

has, agreeably to the constitution of the Commonwealth, become a law in like manner, as if he had signed it.

WM. J. B. ANDREWS,

Clerk of the House of Representatives.

GEO. W. HAMERSLY,

Clerk of the Senate,

Harrisburg, July 12, 1842.

[No. 113.]

AN ACT

Authorizing the Governor to Incorporate the Wiconisco Canal 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 Jacob M. Haldeman, Benjamin Parke, Thomas Elder, Henry Sheaffer, John P. Leebrick, James Peacock, Christian Eherman, Simon Sallade, Jacob Seal, Solomon Shindle, of Dauphin county; Lewis Hurford, Christian Bachman, Samuel Keller, Hugh Maxwell, and John W. Forney, of Lancaster county; Samuel Wagner, Israel Gardner, of York county; William V. Pettit, Job R. Tyson, William Swaim, William Buehler, of the city of Philadelphia; W. T. Rogers, of Bucks county; Joseph B. Anthony and John A. Gamble, of Lycoming county, or any three of them, be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: They, or any three of them, shall, on or before the first day of May next, procure books, one or more of which shall be opened at some convenient place or places, in which the following entries shall be made: We, whose names are hereunto subscribed, do promise to pay to the Wiconisco Canal Company twenty dollars for each share of stock set opposite our respective names, in such manner and proportions, at such times, and under such regulations and conditions as may be agreed upon by the commissioners aforesaid, or determined by the president and managers of said company, in pursuance of

Com'rs

Form of sub-
scription

an act authorizing the Governor to incorporate the Wiconisco Canal Company. Witness our hands this day of

Anno Domini, one thousand eight hundred and forty-two; and the said commissioners shall, thereupon, give notice in at least one of the newspapers printed in Philadelphia, Lancaster, Baltimore and Harrisburg, for ten days, of the times and places when and where the said books are to be opened to receive subscriptions for the stock of said company, at which respective times and place or places, at least one of the said commissioners shall attend, and permit all persons of lawful age, who shall offer to subscribe in said books, in their own name, or the name of any other person who shall authorize the same, for any number of shares in the said stock, and any incorporated company or body politic may subscribe as aforesaid, and the said books shall be kept open for the purpose aforesaid, for at least four hours in every juridical day, for the space of three days, or until there shall be subscribed two thousand shares, and if, at the expiration of said three days, there shall not be subscribed upon the books aforesaid the said two thousand shares, the said commissioners may adjourn, from time to time, and transfer the said books elsewhere until the whole number of two thousand shares shall be subscribed, of which adjournment and transfer the commissioners shall give such notice as the occasion may require, and when the whole number of two thousand shares shall be subscribed the said books may be closed: *Provided* ^{Proviso} *always*, That every person offering to subscribe in said books, in his own or in any other person's name, shall previously pay to the attending commissioner the sum of one dollar on each share to be subscribed, out of which shall be defrayed the expenses of taking such subscriptions, and other incidental expenses, and the remainder shall be paid to the treasurer of the corporation as soon as the same shall be organized, and the officers chosen as hereafter mentioned: *And provided* ^{2d Proviso} *further*, That the whole number of shares subscribed before the organization of the company shall not exceed five thousand, and if an excess above that number shall be subscribed the commissioners shall reduce such excess proportionably among the subscribers.

SECTION 2. When the said two thousand shares shall have been subscribed by five or more persons, the commissioners, or any three 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 into a body politic and corporate, by the name, style and title of "The

Notice of
subscription

2d Proviso

Letters p1.
tent

Name Wiconisco Canal Company," and by the same name the subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, subject to the limitations and restrictions imposed and prescribed by this act, and shall be capable of taking and holding their capital and the increase and profits thereof, and of enlarging the same by new subscriptions, in such manner and form as they may think proper, if such enlargement shall be found necessary to fulfil the intention and purposes of this act, and of purchasing, taking and holding to them, their successors and assigns, in fee and for any less estate, such lands, tenements and hereditaments, and estate, real and personal, as may be necessary to them in the prosecution of their business as a canal company, and of suing and being sued, and doing other matters and things which a body politic and corporate may lawfully do.

