No. 367.

AN ACT

To authorize the governor to incorporate the Delaware 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 Joseph R. Evans, Benjamin Gerhard, Henry Horn, Thomas M'Cully, John Wiegand, Jacob K. Olwine, Mahlon D. Taylor, George N. Baker, Gideon G. Westcott, John Stallman, Augustus Shultz, Alexander Cummings, of Philadelphia, John N. Lane, of Lancaster, Samuel Sillyman, of Schuylkill, Franklin Vanzant and William M. White, of Bucks, William Elwell, of Bradford, David D. Wagner, of Northampton, John S. Gibons, of Lehigh, William S. Ross, Payne Pettibone, Jonathan J. Slocum, of Luzerne, William T. Morrison, Benjamin Hill, of Montgomery, Stephen Balliet, of Carbon, Benjamin M'Intire, of Perry, and James W. Coulter, of Clarion county, or a majority of them, be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: They shall within thirty days from the passage of this act, give notice for at least sixty days, in one or more of the newspapers in the cities of Philadelphia, Lancaster, Pittsburg, New York and Boston, of the day and hour at which they will attend at the Merchants' exchange, in the city of Philadelphia, and there commence the sale, by public auction, of the stock of the Delaware canal company, on the following terms and conditions, to wit:

Commissioners.

Notice of sale by auction.

Shares.

I. The Delaware division of the Pennsylvania canal shall be divided into twenty-five thousand shares, of one hundred dollars each.

Purchasers.

II. The shares shall be set up for sale singly, giving the purchaser the right of taking, at his bid, any number of shares from one to one thousand: *Provided,* That no share shall be sold for a less sum than one hundred dollars: *And provided, further,* That none of the said commissioners, either in their own names, or in the names of any other persons, shall become purchasers of any of the stock at the sale authorized by this section.

Premiums.

III. Each purchaser at the time of his purchase, shall deposite with the commissioners the premiums or advance above the par value of the shares by him purchased; or if the bid or bids do not amount to five dollars per share above the par value of the share or shares by him purchased, then and in such case, the said purchaser shall pay five dollars on account and in part of each share thus purchased; the said sums to be paid in money, or in the certificates of loan of this commonwealth, at the option of the purchaser.

Purchase money.

IV. Payment for the remainder of the purchase money will be required to be made within thirty days from the purchase, under the forfeiture for delinquency, of the amount paid to the commissioners at the time of sale.

Transfer of loans of commonwealth

V. A transfer to the commonwealth of Pennsylvania, of certificates of the loans of the commonwealth of Pennsylvania, to an equal amount, will be received by the state treasurer in payment for the shares of stock purchased; and any money deposited with the commissioners at the sale, will also be exchanged by the state treasurer, for a transfer of the said loans to the commonwealth to an equal amount.

VI. Should the whole of the shares not be sold on the first day, the sales shall be adjourned to the next and succeeding days, if necessary, for nineteen days in succession; and if on the twentieth day it shall appear that less than twenty-five thousand shares shall have been sold, in that case the sales shall be declared void, and the deposites made with the commissioners shall be returned to the purchasers respectively; and the said commissioners shall, previously to the day appointed by them for the sale, prepare a book, in which they shall enter as follows: "We whose names are hereunto subscribed, do promise to transfer, or cause to be transferred to the commonwealth of Pennsylvania, one hundred dollars, in the loans of the said commonwealth, for every share of stock set opposite to our respective names, in case twenty thousand shares shall be sold, pursuant to an act of the general assembly of this commonwealth, entitled 'An Act to authorize the governor to incorporate the Delaware canal company.' Witness our hands this day of Anno Domini, one thousand eight hundred and forty-four." And the said commissioners shall procure a suitable person to attend with them at the Merchants' exchange, in Philadelphia, at the time appointed, and there to sell at public auction, to the highest bidder, in the manner and on the terms herein directed for the advertisement, the shares of stock of the Delaware canal company; and the said commissioners shall receive from each purchaser, and deposite in the bank of Pennsylvania, the amount required to be paid in hand, and any advance beyond one hundred dollars per share which may be bid by him for each share of stock he may have purchased, and shall require him to subscribe his name to the number of shares he may have purchased, in the book prepared for that purpose, and if necessary, shall adjourn their sales from day to day, as required by the advertisement. If upon the twentieth day it shall appear that not more than twenty thousand shares of stock have been sold, the said commissioners shall then declare the sales to be void, and give notice to the purchasers by advertisement, or otherwise, as may appear best, that their deposite money will be returned to them, upon application at the bank of Pennsylvania, which is hereby authorized in that case to return the money to the purchasers, agreeably to the several amounts to be specified to the said bank by the said commissioners.

