

No. 80.

A Further Supplement

To the act entitled "An act to incorporate the town of West Chester, in the county of Chester into a borough."

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 introducing into the borough of West Chester a sufficient supply of fresh and pure water, the burgesses and assistant burgesses of the said borough, be, and they are hereby authorized and empowered, to purchase and hold, in fee simple or for any less estate, any water power or powers near or convenient to the said borough, or any lands, tenements or hereditaments, to which any water power or powers may be appurtenant, with full power the same or any part or parts thereof to grant, bargain, sell, alien, convey, mortgage, pledge, charge, encumber and demise, and dispose of at their will and pleasure; and also to take, occupy and enjoy any stream of water or spring near or convenient to the said borough, or any lands to which any stream of water or spring may be appurtenant, with full power to hold the same for the purpose above mentioned, they doing as little damage as possible, and making compensation to the owner or owners thereof, in the manner hereinafter provided for: *Provided,* That nothing in this act contained, shall authorize the taking and diverting the waters of Chester creek for the purposes aforesaid.

Authority to purchase water power, &c. for the purpose of introducing pure water into the borough.

SECTION 2. The said burgesses and assistant burgesses of the said borough of West Chester, in council assembled, are hereby authorized and empowered, for the purpose of carrying into full effect the objects of this act, to borrow any sum or sums of money, not exceeding fifty thousand dollars, in the name and upon the faith, credit and responsibility of the said borough, and to impose and assess such tax or taxes, from time to time, as may be necessary to pay the interest upon such loan, and to redeem the principal at such time and in such manner as may be conformable to the terms upon which the same shall have been taken.

Authority to borrow \$50,000.

SECTION 3. The said burgess and assistant burgesses of said borough shall provide, erect and maintain all works and machinery, or engines necessary or proper for raising and introducing into the said borough a sufficient supply of fresh and pure water, and shall provide, erect and maintain all

Authority to erect and maintain works.

proper cisterns and reservoirs for the reception of the water they may so introduce, and for this purpose they are hereby authorized and empowered, by themselves, their agents, artificers, engineers and workmen, with their tools, instruments, carts, wagons and other carriages and beasts of burden or draft, from time to time, and at all times hereafter, to enter into any such lands and enclosures and public or private roads or highways, as may be necessary, and to occupy, dig, ditch and lay pipes through the same, and to erect and maintain thereon such cisterns and reservoirs as may be needful and proper for the purposes aforesaid; and the same to raise, alter and repair, doing as little damage to private property as possible, and making compensation to the owner or owners thereof in the manner hereafter provided for.

Authority to enter upon lands.

SECTION 4. the said burgesses and assistant burgesses of West Chester, their superintendents, engineers and laborers, with their tools, instruments, carts, wagons and other carriages and beasts of burden or draft, may enter upon the lands contiguous to the dam or dams, works, cisterns and reservoirs which they may erect on the route upon which they may lay their pipes, first giving notice to the owner or owners thereof, and from thence take and carry away stone, earth, sand or other material necessary to the construction of the said dam or dams, works, cisterns and reservoirs, or to the proper laying down of the said pipes, doing as little damage as possible, and repairing any breaches they may make in the enclosures thereof, and making compensation to the owner or owners thereof in the manner hereinafter provided for.

Damages.

Mode of ascertaining & recovering damages.

SECTION 5. If the parties cannot agree upon the compensation to be made to the owner or owners of such lands and enclosures, or to any person or persons who may be injured by the diversion of the waters that may be used by the said borough for the purposes aforesaid, it shall and may be lawful for the parties to appoint six suitable and judicious persons, who shall act under oath or affirmation, a majority of whom shall be competent to make an award in the case, or if they cannot agree on such persons, then either of the parties may apply to the court of Common Pleas of the county of Chester, and the said court shall award a venire, directed to the sheriff, to summon six disinterested men of his county, in order to ascertain and report to the said court what damages, if any, has been done by the burgesses and assistant burgesses of the said borough of West Chester, 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: *Provided,*

Proviso.

That either party may appeal to the court within thirty days after such report shall have been filed in the prothonotary's office 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 summoned by the sheriff, upon which appeals such proceedings shall be had as are used in actions for damages at common law.

SECTION 6. The said burgesses and assistant burgesses of West Chester, in council assembled, shall have full power and authority to pass, ordain and enact all laws and ordinances, necessary to enable them to convey the said water through the borough, in all directions, and to fix hydrants or fire plugs wheresoever they may deem proper, and to fix and determine the uniform rates of prices to be paid by the citizens for the use of the said waters, and to protect the water works, cisterns, reservoirs, pipes, plugs and hydrants from damage or destruction, and generally to do all things requisite and necessary for carrying into full and perfect effect the objects contemplated by this act.

SECTION 7. If any person or persons shall wilfully take, lead, conduct, or carry off, or shall knowingly suffer or permit to be taken, led, conducted or carried off any putrid, noxious or offensive matter, from any still-house, brew-house or tan-yard, or from any manufactory whatever, into the dam or dams that may be purchased or erected by the burgesses and assistant burgesses of West Chester, for the purpose of introducing water into the said borough, or shall throw, cast or wilfully suffer to fall into the dam or head race of the water works, or into any reservoir or reservoirs, to be erected by the said burgesses and assistant burgesses of Chester county, any dead animal, or any putrid or corrupt thing whatsoever, or any noxious or offensive matter of any kind, or shall go in to swim or bathe in the said dam, race, reservoir or reservoirs, or shall entice, throw, lead or conduct any animal therein, or shall cut, deface, mutilate or otherwise injure any part of the buildings, machinery or work that may be erected or purchased by the said burgesses and assistant burgesses of the said borough, in pursuance of the powers given by this act, every such person or persons so offending, shall forfeit and pay a sum not less than five nor more than fifty dollars, at the discretion of the magistrate, to be recovered with costs of suit, in the same manner as debts under one hundred dollars are recoverable, by any person that shall sue for the same, before any justice of the peace of Chester county, one half to the use of the person suing for the same, and the other to the use of the burgesses and assistant

burgesses of the said borough of West Chester; and if any person or persons so offending against the provisions of this section, shall neglect or refuse to pay the amount for which judgment may be, as aforesaid, rendered against him, and no goods or chattels can be found whereof to levy the same by execution, then every person or persons, so offending, shall be committed to the jail of the county of Chester, for any period of time not less than five nor more than thirty days, according to the direction of the justice rendering the said judgment.

Steam, water, horse or any other power may be used.

SECTION 8. Nothing in this act shall be taken to prevent the use of either steam, water, horse or any other power, in introducing water into the borough aforesaid, the same to be fixed upon and determined by the burgesses and assistant burgesses in council assembled.

Extra power may be used.

SECTION 9. The said burgesses and assistant burgesses of the borough aforesaid, are hereby authorized and empowered to apply any extra power that they may possess more than is sufficient to supply the said borough with the requisite quantity of water, to any manufacturing or other purposes, and the profits arising therefrom to be applied towards the payment of the interest, and the liquidation of the principal sum authorized to be borrowed by this act.

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. 81.

An Act

Authorizing the laying out of a State road from the borough of Greensburg, in Westmoreland county to intersect with the Greensburg and Pittsburg Turnpike road, at or near the house of Henry Chalfant, on Turtle Creek, in Allegheny county.

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 Thomas Armstrong and Abraham*