Privileges & franchises

SECTION 3. The commissioners hereinbefore named, or any three of them, shall, as soon as conveniently may be after the said letters patent have been obtained, of a time and place by them appointed for the subscribers to meet in order to organize the said company, and to choose by a majority of votes of the subscribers, given in person or by proxy, duly authorized, seven managers, and such other officers as shall be deemed necessary, which said managers shall appoint one of their number to be president, and shall conduct the business of said company until the first Monday of July next ensuing, until other like officers shall be chosen, as hereinafter directed. The said president and managers shall meet as soon as convenient after their election, and when so met four of them shall form a quorum for the transaction of all business; they shall keep a full minute of all their proceedings fairly entered in a book, and shall have full power to appoint a treasurer and such other officers, surveyors, engineers, superintendents and agents as they may think necessary to carry on their work, to fix their salaries, or compensation, and to demand and take from them such securities for the faithful discharge of their respective duties as they may think proper, in such sums as may be fixed by law or resolution, and also at their first or any subsequent meeting, to make any such by-laws, rules, orders, and so forth, as do not contravene the constitution and laws of the United States, or of this state, and may be convenient or necessary for the well governing of the affairs of said company; also, to fix and direct the time, manner and proportions in which the stockholders shall pay the moneys due on their respective shares, and disburse the same in the business of the said company, by orders drawn on the treasurer, signed by the president, or, in his absence, by the president pro tem., and generally to do all such other acts, matters

Organiz'tion

First meeting

Quorum

Officers & agents

By-laws

and things as by this act and by their by-laws and the regulations of the said company, they are authorized to do.

SECTION 4. The said Wiconisco Canal Company, when organized as aforesaid by the election of a board of managers and the appointment of a president, as is prescribed in the foregoing section, are hereby authorized to enter upon and take possession of the Wiconisco canal, from the mouth of the Wiconisco creek to the slack water at the Clark's Ferry dam, in Dauphin county, and to finish and complete the same with a feeder from the Susquehanna river at the upper end thereof, according to the original plan thereof, or with such alterations and in such other manner as the said company may deem expedient; the whole work, however, to be done in a permanent, substantial and workmanlike manner, and so arranged and finished as entirely to effectuate the object for which it was located and thus far constructed: *Provided,* ^{Power and authority} That unless the work of finishing said canal shall be commenced and carried on within one year from the passing of this act, and the whole of the said canal completed and in operation, according to the true intent and meaning of this act, ^{Completion} within three years, then, and in either of those cases, all and singular the rights, privileges, liberties and franchises hereby granted to said company shall revert to the commonwealth.

SECTION 5. The said Wiconisco canal, with all the work done upon the same, and the materials provided for continuing and completing any unfinished work as far as the same belongs to the Commonwealth, are hereby transferred to the said Wiconisco canal company, with full power and authority to finish and complete the same, and for that purpose, by themselves, their superintendents, engineers, artists, workmen and laborers, to enter in and upon the said canal, and to occupy all the land which shall be necessary and suitable for constructing said canal, with the necessary locks, aqueducts, wastewiers, bridges, toll houses, and so forth, doing as little damage as possible, and making compensation, or giving adequate security therefor to the owner of such property, where the same has not been assessed by the officers of the commonwealth, the said damages to be assessed and ascertained in the same manner, and by the same officers, as if the commonwealth were completing the work, the wages of said officers, while so engaged, to be paid by the company aforesaid, and on the completion of the said canal, it shall be the duty of the president of the said company to file in the office of the auditor general of this commonwealth, a particular and detailed statement of the amount expended by the said company on said canal, which statement shall be verified by the oath or affirmation of the president, and attested by the treasurer and secretary of the company, for the time being. ^{Further powers}