Adjournment.

Form of subscription.

Sale.

SECTION 2. That whenever the whole number of twenty-five thousand shares shall have been sold, the commissioners shall thereupon give notice of that fact, in the newspapers printed in Philadelphia, in which their first advertisement was inserted, to the purchasers, and that they will be required to pay to the state treasurer the balance due for the stock purchased by them, on the terms of the original advertisement, within thirty days thereafter, or forfeit the amount of their deposite money to the commonwealth; and at the expiration of thirty days, if the balance due on any share or shares of stock shall not be paid, agreeably to the said notice, the commissioners may proceed to re-sell the same to the highest bidder, after giving ten days public notice, at the risk of the person or persons in default, who shall be liable to pay any loss which may arise to the commonwealth upon such sale, in addition to the forfeiture of their deposite money; and when a sufficient number of shares shall have been subscribed and paid for, the said commissioners shall certify to the governor the names of the subscribers, and the number of shares subscribed by each; whereupon,

Forfeiture of stock.

the governor shall, if he has sufficient evidence that the amount of twenty-five thousand shares of said stock has been purchased, and actually paid to the commonwealth, as herein provided, by letters patent, under his hand and the seal of this commonwealth, create and erect the said stockholders, their successors and assigns, into a body corporate and politic, in deed and in law, by the name, style and title of the "Delaware canal company;" and by the same name the said company shall have perpetual succession, and be able to sue and be sued, implead and be impleaded, in all courts of record and elsewhere, and to have, purchase, receive, hold and enjoy, to them and their successors, such lands, tenements and hereditaments, goods, chattels and estates, real, personal and mixed, of what kind or quality soever, as shall be necessary for the repairs and management of said canal, and the same from time to time, sell, exchange, mortgage, alien, grant, or otherwise dispose of, and also to make and keep a common seal, and the same to alter and renew at pleasure, and also to ordain, establish and put in execution, such by-laws, ordinances and regulations, as shall appear necessary and convenient for the government of said corporation, not being contrary to the constitution or laws of the United States, or of this state, and generally to do all and singular the matters and things which to them it shall lawfully appertain to do, for the well being of the said corporation, and the due managing and ordering the affairs of the same: *Provided*, That nothing herein contained shall be so construed as to give to the said corporation any kind of banking privileges whatsoever, or any other liberties, privileges or franchises, but such as may be necessary or incident to the repairing, altering and maintaining the said canal and its appendages.

Letters patent. Name. Powers and privileges. Seal. By-laws. Proviso.

Organization. SECTION 3. That the said commissioners, or a majority of them, shall, as soon as conveniently may be, after the said letters patent shall be obtained, appoint a time and place for the subscribers to meet, in order to organize the said company, and shall give at least ten days previous notice thereof in the newspapers before mentioned—and the said subscribers, when met, shall choose by a majority of votes, a president and eight persons, all of whom shall be stockholders, residents and citizens of this commonwealth, and shall be the owners, respectively, of at least twenty shares of the said stock, who shall constitute the board of directors, and shall remain in office until the first Monday of March then next, and until another board is chosen. The board of directors shall conduct and manage the business and affairs of the corporation, and may make such by-laws, rules, orders and regulations as are not inconsistent with the constitution or laws of the United States or of this state.

Directors.

