

No. 100.

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

Commissioners.

Jacob Lex, Jacob L. Sharpe, William Musser, Singleton A. Mercer, E. L. Moss, George H. Thompson, Stephen Colwell, Thomas Diehl, Edward J. Etting, Isaac Prince, and Edward Gratz, of the city of Philadelphia, Simon Cameron, Thomas Elder, Jacob M. Haldeman, Henry Shaeffer, Henry Walters, Henry Buehler, John P. Leebrick, Benjamin Musser, Edward Witman, John P. Rutherford, James Martin, William J. Robinson, Isaac Updegrave, Simon Sallade, Philip Dougherty, A. B. Hamilton, and John Roberts, of the county of Dauphin, 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, within four months after the passage of this act, 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 "An Act authorizing the governor to incorporate the Wiconisco canal company." Witness our hands this

Form of subscription.

Notice of subscribing.

day of
Anno Domini, one thousand eight hundred and forty-five;" and the said commissioners shall thereupon give notice in at least one of the newspapers printed in Philadelphia, 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 three thousand shares; and if at the expiration of said three days there shall not be subscribed upon the books aforesaid, the said three thousand shares, the said commissioners may adjourn from time to time, and transfer the said books elsewhere until the whole number of three 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 three thousand shares shall be subscribed, the said books may be closed: *Provided always*, That every person offering to subscribe in said books in his own or in any

Proviso.

other persons name, shall previously pay to the attending commissioner the sum of five dollars 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 further,* That the whole number of shares subscribed before the organization of the company shall not exceed three 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 three 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 great seal of the commonwealth, create and constitute the subscribers into a body politic and corporate, by the name, style and title of "The 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 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.

Letters patent.
Name.
Privileges and 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, give ten days notice in at least one of the newspapers printed in Philadelphia and Harrisburg, 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 November next ensuing, and 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 such by-laws, rules and orders as do not contravene the constitution and laws of the United States or of this state, and may be convenient and 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

Organization.
Quorum.
By-laws.

tem., and generally to do all such other acts, matters and things, as by this act and by their by-laws and the regulations of the said company they are authorized to do.

Managers to take possession of canal.

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 accomplish the object for which it was located and thus far constructed: *Provided*, That unless the work of finishing said canal shall be commenced and carried on within two years from the passage of this act, and the whole of the said canal be completed and in operation, according to the true intent and meaning of this act, 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.

Works transferred to company.

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 locks, aqueducts, waste-weirs, bridges, toll houses, and other necessary works, 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, settled or released, which, if the parties do not agree, shall be assessed and ascertained by any three disinterested freeholders of Dauphin county, under oath or affirmation, to be appointed by consent of parties, or if they cannot agree, by the court of common pleas of said 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 office of the prothonotary of the said county, in the same manner and on the same terms as appeals are or may be allowed in other cases under the law regulating compulsory arbitrations; 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.

Statement of expenses.

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 fifty-three, it shall be lawful for the commonwealth to resume the said line of canal, privileges and franchises hereby granted, by paying to said company

Commonwealth may resume canal, &c.

the amount of money expended by them in finishing and completing the same, with the money expended for repairs, collection and supervision, with interest thereon at the rate of eight per cent. per annum, deducting from the principal and interest aforesaid the amount of tolls received during the period which the company has possession of said canal, and on the payment thereof by the commonwealth to the said company, 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.

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 in order to allow such contractors an opportunity to offer, shall give previous public notice of the letting of such work, for the space of three weeks, in at least two newspapers printed at Harrisburg. Contractors.

SECTION 8. The stockholders of this company shall meet annually on the first Monday of November of each year, at such place as may be fixed upon by the board of managers, of which at least ten days notice shall be given by the treasurer in the newspapers before mentioned, 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, citizens of this commonwealth, 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 co-partnership, 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. Annual meeting.
Officers.
By-laws.
Proviso.

SECTION 9. The president and managers shall, as soon as is convenient, procure certificates or 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 the corporate seal of the said company, to each person for every share of stock by them subscribed or held, 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 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 assignment to be entered in the books of the company kept for the transfer of stocks, shall be a Certificates of stock.

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.

Penalty for neglect to pay instalments.

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.

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Power to enter upon lands for materials.

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 on the said canal, giving or publishing notice to the owners thereof, and from thence take and carry away stone, gravel, sand, earth, or other materials necessary to the construction of said canal, doing as little damage as possible, and repairing any breaches they may 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 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 provided for appeals in the fifth section of this act.

Damage.

Viewers.

SECTION 12. As soon as the said president, managers and company, shall have completed the said canal or navigation, they shall give notice thereof to the governor, who shall thereupon nominate and appoint three disinterested persons to view and examine the same, and report to him in writing under oath or affirmation, whether the said navigation is executed in a complete and 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

License.

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: *Provided*, That the tolls on the said canal shall at all times be the same rates, as may for the time being be charged upon the Eastern division of the Pennsylvania canal. Proviso.

SECTION 13. The toll collectors appointed as aforesaid shall, and Collectors. they are hereby authorized not to permit the passage 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 or 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 Accounts. keep fair and just accounts of all moneys received by them from the said commissioners and subscribers, 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 receipts 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 hereinbefore provided for the original subscription, or as shall be provided by their by-laws: *Provided*, That the capital stock of the said company shall never exceed five thousand shares.