SECTION 6. The said Wiconisco canal shall be held and enjoyed by the said Wiconisco canal company as fully to all intents and purposes as if the same had been located, constructed and completed by them, and shall at all times be kept in good and perfect repair for the accommodation of the public: *Provided*, That at any time after the first day of January, Anno Domini, one thousand eight hundred and sixty-two it shall be lawful for the Commonwealth to purchase and reclaim from the said company the said canal and its appurtenances, by paying to said company all the money expended by them in finishing and completing thereof, together with six per cent. interest thereon from the time the same was expended and paid out, deducting from the interest aforesaid the dividends before declared by the said company, on the capital stock, and on the payment thereof by the Commonwealth to the said company, in such manner and form as shall be agreed upon by said company and by agents duly authorized by the Commonwealth, all and singular the canal aforesaid, with its appurtenances, shall be vested in the Commonwealth, and the corporate rights hereby granted to the Wiconisco canal company shall thereupon cease and determine, excepting so far as the same may be necessary in the settlement of the concerns of said company: *Provided*, That if the average dividend that shall be made by the said company shall exceed six per cent. per annum, the excess of such dividend, with interest thereon, shall be deducted from the principal that shall be payable by the Commonwealth on resuming the ownership of said canal.

Property vested in company
Proviso
Power of state to purchase and re-claim works
Proviso

SECTION 7. The said Wiconisco Canal Company, in the completion and finishing said canal, shall, in the letting of all work now under contract, give preference to the present contractors, and for that purpose shall give previous public notice of the letting of such work for the space of three weeks, in at least two papers printed at Harrisburg, stating that, if the present contractors shall, on or before the day of said letting, notify the said company, or the officers thereof who is to let said work, of their readiness immediately to resume their work, and go on and finish the same, according to the terms of their said contracts, the said company shall take the place of the Commonwealth in regard to the work yet to be done, and be bound by the said contracts, according to the terms thereof, and that where no such notice shall be so as aforesaid given by the contractor, the said contract shall be considered as abandoned, and the work let to others; and the canal commissioners, auditor general, or any other officer, are hereby required, upon application, to furnish certified copies of any contracts, estimates, or other documents relating to said canal, for which copies the usual fees shall be paid by the person

Preference to present contractors

applying therefor: *Provided*, The company may change the plan of the work, and reduce or increase the expense thereof, and dispense with parts of it, as the said company shall think advisable. Proviso

SECTION 8. The stockholders of this company shall meet annually on the second Monday of May of each year, at such place as may be fixed upon by the board of managers, of Annual meeting which at least ten days' notice shall be given by the treasurer, in the newspapers beforementioned, and choose, by the votes of a majority of those present in person or by proxy as aforesaid, the officers mentioned in the third section of this act, who shall continue in office for one year, and until others are chosen, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by the by-laws, at which annual or special meeting they shall have full power to make, alter or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations made as aforesaid, and to do all or any other corporate act or acts. *Provided*, That none but stockholders shall be eligible to be elected managers, and that at every such election, and in all other cases in which the stockholders shall be called upon to vote, each share of stock shall be entitled to one vote, if it shall have been originally subscribed for by the person offering to vote, or held by him at least three calendar months prior to the day of election, absolutely and bona fide in his own right or in the right of his wife, or as executor, administrator, trustee or guardian, or in the right and for the use of some copartnership, corporation or society of which he may be an agent or member, and in all cases of election for managers the seven stockholders having the greatest number of votes shall be declared elected. The omission of the stockholders to meet and elect as aforesaid shall work no forfeiture, but they may afterwards be called together for that purpose by the managers. Proviso

SECTION 9. The president and managers shall, as soon as is convenient, procure certificates of evidences of stock for all the shares of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer and sealed with a corporate seal of the said company, to each person for every share of stock by them subscribed or held, he paying one dollar for each share, or, at the option of the subscriber, one certificate for the whole or any less number of shares by him subscribed, which certificate or evidence of stock shall be transferable at his pleasure, in person or by Certificates of stock 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 as- Transfer &c

signment to be entered in the books of the company kept for the transfers of stocks, shall be a member of said corporation, and for every certificate assigned to him as aforesaid shall be entitled to one or more shares of said capital stock, according to the tenor of said certificate, and of all the estates, emoluments and dividends of the said company incident to such shares, and to vote as aforesaid at the meetings thereof, and be subject to all penalties and forfeitures, and to be liable for all balances and penalties due on such share or shares as the original subscribers would have been.

SECTION 10. If, 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, any stockholder shall neglect to pay such proportion or instalment at the place appointed, for the space of thirty days after the time so appointed, every such stockholder or his 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 an alderman or justice of the peace, or in any court having competent jurisdiction, for the recovery of the same, together with the penalty 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 thirty days previously to the said election or meeting.