Annual meeting and election. SECTION 4. That the stockholders shall meet on the first Monday of March, in every year, at such places as may be fixed upon by the by-laws of the company, of which at least thirty days previous notice shall be given, in two or more papers published in the city of Philadelphia and the city of New York, and choose by a majority of the votes present, a board of directors, qualified as is provided in the third section, for the ensuing year, who shall continue in office for one year, and until others are chosen; and the stockholders may meet at such other times as they may be summoned by the board of directors, in such manner and form, and upon such notice as the by-laws may direct, at which annual or special meetings they shall have full power and authority to make, alter or repeal, by a majority of votes given, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform every other corporate act; and the number of votes to which each subscriber or stockholder shall be entitled, at all elections or meetings of the subscribers or stockholders, held under this act, shall be according to the number of shares he or she shall hold in the proportion following: For every share not exceeding two shares, one vote; for every two shares above two shares, and not exceeding ten shares, one vote; and for every five shares above ten shares, one vote; but no share shall confer the right of suffrage, unless it be holden by the person in whose name it appears, absolutely and bona fide in his own right, or in that of his wife, or for his or her sole use and benefit, or as executor, administrator, trustee or guardian, or in the right or for the use and benefit of some co-partnership, corporation or society, of which he or she may be a member, and not in trust for or to the use of any other person: *Provided*, That no corporations or persons holding shares by transfer, shall be entitled to vote, unless the same shall have been transferred at least three months before an election: *And provided also*, That no voting by proxy shall be allowed at any elections or meetings of stockholders of the said company.

Votes.

Proviso.

Proxy.

SECTION 5. That the election for directors provided for in this act, shall be conducted in the following manner, that is to say: The directors for the time being shall appoint two of the stockholders, not being directors, who shall severally take and subscribe an oath or affirmation, before an alderman or justice of the peace, well and truly and according to law, to conduct such election, to the best of their knowledge and abilities; and the said judges shall decide upon the qualifications of voters, and when the election is closed, shall count the number of votes, and declare who has been elected; and if it shall happen at any time that an election of directors shall not take place, the corporation shall not on that account be dissolved, but it shall be lawful to hold and make such election of directors, on any day thereafter, by giving at least ten days notice of the time and place for holding the said election, in the newspapers as aforesaid; and the board of directors of the preceding year shall in that case continue to act, and be invested with all the powers belonging to directors, until an election shall take place; and in case of the death, resignation or removal from the state, of the president, or any one of the directors elected by the stockholders, or in case any one of them shall cease to be a stockholder, the vacancy may be supplied by the board of directors.

Manner of conducting elections.

SECTION 6. That the board of directors shall meet at such times and places as may be fixed by their by-laws, and when met, five shall be a quorum, and in case of the absence of the president, may elect a president *pro tempore*, and shall keep minutes of their transactions, fairly entered in a book; they shall be empowered to choose a secretary and a treasurer, and to appoint all such other officers and agents, as may be necessary in conducting the affairs of said corporation, in such manner and under such regulations, as they may determine; they may require security of said officers, in such amounts as they may deem necessary, and do all such other acts, matters and things, as by this act and by the by-laws and regulations of the company, they may be authorized to do.

Quorum.

Officers.

SECTION 7. The treasurer of the company shall enter into bonds, with one or more sureties, in a sum not less than thirty thousand dollars, conditioned for the faithful discharge of the duties of his office, and for faithfully accounting for all moneys that may come into his hands as treasurer; and it may be lawful for the said directors to accept from the said treasurer several bonds in several amounts, with different sureties, so that the whole in such case shall not amount to a less sum than

Treasurer.

Proviso. thirty thousand dollars: *Provided, however,* That the bond or bonds of the treasurer be renewed at least once in every two years; and that duplicates of the same be in every case executed, one to be retained by said directors, and the other to be filed in the office of the auditor general of the commonwealth.

Salaries. SECTION 8. The directors shall fix the salaries and wages of the several officers or agents employed by them; but no director shall be allowed any compensation, except the president, whose salary shall be fixed by the stockholders, at their annual meeting, held in pursuance of the charter.

