

of any member to remove obstructions, perform the work required, pay the proportion of expenses assessed upon him, or to pay such penalties as he may be subjected to, he shall be liable to the suit of the said company for the recovery of such amounts, sums or penalties as he should or ought to pay, to be sued for as sums or debts of a like amount are by law recoverable. In case the member so neglecting or refusing shall be a non-resident of the county of Beaver, the process may be served upon his known agent in the said county, or upon the person renting, using or occupying his share or shares of water power; and if he have no known agent, tenant or occupier, may be served by publication in a newspaper printed in the said county, at least three successive weeks before judgment. Transcripts of judgments recovered before a justice of the peace, under this section, may be filed of record in the court of common pleas of said county, and proceedings taken thereon, as in other cases. When any member against whom judgment shall be rendered in pursuance of this section, before a justice of the peace, and transcript filed, or in court, shall own any share or shares of water power in gross, and not appendant or appurtenant to a lot or other real estate, the said share or shares shall be liable to levy and sale in like manner as other real estate is now liable.

WILLIAM F. PACKER,
Speaker of the House of Representatives.

WM. WILLIAMSON,
Speaker of the Senate.

APPROVED—The eighth day of April, one thousand eight hundred and forty-eight.

FRS. R. SHUNK.

No. 293.

AN ACT

To re-incorporate the New Brighton water company, and enlarge its powers.

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 division of the water power at New Brighton, on the east side of Beaver river, into one hundred equal shares is hereby confirmed; and all the owners of said shares, whether appendant, appurtenant or in gross, who shall subscribe this charter as hereinafter mentioned, and their successors in the said ownership, by descent or by purchase, are and hereby are declared to be a body politic and corporate in law, by the name, style and title of "The New Brighton water company;" Style. and by the same name shall have perpetual succession, and all the Privileges. powers, privileges and franchises of a corporation; and shall be capable in law to sue and be sued, to have a common seal, and the same to alter and renew at pleasure; to make ordinances, rules and by-laws not in-

consistent with the constitution and laws of this commonwealth, for the regulation and management of said corporation, its property and affairs; to hold, and to purchase and hold to them, their successors and assigns, in fee simple or otherwise, such lands, tenements and hereditaments, corporeal or incorporeal, and such personal estate as shall be necessary to them in the use, management, prosecution and improvement of their works, and to do all and every other act and thing which a corporation or body politic may lawfully do : *Provided*, That nothing herein contained, shall be considered as conferring banking and trading privileges.

Proviso.

Commissioners.
Duties.

SECTION 2. That Talbott Townsend, Benjamin Wilde, Henry Stauffer, William C. Estep and Charles Coale, or any three or more of them, are hereby appointed commissioners, whose duty it shall be to procure a suitable book, and to copy therein the charter hereby conferred at full length, and by advertisements set up in public places, or published in a newspaper or otherwise, to give notice to all the owners of the shares of water power at New Brighton, of the place where the said book is deposited, for the time being, that they may subscribe their names to the charter therein copied. And it shall be lawful for the owners of the said shares, in person, or by agent authorized in writing, minors, by their guardians and executors, upon whom power of sale is conferred by will, to subscribe to the said charter, and become members of the said corporation; which charter, when so subscribed by at least three-fourths of the owners aforesaid, shall be good evidence in law, wheresoever produced; and the first meeting of the shareholders of the New Brighton water company shall take place in a reasonable time thereafter, of which notice shall be given by the said commissioners in the manner hereinafter provided for the annual meeting; at the said meeting a board of five directors shall be chosen, in manner provided for the annual election, who shall have the same powers, and perform the same duties pertaining and belonging to the annual directors, and shall hold their offices until successors shall be chosen, and enter upon their duties.

First meeting.

Elect directors.

SECTION 3. The general meeting of the shareholders of the said company, shall be held on the last Saturday in December annually; of the time and place of holding which, the directors, for the time being, shall give notice to the members, by not less than five handbills put up in public places, or by advertisement in a public newspaper of said county. At the said annual meeting, the shareholders shall elect five directors for the ensuing year, of whom any three shall be a quorum to do business, and one of their number, by themselves, shall be chosen president, and another clerk of the board; in the case of the death, resignation, removal, refusal or inability of a director to act, his place may be filled, for the remainder of the term, by appointment of the board of directors, or in such other mode as shall be provided by ordinance, or by law; no omission to hold the said annual meeting, or to elect directors shall, on that account, be deemed a dissolution of the corporation; but the said meeting shall take place, and election held, at any time within the following year, and in the mean time the directors, for the time being, shall continue in office.

Annual meeting.

Election of board.

Votes.

