

SECTION 7. The said borough shall be a separate school district, and shall be entitled to all arrearages of taxes levied on property within the borough, and remaining unappropriated at the passage of this act. Separate school district.

J. S. M'CALMONT,

Speaker of the House of Representatives.

V. BEST,

Speaker of the Senate.

APPROVED—The twenty-second day of March, one thousand eight hundred and fifty.

WM. F. JOHNSTON.

No. 324.

AN ACT

To incorporate the Honesdale 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 Zenas H. Russel, Russel F. Lord, Thomas H. R. Tracy, Richard L. Leely, Henry W. Stone, C. C. Graves, Isaiah Snyder, John Kelly, William H. Dimmick, Stephen W. Genung, Samuel E. Dimmick, Edward Murry, John A. Patmore, Oliver Hamlin, Stephen D. Ward, F. M. Crane, M. H. Tracy, H. B. Beardslee and Theodore Groves 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 Honesdale water company, for the purpose of introducing into the borough of Honesdale, in the county of Wayne, a sufficient supply of fresh and pure water for the use of the inhabitants of said borough. Commissioners.

SECTION 2. It shall be the duty of the 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 the Honesdale water company the sum of twenty-five dollars for every share of stock in said company set opposite to our names, in such manner and proportions as shall be determined on by the board of managers of said company. Witness our hands the day of _____ in the year of our Lord, one thousand eight hundred and fifty ;" and the said commissioners, or a majority of them, shall fix on a time and place in the said borough of Honesdale, 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 Duty of commissioners.

or books shall be kept open for the purpose aforesaid, for at least six hours in each juridical day for the space of three days, or until there shall have been subscribed six hundred shares, and if at the expiration of three days the books aforesaid, shall not have thereon subscribed the number of shares aforesaid, the commissioners may adjourn from time to time, and transfer the books elsewhere, until the whole number of six hundred shares shall be subscribed; of which adjournment 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 subscription shall be valid unless the person 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 3. When one hundred shares or more of said stock shall have been subscribed, and the sum of ten per cent. paid thereon, the commissioners, or a majority of them, shall certify to the governor under oath or affirmation, the names of the subscribers and the number of shares subscribed by each, and that ten per cent. has been paid thereon; the governor shall by letters patent under his hand and seal of the commonwealth, create and erect the subscribers, and if the subscription shall not be full at the time, then also those that shall thereafter subscribe to the number of shares aforesaid, into a body politic and corporate in deed and in law, by the name, style and title of "The Honesdale water company," and by that name the subscribers shall have perpetual succession, with all the privileges, franchises and immunities incident to a corporation, and be able to sue and be sued, to plead and be impleaded in all courts of record and elsewhere: *Provided*, That nothing herein contained shall be so construed as in any way giving to the said corporation any banking or trading privileges whatever: *And provided further*, That said commissioners be and they are hereby authorized to take and receive subscriptions from the commissioners of the county of Wayne, in their corporate name, and from the town council of the borough of Honesdale aforesaid, in their corporate name, to so many shares of stock in said company as the said commissioners of Wayne county, and the said town council shall agree to subscribe for the use of the public offices, buildings and improvements of said county and borough.

SECTION 4. 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 Honesdale, of the time and place for the subscribers to meet and hold an election for officers of said company, who shall choose by ballot, five managers who shall be stockholders, to conduct the affairs of the company until the last Monday in January then next ensuing; and in all elections each stockholder shall be entitled to one vote for every share bona fide held by him not exceeding three shares, and one vote for every two shares above three and not exceeding seven shares, and one vote for every four shares held by him above seven and not exceeding twenty-one, 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 by him held above forty-one; and the commissioners of the county of Wayne, and the town council of the borough of Honesdale, shall have the same privilege 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

Letters patent.

Style.

Privileges.

Election of officers.