Forfeiture of shares

Proviso

SECTION 11. The president and managers, their superintendents, engineers, artists, workmen 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 route of the said canal, giving or publishing notice to the owners thereof, and from thence take and carry away stone, gravel, sand, earth or other material necessary to the construction of said canal, doing as little damage as possible, and repairing any breaches they make in the enclosures thereof, previously making compensation for any damages that may be done thereon, or for materials to be taken away, or giving adequate security therefor, which if the parties do not agree, shall be assessed and ascertained by any three disinterested

Power to enter lands for materials &c

freeholders of the said county under oath or affirmation, to be appointed by consent of parties, or if they cannot agree, by the court of common pleas of Dauphin county, upon petition from whose decision an appeal may be entered to the said court within thirty days after such report may have been filed in the prothonotary's office, of the said county, in the same manner as appeals are allowed in other cases.

SECTION 12. As soon as the said president, managers and company shall have completed the said canal or navigation, ^{Viewers and} they shall give notice thereof to the governor, who shall there- ^{report of} upon nominate and appoint three disinterested persons to view ^{completion} and examine the same, and report to him in writing, under oath or affirmation, whether the said navigation is executed in a masterly workmanlike manner, according to the true intent and meaning of this act, and if their report shall be in the affirmative, then the governor shall by license under his hand and the less seal of this Commonwealth, permit the said president, managers and company, or such person or persons as they shall from time to time appoint, as toll collectors, or their deputies to demand and receive tolls, of and from the persons having the charge of any boat, ark or other vessel passing through said canal at the same rates as are charged upon the Pennsylvania canal between Duncan's Island and Columbia, and the said president, managers and company shall pay into the state treasury, one half of all the tolls which may be received upon the canal after its completion : *Provided however,* ^{Proviso} The stockholders shall first retain out of the nett proceeds of said canal, five per cent upon their money invested, then the state receive five per cent and the remainder if any, to be divided as before mentioned.

SECTION 13. The toll collectors appointed as aforesaid, ^{Toll collec-} shall and they are hereby authorized not to permit the passage ^{tors} of any boat or vessel through the said canal, until the tolls fixed by the company are first paid and discharged by the owner, shipper or supercargo, or may bring suit for the same against said owner, shipper, supercargo, or captain, before any competent tribunal according to law in the name of the said company.

SECTION 14. The president and managers of the said company shall keep fair and just accounts of all moneys received by them from the said commissioners and subscribers, ^{Accounts &c} on account of the several subscriptions of all penalties for delay in the payment thereof, and the amount of the profits on the shares which may be forfeited as aforesaid, and also of all moneys by them expended in the prosecution of the said works, and shall in every year submit such accounts to the stockholders at their annual meeting to choose officers of the company, and the aggregate amount of such re-

ceipts and expenditures shall be ascertained, and if upon such liquidation, or when the capital stock subscribed shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said navigation according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company at a stated or special meeting, to be convened for the purpose to increase the number of shares to such extent as may be deemed sufficient to accomplish the work, and to receive and demand the moneys for shares so subscribed, in like manner, and under like penalties as are hereinafter provided for the original subscription or as shall be provided by their by-laws.

Power to in-
crease capital
stock

Moneys
received of
collectors

Dividends

Abstract of
accounts fur-
nished to le-
gislature

SECTION 15. The said president, managers and company, shall also keep a just and true account of all the moneys received by their several and respective collectors by tolls, and other emoluments, and shall make and declare a fair dividend of the clear profits and income thereof among all the stockholders, all contingent costs and charges, and one half of the nett tolls per use of the state, subject to the provisions aforesaid, being first deducted, and shall on the second Monday in November, and the second Monday in May, 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; that on the first Monday in February of every year, after the date of this incorporation there shall be furnished to the legislature an abstract of the accounts of the company showing the whole amount of their capital actually paid in, the amount of transportation in each year, and the amount of dividends declared in each year, or the losses sustained as the case may be, which abstract shall be verified by oath or affirmation of the president of the company for the time being.