SECTION 15. That it shall and may be lawful for the president and Borrow money. managers of the said company, from time to time, and at all times, to borrow such sums of money and on such terms as they may deem expedient, for the use of the said company, and to issue bonds or certificates of loan therefor in amounts not less than five hundred dollars each, and to pledge or mortgage all or any part of the estates, tolls, improvements, privileges, effects and assets, whatsoever of the said company, as security of such loan or loans: *Provided*, That the whole amount Proviso. of money so obtained on loan or loans, shall not exceed sixty thousand dollars, and the bonds or certificates of loan authorized to be issued by this section, shall not be sold by the company for less than their par value: *And provided also*, That the capital stock of said company of three thousand shares shall be first paid in before the said company shall be authorized to borrow money as aforesaid: *And provided also further*, That no bonds or other evidence of indebtedness shall be issued by said company, except for money borrowed by virtue of this section; and no contract shall be made by said company, for work to be done, or materials furnished for the completion of the said canal, which shall be payable otherwise than in cash.

SECTION 16. That the president, managers and company, shall also Dividends. 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 being first deducted, and shall, on the first Monday in November and the first 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 the president and treasurer of said company are required to return to the auditor general of this commonwealth, on or before the first Monday of January in each year, a full and accurate account of the money actually expended by the said company in the construction of the work under the provisions of this act, the amount of capital stock subscribed, the amount of capital paid in, and the amount of money borrowed, and at what rate of interest per annum, the number and names of the officers of said company, the salaries paid to such officers, the annual expenditures and receipts, and the dividends declared; which abstract shall be verified by oath or affirmation of the president and treasurer of the company for the time being.

Report to auditor
general.

SECTION 17. 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 traveling 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.

Causeways,
bridges, &c.

Farm bridges.

SECTION 18. 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 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 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 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 own-

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ers of land through which said canal passes, shall not be prevented from constructing bridges over said canal, agreeably to the form and position of the bridges constructed by said company.

SECTION 19. No suit or action shall be brought or prosecuted by any Suits. person or persons for penalties incurred under this act, unless said suit or action shall be commenced within six months next after the offence shall have been committed, or the cause of action have accrued, and the defendant or defendants 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 20. If any person or persons shall wilfully and knowingly break, injure or destroy the banks, locks or other part of said canal, or any edifice or device, or any part thereof 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. Penalty for injuring works.

SECTION 21. 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.

SECTION 22. That it shall at all times be lawful for a committee of the legislature, or either branch thereof appointed for that purpose, 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 by the same abused and violated, and if the officers of said corporation should refuse to be sworn or affirmed to give evidence, or to produce all such of their books or papers as may be demanded before any such committee, 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 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 this commonwealth, which shall be executed on the president of the corporation for the time being, at least ten days before the commencement of the term of the said court, calling on the said corporation to show cause wherefore 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 said violations, and if such violations be made to appear, then to adjudge that the said charter is forfeited, and thereupon, and in case the legislature shall declare the said charter void and repeal the same for the cause aforesaid, the canal aforesaid, with the appurtenances, and all the estate, real and personal, of the said corporation, shall revert to, and revest in the commonwealth, upon the payment by the commonwealth to the stockholders of the money expended as prescribed in the fifth section of this act, and until the commonwealth shall have made such payment to the managers of the said company, to be by them distributed among the stockholders, the rights, privileges and franchises of the said corporation shall remain as though said judgment or forfeiture had not been declared or pronounced: *Provided*, That every issue of fact which may be joined between the commonwealth and the corporation in said proceeding, shall be tried by a jury, summoned by an officer to be named by the court from the body of the state, and it shall be lawful for the court aforesaid to require and compel the production of such of Inspection of books.
Forfeiture of charter.
Proviso.

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.

FINDLEY PATTERSON,
Speaker of the House of Representatives.

WILLIAM P. WILCOX,
Speaker of the Senate.

APPROVED—The thirteenth day of March, A. D. one thousand eight hundred and forty-five.

FRS. R. SHUNK.

No. 101.

AN ACT

Relating to the election of township officers in Passyunk township, in the county of Philadelphia.

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 eighth and ninth sections of the act, passed the twenty-eighth day of February, one thousand eight hundred and thirty-five, entitled "A supplement to the act relating to county rates and levies, and township rates and levies, and to the act relating to counties and townships, and county and township officers," be and the same are hereby repealed, so far as the same regards the township of Passyunk, in the county of Philadelphia; and the said act relating to counties and townships, and county and township officers, passed the fifteenth day of April, one thousand eight hundred and thirty-four, shall be construed and taken to apply in all its provisions to Passyunk township, in the county of Philadelphia aforesaid. That on the third Friday in March, one thousand eight hundred and forty-five, the qualified citizens of the said Passyunk township, shall elect three supervisors, one whereof to serve for one year, one to serve for two years, and one to serve for three years, and annually thereafter, one to serve for three years; also a township treasurer, to serve for one year, and that hereafter the township officers of said Passyunk township shall be elected in pursuance of the provisions of the aforesaid act relating to counties and townships, and county and township officers, and shall perform all the duties, and be subject to the same responsibilities, as are therein provided for.

Repealing clause
of part of former
acts.

To elect three su-
pervisors.

FINDLEY PATTERSON,
Speaker of the House of Representatives.

WILLIAM P. WILCOX,
Speaker of the Senate.

APPROVED—The thirteenth day of March, one thousand eight hundred and forty-five.

FRS. R. SHUNK.