Votes.

take such security from their treasurer for the faithful discharge of his duties as they shall see proper; and the election shall be held annually, on the last Monday in January, at such place as may be appointed by the managers, of which at least fourteen days' notice shall be given in one or more of the newspapers published in said borough; and when vacancies happen the managers shall supply them from among the stockholders until the next annual election: *Provided*, That no misnomer nor failure of election of officers on the day appointed shall discontinue or dissolve the said corporation, but the managers and officers shall continue in office until a new election, which shall be made at such time and place and after such notice as the board of managers may prescribe.

SECTION 5. That the president and managers, or any four of them, shall have power to adopt such by-laws, rules and regulations as may be deemed expedient for the well governing the affairs of the said company; and also shall have power to call special meetings of the stockholders whenever any circumstances occur which may render it necessary to consult them: *Provided*, That such by-laws, rules and regulations shall in no wise contravene the constitution and laws of the United States nor of this commonwealth.

SECTION 6. 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 such certificate signed by the president, and countersigned by the treasurer and sealed as aforesaid, unto each person for each share held by him or her, as soon as the amount due thereon shall be paid; 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, and the assignee holding such certificate shall be a member of the company, and possess and enjoy all the rights and privileges, benefits and emoluments to which he would have been entitled if he had been an original subscriber.

SECTION 7. The president and managers shall meet at such times and places as shall be directed by their by-laws, and when met, a majority shall be a quorum; and in the absence of their president a president pro tem. may be chosen from the 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 time and the manner, and in what proportion the stockholders shall pay the money due on their respective shares, and to draw on the treasurer for all moneys that may be required to carry into full effect this act, or that may be required by their by-laws, rules and regulations, and generally to do all such other matters and things as by this act or the by-laws, rules and regulations they shall be authorized to do.

SECTION 8. 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 ap-

Misonomer.

By-laws.

Seal.

Quorum.

Engineers.

Purchase
springs or water
power, &c.

purtenant, with full power the same or any part thereof, or the whole of their works, 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 Honesdale 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 to lay pipe through the same, the company doing as little damage as possible to private property; and the said president and managers shall at all times have liberty to renew and repair the pipes or trunks, cisterns or reservoirs, wherever laid and constructed on and through private property, doing as little damage as possible; and shall also have liberty at all times, to dig and lay pipes and trunks along roads and highways and streets of the borough of Honesdale, 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 construct cisterns and reservoirs in the streets or public grounds in said borough, when the same may be necessary.

Erect fire plugs or hydrants, &c. SECTION 9. That the president and managers are hereby authorized, in such streets or parts of said borough where trunks or pipes may be laid down, to erect fire plugs or hydrants, to be used for extinguishing fires in said borough, for such reasonable compensation as may be agreed on between said company and the town council of said borough; and the said water company is also authorized to supply individuals and corporations with water for family and other purposes, for such compensation as may be agreed upon between the said company and individuals or corporations, or according to the rates adopted by said company.

May call in capital stock by instalments, &c. SECTION 10. That the president and managers may call in the capital stock by instalments, as the same may be required; and if any stockholder shall neglect to pay, after thirty days' notice published in one or more newspapers in said borough, payment may be enforced by action of debt in the corporate name of said company against such delinquents as in other cases; and in case of inability to collect such instalment or instalments, said company may declare said delinquent stock and the money paid thereon, forfeited for the use of the company; 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 amount of stock paid in half yearly on the last Monday in January and July in each year, and shall publish said dividend and place where the same will be paid, and shall cause the same to be paid accordingly.

Damages, how adjusted. SECTION 11. That in case the owner or owners of land and tenements through and upon which such pipes, trunks, aqueducts, reservoirs and cisterns are laid and constructed, or the 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 or other materials necessary for the purposes contemplated by this act, or the owner or owners of any spring or springs, stream or streams of water which may be used and appropriated by the company, or any person who may be injured by the *division* of the waters used by said company, cannot agree with the said company upon the damages or compensation to be paid to the said owner or owners, person or persons, it shall and may be lawful for the parties to appoint, or in case the parties cannot agree, then on application by the party complaining, the court of common pleas of Wayne county shall appoint three disinterested and suitable persons to ascertain

and report on oath or affirmation to said court, what damages, if any, have or will be done by said company; which report having been 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 appeal such proceedings shall be had as in other cases of damages: *Provided*, That nothing herein contained shall authorize said company to enter on the land or appropriate the property of any individual, unless the parties agree, without first giving adequate security for any damage they may occasion, to be approved of by one of the judges of the court of common pleas of Wayne county.