Loans. SECTION 9. The directors shall not have power to borrow money on the security of the corporate property, except for repairs and for necessary expenditures in the alteration or enlargement of the canal and works of the company, without the consent of the legislature, and the total amount of such loans shall at no time exceed two hundred thousand dollars; Dividends. they shall, from time to time, declare and make dividends of the nett profits of said company, among the whole number of shares into which the capital of said company is divided, and shall pay the dividends to the owners of the stock respectively: Proviso. *Provided, however,* That before making any dividends of nett profits, as aforesaid, the said directors shall reserve therefrom two per centum to be invested in loans, Contingent fund. which shall, together with its accumulations, constitute a contingent fund to provide for extraordinary repairs, and as a sinking fund for the extinguishment of any loans which said company may make, but no part of the two per cent. nor any other of the funds of the said company shall at any time, either directly or indirectly, be loaned to any officer, director or agent of the company: *And provided further,* That Proviso. whenever the said contingent fund shall exceed two hundred thousand dollars, the reservation of two per cent. may be suspended until the contingent fund shall fall below that amount: *And provided,* That no certificate of loan for any money hereby authorized to be borrowed Proviso. shall be issued for a less sum than one hundred dollars: *And provided further,* If the company incorporated by this act shall at any time issue Banking prohibited. any note or notes, in the nature of bank notes, or any notes of any denomination, intended or used for circulation, or shall transact any business in the nature or manner of banking, then, and in either of these cases, their chartered privileges shall cease and revert to the commonwealth.

Certificates. SECTION 10. That the said directors shall procure certificates or evidences of stock, for the shares of the stock of the said company, duly numbered, from one to twenty-five thousand; and shall deliver a certificate signed by the president, sealed with the common seal of the said corporation, and countersigned by the auditor general of the commonwealth, to each person or corporation, for each share of stock by him or her or them respectively subscribed and paid for, as aforesaid; which Transferable. stock shall be transferable at his or her or their pleasure, in person or by attorney duly authorized, in the presence of the president or treasurer of the company, on the books of the said company; which transfer shall be entered by the president or treasurer, on the face or back of such certificate, which shall be delivered again to the assignee or his attorney; Duty of auditor general. and it shall be the duty of the auditor general to cancel, or cause to be cancelled, when, and as the same may be transferred to the commonwealth, the certificates of loan which may from time to time be subscribed to the stock of said company, and shall carry the amount thereof to the credit of the commonwealth, on the books of his department.

SECTION 11. That immediately upon the issuing of the letters patent by the governor, as provided by the second section of this act, the Delaware division of the Pennsylvania canal, from Easton to Bristol, shall be vested in the corporation authorized to be created by this act, and their successors forever, together with all the surplus water power of said canal, all toll houses, appendages, and all the estate, real and personal, purchased and owned by the commonwealth for the use of the said canal.

Canal, &c. vested in company.

SECTION 12. The said company shall be empowered to charge and receive tolls for the passage of boats, persons, merchandize and commodities, on the said canal, subject to the restrictions and limitations hereinafter provided; and may seize and detain any boat with its lading navigating thereon, until said tolls are paid, or the said company may sue for and recover the same from the owner or owners, or the person or persons having it in charge, as debts of like amount are by law recoverable: *Provided,* That the said canal shall forever be and remain a public highway, for the passage at all times during the season of navigation, of all persons with their boats and lading, and their horses or other animal power for propelling them, under such general regulations and rates of toll as the said company may from time to time ordain and publish, and be kept throughout its whole length, from Bristol to Easton, in good order and repair for navigation: *Provided, however,* That no steam power shall be used upon the said canal except with the consent and under such general regulations as the said company may ordain: *And provided further,* That the dam and the out-let lock at Easton, shall forever be kept in good order and repair by the said Delaware canal company, and remain free of toll for the passage of all boats, rafts and crafts proceeding from and to the Lehigh navigation; and that no higher rates of toll shall ever be charged on articles passing between Easton and Bristol and between intermediate points, than the rates charged by the canal commissioners in one thousand eight hundred and forty-three, without the special consent of the legislature; and that the said company shall have the right to take and use so much of the water of the river Delaware as shall or may be necessary to feed said canal: *Provided,* It be done without daming from shore to shore, or interfering with the descending or ascending navigation of the river: *Provided,* That the said company shall have a right to construct one or more out-let locks at suitable points, to form a connexion with the feeder of the Delaware and Raritan canal, and may charge additional tolls on boats, merchandize and commodities passing through the same, not exceeding the rate of one dollar for each boat, and five cents per ton on all such merchandize and commodities.