Roads &c

SECTION 16. The said canal shall be so constructed as not to obstruct or impede the use or passage of any public road or roads which may cross the same, and being now laid out, and in all places where said canal may cross, or interfere with any public road now laid out, it shall be the duty of said company to make or cause to be made a good and sufficient causeway or bridge to enable persons passing or travelling such public roads to cross or pass the said canal, which causeways and bridges shall be made and maintained by the said company, and if the company shall neglect or refuse to make such causeways or bridges as soon as practicable, or when made to keep them in good repair, they shall be liable to pay a penalty of ten dollars for every day the same shall be neglected or refused, after having been notified in writing, to be recovered by

the supervisors of the township with costs, for the use of the township, as debts of a like amount are by law recoverable, and shall moreover be liable to an action or actions at the suit of any person who may be aggrieved thereby, and the service of process upon any officer or agent of the said company, shall be as good and available in law as if served upon the president thereof.

SECTION 17. For the accommodation of all persons owning or possessing lands, through which the said canal may or shall pass, it shall be the duty of said company when required, to make or cause to be made a good and sufficient bridge or **Bridges** bridges wherever the same may be necessary, to enable the occupant or occupants of said lands to cross or pass over the said canal with wagons, carts and implements of husbandry as the occasion may require: *Provided*, That said company **Proviso** shall in no case be required to make or cause to be made, more than one bridge on each plantation or lot of land for the accommodation of any one person, owning or possessing lands through which the said canal may pass, and where any public road shall cross the said canal, the person owning or possessing land through which the said canal may or shall pass, shall not be entitled to make such requisition on said company, and the said bridge or bridges when so made and constructed, shall be maintained and kept in repair by the said company, and if the said company shall refuse or neglect to make such bridge or bridges, or when made to keep the same in good repair when duly notified thereof, the said company shall be liable to pay any person aggrieved thereby, all damages sustained by such person, in consequence of such refusal or neglect, to be sued for and recovered before any justice of the peace, or court having cognizance thereof, and the service of process upon any officer or agent of the said company, shall be good and valid in law, as if served upon the president thereof: *Provided*, That the owner or owners of land **Second provi-** through which said canal passes, shall not be prevented from so constructing bridges over said canal, agreeably to the form and position of the bridges constructed by said company.

SECTION 18. No suit or action shall be brought or prosecuted by any person or persons for penalties incurred under this act, unless said suit or action shall be commenced within **Time for in-** six months next, after the offence shall have been committed, **stituting suits** or the cause of action have accrued, and the defendant or de- **limited** fendants in each suit or action may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by authority of this act.

SECTION 19. If any person or persons shall wilfully and knowingly break, injure or destroy the banks, locks, or other **Penalty for** part of said canal, or any edifice or device, or any part thereof, **injuring** **works**

to be erected by said company in pursuance of this act, he, she or they shall for every such offence forfeit and pay to the said company, three times the actual damages so sustained, to be sued for and recovered with costs of suit, in any court having cognizance thereof, by action of debt in the name and for the use of said company.

SECTION 20. That if the company incorporated by this act, shall at any time issue any note or notes in the nature of bank notes, or shall transact any business in the nature or manner of banking, then and in either of those cases their chartered privileges shall cease and revert to this Commonwealth.

Banking prohibited

JAMES ROSS SNOWDEN,
Speaker of the House of Representatives.

JOHN STROHM,
Speaker of the Senate.

APPROVED—The thirteenth day of July, one thousand eight hundred and forty-two.

DAVID R. PORTER.

[No. 114.]

A N A C T

Authorizing the governor to incorporate the Bear Mountain Rail Road Company, and for other purposes.

Commissioners

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 James Peacock, Emanuel Guyer, Henry M'Kinney, Benjamin Parke, Christian Eherman, John P. Leebrich, of Dauphin county, Samuel Keller, Hugh Maxwell, Lewis Hurford, Christopher Hager, Philip Reitzel, of Lancaster county, Samuel Wagner, Daniel Gardner Jacob Upp, of York county, William T. Rogers of Bucks county, John A. Gamble, of Lycoming county, Job R. Tyson, William V. Pettit and Adam Diller of Philadelphia, be and they hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they or any three of them shall procure a sufficient number of suitable books, and in each of them enter as follows, viz: We and each of us