SECTION 12. That any person who shall wilfully destroy or injure in any manner the pipes, aqueducts, cisterns, reservoirs, hydrants, or any of the works belonging to said company, erected in pursuance of this act, or shall wilfully corrupt or otherwise render unwholesome the spring or springs, stream or streams of water which shall be conveyed or brought into said borough of Honesdale 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 one hundred 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 of one hundred dollars or under are recoverable, the one-half for the use of the person who shall give information, and the other half for the use of the company; and if any person against whom such judgment shall be rendered, shall neglect or refuse to pay the amount of such judgment, and no goods or chattles 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 Wayne, for any period not less than one nor more than fifty days, at the discretion of the justice rendering such judgment; and shall moreover remain liable for the full amount of damages to the said company, in any other action instituted by them, and shall moreover be subject to and indicted for the same.

SECTION 13. Any person or persons within the said borough of Honesdale, who shall take any of the said water for any purpose or use whatever, without having previously contracted for the same with the said company, shall forfeit and pay for every such offence the sum of three dollars to the said company, to be recovered before a justice of the peace in an action of debt.

Further provisions.

SECTION 14. In case the said company shall, from want of means, be unable to carry on their said works to completion according to the intent and meaning of this act, then it shall and may be lawful for the said company to borrow any sum or sums of money not exceeding in the whole five thousand dollars, for such time and for such rate of interest as may be agreed on, and secure the same by judgment or mortgage on the land, works, and property, and franchises of the said company; which judgment, when given, or mortgage, when executed, is hereby declared to be a good and valid lien thereon to all intents and purposes; and in case of sale of said land, works, and property, and franchises, under and by virtue of said mortgage or judgment, or otherwise, the purchaser or purchasers shall become invested with all the rights, privileges, and franchises, and powers granted to said company;

Borrow money.

and shall annually elect directors as herein prescribed, so far as the same is applicable, and shall be subject to all the duties and liabilities herein contained, and conduct the affairs of said corporation in pursuance of the provisions of this act.

Borough of
Honesdale may
become the
owner of the
water works in a
certain contin-
gency.

SECTION 15. In case of a sale of said works and franchises of said company, the borough of Honesdale may at any time thereafter, by paying the owner of said property and franchises the amount for which the same may have been sold, together with the costs of maintaining or completing said works, with ten per cent. interest thereon, deducting therefrom any dividends may become the owner of said property and franchises, and invested therewith; and the town council of said borough shall be ex-officio managers of said company, and the business shall be conducted in the corporate name of said company, subject in every respect to the provisions of this act.

Annual state-
ment.

SECTION 16. That the treasurer of said company shall annually make a statement of the financial affairs of said company, showing the receipts and expenditures, and such other information as he may deem necessary.

Commencement
and completion
of works.

SECTION 17. That if the said company shall not proceed to carry on the said works within four years after the passage of this act, or shall not, within five years thereafter, complete the same so far as to have conveyed the same within the limits of said borough, in either of these cases, all and singular the rights, liberties and franchises hereby granted to the said company, shall revert to the commonwealth.

Reservation.

SECTION 18. The legislature reserves the right to repeal or annul the privileges hereby granted, if at any time they shall prove injurious to the citizens of this commonwealth: *Provided however*, That no injustice be done to the corporators.

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

APPROVED—The fourteenth day of March, one thousand eight hundred and fifty.

WM. F. JOHNSTON.

No. 325.

AN ACT

To incorporate the Trevorton, Malenoy and Susquehanna railroad company.

Corporators.

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* Felix Lerch, William Deppen, Jacob Reaker, Daniel Montgomery Boyd, Alexander Jordan, Joseph W. Cake, Robert M. Ludlow, John P. Hobart, Henry Donnel, Bertram H. Howell, Charles W. Hegins,