Tolls.

Proviso.

Dam and out-let lock at Easton.

Proviso.

Out-let locks.

SECTION 13. The said canal and lock houses attached thereto, shall never be made the subject of taxation; and it shall be lawful for the said Delaware canal company to alter, enlarge or deepen the said canal and locks, and to make such additional locks as may be deemed expedient to facilitate the navigation of said canal; and for this purpose, by their officers, engineers, contractors and agents, to enter upon and occupy any lands adjoining or in the neighborhood of said canal, and take, dig and carry away therefrom, any stone, gravel, clay or earth necessary for maintaining, enlarging, altering and repairing said canal, or for constructing any bridges, culverts, aqueducts and other works or buildings which may be required in the maintenance and repair of said canal: *Provided, however,* That compensation shall first be made to the owner or owners of any such lands or materials, as shall be agreed upon between the parties, or fixed in such manner as is hereinafter pointed out.

Power to enlarge or deepen canal.

SECTION 14. That when the said company cannot agree with the owner or owners of any lands or materials, upon the compensation to

Damages, how assessed and paid.

be made to such owner or owners, for the damage done, or likely to be done or sustained by such owner of lands or materials, which may be necessary for the purposes of the canal, or if the said owners be feme covert, or by reason of any legal incapacity, no agreement can be made with them, the court of common pleas of the proper county, on application thereto by petition, either by the said company or owner, or any one in behalf of either, and at the cost and charge of the said company, shall issue their precept to the sheriff of the county, commanding said sheriff to summon twenty judicious, sober, intelligent and disinterested persons, citizens of said county, to meet on the lands from whence materials are to be taken, in not less than ten nor more than twenty days, giving such reasonable notice as the court may designate, to both parties; and if twelve or more of said jurors attend, twelve thereof shall be empannelled, and if twelve do not attend, the sheriff may summon others at a day fixed by him for that purpose, or at once; and the said twelve jurors being so empannelled and sworn or affirmed, by said sheriff, faithfully, justly and impartially to value the materials to be taken, and find the rate of compensation to be paid therefor by the company, the said jury shall have power to administer oaths or affirmations, and to examine witnesses, and make report of their proceedings to the said court, stating the compensation adjudged, and to whom payable, who, upon confirmation thereof, may order such damages to be paid, with costs, or order new inquisition until full justice is rendered:

Proviso.

Provided always, nevertheless, That any owner or owners applying for a review, shall be liable for the costs of the proceedings prayed for, in case a more favorable report is not obtained upon such review: *And provided further*, That either party may, by certiorari, or writ of error, remove the proceedings to the supreme court.

Water privileges.

SECTION 15. The said company shall be bound by all contracts heretofore made by the commonwealth, in the grant or lease of water privileges heretofore made, and shall be entitled to all the rights and privileges of the commonwealth under such contracts; and they shall maintain and keep in repair, all bridges and causeways on the line of said canal.

Sale or lease of.

SECTION 16. No sale or lease of water privileges on the canal hereby vested in the said company shall be made, except under and subject to the exceptions and regulations prescribed in the eighth, ninth, tenth, eleventh and twelfth sections of the act of fifth of May, one thousand eight hundred and forty-one, entitled "An Act to incorporate the Allegheny and Butler turnpike road company, and for other purposes."

Manner of taking possession of works.

SECTION 17. As soon as the said company shall be organized, and shall give notice to the governor of their readiness to take possession of the said works, he shall cause notice thereof to be given to all the superintendents, toll collectors, officers and agents of the commonwealth, employed on or about the said canal, who shall continue, nevertheless, to discharge the duties of their said offices or employments, and be entitled to receive their present rate of compensation from the said company, until removed by the directors thereof; and the official bonds of the said officers and agents shall enure to the use of the said company, as to all moneys received by them, on account of the works subsequent to the time when the said company shall so take possession of them, as aforesaid.

