executor shall invest the proceeds thereof on good real estate security, or in such manner as the Orphans' Court of Chester county shall direct, the interest of said proceeds to be paid to the said Catharine Sugden annually during her natural life, and at her death the principal to be paid to the above-named minor children.

SECTION 2. That such sale shall not be valid until it shall have been confirmed by the Orphans' Court of Chester county, nor until the said executor shall have given security, to be approved of by said court, conditioned for the faithful appropriation of the proceeds of such sale.

Charles Zeigler,
executor of Wil-
liam Snyder,
deceased, au-
thorized to sell
certain real es-
tate.

Sale to be con-
firmed by Or-
phans' Court.