SECTION 4. The votes of the shareholders for directors shall be by ballot, and for the election of directors, and the decision of all questions in the general meetings of the shareholders, the ratio of votes shall be as follows, to wit : A shareholder having three shares or less, one vote; four shares and not more than seven, two votes; eight and not more than twelve, three votes; thirteen and upwards four votes; proxies may be held and voted upon by known agents of shareholders, (and by tenants, or persons using and occupying the water power of such share-

holders,) but no shareholder shall be entitled in his own right, and by proxy, to a greater number than four votes; nor shall any person be entitled to vote, by virtue of any share or shares, unless the said share or shares shall have been owned and held by the shareholder, by or through whom the right to vote is claimed, at least two months previous to the time of offering said vote.

SECTION 5. It shall be the duty of the directors going out of office, to render accounts of all receipts and expenditures, during their term, to the directors newly elected, who shall examine the same, and allow such as shall be just and reasonable, subject, nevertheless, in case of disagreement, to the arbitrament of disinterested persons, to be mutually chosen by the parties; or in case of disagreement or refusal, to be nominated by the nearest justice of the peace not interested, at the request of either party; from whose award an appeal, to be certified by them, may be taken within twenty days thereafter, to the next succeeding court of common pleas of said county: *Provided*, The amount in controversy shall exceed one hundred dollars, and that the party appellant make oath or affirmation, that it is not for the purpose of delay, but because he or they firmly believed injustice has been done, and enter into recognizance, with good security, before the said arbitrators, in a sum sufficient to cover the demand and all costs, to prosecute his or their appeal with effect.

Render accounts.

Examination of accounts.

Proviso.

SECTION 6. The powers of the said corporation shall further embrace the maintenance, improvement, extension, preservation, repair, regulation and control of the dam, race, water course, gates, sluices and all other property and works of the company, or used by them. The said corporation also shall have power, singly or in conjunction with any other corporation, or with individuals, to build a new dam upon the site of their present dam, or at any other site suitable for their works, and the same singly or in conjunction as aforesaid to maintain, preserve, repair, re-build, regulate and control, together with the works connected therewith or appertaining thereto; and also singly or in conjunction as aforesaid, to use, maintain and repair any other dam, and to purchase rights, extinguish claims, and do every other needful and necessary act. It is also hereby declared, that the first proviso in the first section, and second and third sections of the act of the twenty-third March, one thousand eight hundred and three, entitled "An Act to authorize any person or persons owning lands adjoining navigable streams of water declared public highways, to erect dams upon such streams, for mills and other works," shall not be applicable to the said dam, or any dam hereafter erected by the said New Brighton water company as aforesaid.

Powers of corporation.

SECTION 7. It shall be the duty of the directors of the said corporation to exercise and perform all the powers and duties by this act confirmed and enjoined upon the said corporation, and not otherwise provided to be done or performed by others, to transact all its business, and to do and perform all acts and duties enjoined upon them by the ordinances and by laws of the company. They shall also ascertain the expenses of the company as often as occasion may require, and make a just and fair apportionment of the same among the several members, according to their shares, and enforce the payment thereof, in money or in work, as may be required; of which apportionments a record shall be made in the minutes of the corporation, and certified by a majority of those present, or by their clerk; and the said record shall be good evidence in any action for the recovery of the sums therein contained, or for non-performance of the work required: *Provided*, Proviso.

Duty of directors.

That the member sued for the same, shall be at liberty to show any material error or mistake committed to his prejudice.

**Duties of mem-
bers.** SECTION 8. Each and every member of the said company, and his successors by descent or purchase, shall pay to the proper person appointed to receive the same, or to work out, as the case may be, his proportion of all expenses incurred, or to be incurred by the said company in the maintenance, improvement, extension, preservation, erection, building and repair of all their works, the management of the affairs of the corporation, and in the purchase of property and extinguishment of claims. He shall also, at his own expense, remove obstructions and keep the race or water course open through his lot, in such manner as to promote the general interest, and to give the greatest fall of water the ground will admit. In case of the neglect or refusal of any member to remove obstructions, perform the work required, pay the proportion of expenses assessed upon him, or to pay such penalties as he may be subjected to, he shall be liable to the suit of the the said company for the recovery of such amounts, sums or penalties as he should or ought to pay, to be sued for as sums or debts of a like amount are by law recoverable. In case the member so neglecting or refusing shall be a non-resident of the county of Beaver, the process may be served upon his known agent in the said county, or upon the person renting, using or occupying his share or shares of water power; and if he have no known agent, tenant or occupier, may be served by publication in a newspaper printed in the said county, at least three successive weeks before judgment. Transcripts of judgments recovered before a justice of the peace, under this section, may be filed of record in the court of common pleas of said county, and proceedings taken thereon, as in other cases. When any member against whom judgment shall be rendered in pursuance of this section, before a justice of the peace, and transcript filed, or in court, shall own any share or shares of water power in gross, and not appendant or appurtenant to a lot or other real estate, the said share or shares shall be liable to levy and sale, in like manner as other real estate is now liable.

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