Schedules of property.

SECTION 18. The canal commissioners shall prepare duplicate schedules of all the estate, real and personal, purchased or owned by the commonwealth for the use of the canal, describing the toll houses, and the condition of the canal and its appendages, and enumerating all the personal property; and on receiving notice from the governor, they, or one of them, shall attend at some time and place on the said canal, of which notice shall be given to the directors of the company; and after examining and correcting any mistakes or errors therein, the said schedules shall be signed by the canal commissioners, or commissioner attending, and by the president of the said company, with the corporate seal annexed on behalf of said company, one of which schedules shall be left with the directors of said company, and the other delivered to the governor, to be filed in the office of the secretary of the commonwealth.

Former act extended to said company.

SECTION 19. That the provisions of an act of assembly, entitled "An Act to protect the public in the full benefit and enjoyment of the works constructed for the purposes of inland navigation," passed the tenth day of April, one thousand eight hundred and twenty-six, the supplement thereto, passed the nineteenth day of March, one thousand eight hundred and thirty, be and they are hereby extended to the aforesaid Delaware canal company, for the use and protection of the said company.

Repairs.

Account of tolls, &c.

SECTION 20. It shall be the duty of the directors of said company to keep in constant repair the entire line of canal under their direction and supervision, with the necessary locks, buildings and appurtenances; to keep a fair and just account of all tolls, water rents and proceeds of sales of water privileges received, and all moneys disbursed, and deducting all costs and charges; to make and declare a dividend only of the clear profits and income of the canal as hereinbefore directed, and report to the legislature, on the second Tuesday of January in every year, a full and accurate account of their expenditures during the past year, with a correct account of the sums arising from the tolls, water rents and proceeds of sales of water privileges, and all other receipts, and of the disbursements and dividends actually made within the year; they shall also report the names and number of officers and men in their employ, and the amount of salary, or monthly and daily pay, which each receives.

Legislature to examine and inspect affairs.

Proceedings to void charter.

SECTION 21. It shall be lawful at all times for a committee of the legislature, or either branch thereof, appointed for that purpose, to examine the condition of the canal, to inspect the books and examine into the proceedings of the corporation hereby created, and to report whether the provisions of this charter have been complied with; and if the officers of said corporation shall refuse to be sworn or affirmed, or give evidence, or to produce such of their books or papers as may be demanded, before any such committee, then the legislature may by law declare the said charter void, and repeal the same; and whenever any committee, as aforesaid, shall find and report, or the governor shall have reason to believe from other evidence that the charter has been violated, it may be lawful for the legislature to direct, or the governor to order a scire facias, to be issued out of the supreme court of Pennsylvania, in the name of the commonwealth of Pennsylvania, (which shall be executed on the president of the corporation, for the time being, or the secretary or treasurer, at the office of the said company, at least ten days before the commencement of the term of the said court,) calling on the said corporation to show cause why the charter hereby granted shall not be declared forfeited; and it shall be lawful for the said court, upon the return of the said scire facias, to examine into the truth of the alleged violations, and if such violations be made to appear, then to adjudge that the said charter is forfeited; and thereupon, in case the legislature shall declare the said charter void, and repeal the same for the cause aforesaid, the canal aforesaid, with its appurtenances. and all the estate, real and personal, of the said corporation, shall revert to and be vested in the commonwealth, upon the payment by the commonwealth to the stockholders, of the par value of their stock, either in money or certificates of loan, bearing an interest of at least five per cent., and redeemable at such time as the legislature may determine; and until the commonwealth shall have made such payment to the directors of said company, to be by them distributed among the stockholders, the rights, privileges and franchises of said corporation shall remain as though said judgment of forfeiture had not been pronounced: *Provided*, That in case of the forfeiture of said charter, the amount of the par value of said stock shall be subject to a deduction for such amount as may be just and reasonable for dilapidation, decay and diminution, in quantity or in value of the property transferred to said company by this act: *Provided, however*, That every issue of fact, which may be joined between the commonwealth and the corporation, shall be tried by a jury, summoned by an officer. to be named by the court, and the said jury shall be selected as the said court may direct, from the body of the state; and it shall be lawful for the court aforesaid, to require and compel the production of such of the books and papers of the corporation, on such trial, as it may deem necessary for the ascertainment of the controverted facts, and the final judgment of the court shall be subject to all the usages of law, as in other cases.

Proviso.

State may resume works.

SECTION 22. If at the expiration of twenty years from the date of the letters patent erecting said corporation hereby created, the legislature should see fit to resume the said works, and the privileges and franchises hereby granted, they shall have a right to do so, by reimbursing to the stockholders the amount of their stock, at par, together with ten per centum advance thereon in money; and so at the expiration of any succeeding term of twenty years, the legislature may resume the said works and franchises upon the same terms: *Provided*, That in the event of resumption by the legislature as aforesaid, the contingent or sinking fund, as well as the undivided profits on hand, after the payment and discharge of all debts and claims against the company, shall be divided among the stockholders, in the same manner as the nett profits are hereinbefore authorized to be divided.

Penalty for violation of charter.

SECTION 23. That if said company shall charge any higher tolls than authorized by the provisions of this act, or in any respect violate any of the restrictions imposed by it, in respect to tolls, any person or persons aggrieved may bring suit, in his or their own name, against said company, and for his or their own use, and recover by action of debt, before any alderman or justice of the peace, the sum of fifty dollars for any violation of the provisions of this act, relative to tolls; and if the said company shall fail to keep any portion of this canal in navigable order, and in good repair, any person or persons interrupted in the navigation and transportation of any boat through this canal, by reason of said canal not being in good repair and navigable order, he or they may bring suit, as aforesaid, and recover a like penalty as aforesaid: *Provided*, This section shall not be construed to extend to any interruption of the navigation occasioned by necessary repairing, altering or enlarging the dimensions of this canal.

Proviso.

Commissioners' accounts.

SECTION 24. The commissioners appointed under the first section of this act, shall present their accounts of the necessary expenses incurred by them in the performance of the duties imposed upon them by this act, to the auditor general, who shall settle the same, and draw his warrant on the state treasurer, who is hereby authorized to pay the same out of any money in the treasury not otherwise specifically appropriated: but the whole amount, including the pay of auctioneers, shall not exceed five hundred dollars.

SECTION 25. The said commissioners shall, before they proceed to the performance of their duties, take and subscribe a declaration upon their oaths or affirmations, before any judge, alderman or justice of the peace of this commonwealth, that they will well and truly perform the duties enjoined upon them by this act with fidelity, and that they will not be influenced or directed by any other motive than a desire to protect and promote the interests of the commonwealth; the said declaration, thus subscribed, to be transmitted to and filed in the office of the secretary of the commonwealth; and they shall not purchase, either in their own names or in the names of any other person or persons, any of the shares of stock in said company, at the sales directed to be held by the first and second sections of this act, or be interested in such sales either directly or indirectly, as agent or trustee of any person or corporation, or in any other capacity. Oath.

SECTION 26. If the company incorporated by this act, shall at any time issue any note or notes, in the nature of bank notes, or any notes of any denomination, intended or used for circulation, or shall transact any business in the nature or manner of banking, then, and in either of these cases, their chartered privileges shall cease and revert to the commonwealth. Banking.

JAMES ROSS SNOWDEN,
Speaker of the House of Representatives.
WILLIAM P. WILCOX,
Speaker of the Senate.

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

DAVID R. PORTER.

No. 368.

AN ACT

Relative to the Columbia avenue, in the county of Philadelphia, and for other purposes.

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 width of Columbia avenue, in the county of Philadelphia, shall be diminished from its breadth of one hundred and twenty feet, as now directed by law, to that of sixty feet, by throwing off thirty feet from each side of said avenue, through and along its whole course, and that the same shall hereafter be opened of the width of sixty feet and not otherwise, and that all laws or parts of laws inconsistent herewith be and the same are hereby repealed. Width of Columbia avenue.