

## CHAPTER MCMLXXIII.

AN ACT TO ENABLE THE GOVERNOR OF THIS COMMONWEALTH TO INCORPORATE A COMPANY, FOR THE PURPOSE OF IMPROVING THE NAVIGATION OF THE RIVER LEHIGH.

[Section I.] (Section I, P. L.) 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 William Tilghman, Godfrey Haga, and John M. Taylor, of the city of Philadelphia, John Barnet, Joseph Horsefield, and Nicholas Kern, of the county of Northampton, and Matthias Hollenback, Rosewell Welles, and Lord Butler, of the county of Luzerne, be, and they are hereby, appointed commissioners to do and perform the several duties hereinafter mentioned, that is to say; they shall and may, on or before the first day of June next, procure a book or books, and therein enter as follows: "We, whose names are hereunto subscribed, do promise to pay to the president and managers of the Lehigh Navigation Company the sum of one hundred dollars for every share of stock in the said company set opposite to our respective names, in such manner and proportions, and at such times, as shall be determined by the said president and managers, in pursuance of an act of the general assembly of this commonwealth, entitled, "An act to enable the governor of this commonwealth to incorporate a company, for the purpose of improving the navigation of the river Lehigh," and shall thereupon give notice in one of the public newspaper printed in Philadelphia, in the public newspaper printed at Easton, and in the public newspaper printed at Wilkes-Barre, for one calendar month at least, of the time and place when and where the said book or books will be open to receive subscriptions of stock for the said company, at which time and place the said commissioners, or any two of them, shall attend, and shall permit and suffer all persons, who shall offer to subscribe in the said

book or books, which shall for that purpose be kept open at least six hours in every judicial day, for the space of at least three successive days, and on any of the said judicial days, within the hours aforesaid, any person of the age of twenty-one years shall have liberty to subscribe, in his own or any other name or names by whom he shall be authorized, for one share; on the second day, for one or two shares; on the third day, for one, two or three shares, and on any succeeding day, while the said books shall remain open, for any number of shares in the said stock and if, at the expiration of the said three first days, the said book or books shall not have four hundred shares therein subscribed, the said commissioners may adjourn from time to time, until the said number of shares shall be subscribed, of which adjournment public notice shall be given, in at least one public newspaper. And when the said subscriptions in the said books shall amount to the respective numbers aforesaid, the same shall be respectively closed; and if on that day, and before the said subscriptions shall be declared to be full, application shall be made to subscribe more shares than will fill the said book or books to the number aforesaid, respectively, then the said commissioners shall apportion the whole number of shares subscribed on the morning of that day amongst all those, who shall have subscribed or offered to subscribe as aforesaid on that day, by deducting from the subscriptions of more shares than one such proposition of shares by them respectively subscribed, as will, with the least fraction, and leaving\* every person one or more shares aforesaid. Provided always, That every person offering to subscribe in the said book or books in his own name, or any other name, shall previously pay to the attending commissioners, ten dollars for every share to be subscribed out of which be defrayed the expenses attending the taking such subscriptions, and other incidental expenses, and compensation to the said commissioners, not exceeding two dollars to each of them, for every day they shall be publicly employed in the said business, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

[Section II.] (Section II, P. L.) And be it further enacted by the authority aforesaid, That when fifteen persons or more shall have subscribed two hundred or more shares in the said stock, the said commissioners, respectively may certify, under their hands and seals, the names of the subscribers, and number of shares subscribed by or apportioned to each subscriber, to the governor of this Commonwealth, and thereupon it may and shall be lawful to and for the governor, by letters patent, under the great seal of the state, to create and erect such subscribers, and also those who shall afterwards subscribe, into one body politic and corporate, in deed and in law, with perpetual successions, and with all the privileges and franchises incident to a corporation by the name, style and title of "The President and Managers of the Lehigh Navigation Company;" and by such name the said subscribers, and such other subscribers as may thereafter become stockholders, shall be capable of holding the said capital stock, and increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner as they shall think proper, if such enlargement shall be found necessary to fulfill the end and intent of this act, and of taking, purchasing and holding to them, their successors and assigns, in fee simple, or for any less estate, all such lands, tenements and hereditaments, as shall be necessary for them in the prosecution of their work, and of doing all and every other matter and thing, which a corporation or lobby politic may lawfully do.

[Section III.] (Sections III, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said president and managers to clear the said river Lehigh, and remove all obstructions therein, and render the navigation thereof as easy and commodious as possible, from the mouth to the Great Falls thereof.

[Section IV.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the seven persons first named in the said letters patent shall, as soon as conveniently may be after sealing the same, give notice, in one of the newspapers published in Philadelphia as foresaid, and in the newspaper published at Easton, and in the newspaper published at Wilkes-

barre, of a time and place by them to be appointed, not less than twenty days from the time of issuing the said notice, at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose, by majority of votes of the said subscribers, by ballot, to be delivered in person or by proxy, one president, eight managers, one treasurer, and such other officers as they shall think necessary to conduct the business of the said company, for one year, and until such other officers shall be elected, and shall and may make such by-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this commonwealth, as shall be necessary for the well ordering of the affairs of the said company. Provided always. That no person shall have more than ten votes at the said elections, or in determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person holding one or more shares, under the said number of ten, shall have one vote for every share by him held.

[Section V.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the first Monday of February in each succeeding year, at such place as shall be fixed by the rules and orders of the said company, to be made as as aforesaid, for the purpose of choosing such officers as aforesaid for the ensuing year, and at such other times as they shall be assembled by the managers, for the purpose of making by-laws, rules, orders and regulations, not inconsistent with the constitution and existing laws of this state, as shall from time to time be necessary, of which meetings notice shall be given, in such manner as shall be provided by such rules and orders.

[Section VI.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall procure certificates to be printed or written for every share of the said capital stock of the said company, and shall deliver one to each of the subscribers for every share by him subscribed, signed by the president, and sealed with their common seal, he paying to the treasurer of the company the sum of five dollars for every share by him subscribed, which certificate shall be transferable at pleasure, in the presence of the treasurer

of the said company, subject, however, to all payments due and to grow due. And the holder of every such certificate, having first caused the assignment to him to be entered in a book of said company, to be kept for that purpose, shall be a member of the said corporation, entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the general meetings thereof.

[Section VII.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall have full power and authority to appoint all necessary officers to supply vacancies, occasioned by death, resignation, or otherwise, and to make contracts for the work to be undertaken by them, and also to appoint one or more superintendents of the work to be undertaken by them, and to hire and employ all such engineers, artists, workmen and laborers, as they find necessary to carry on the same.

[Section VIII.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall have full power and authority, from time to time, to fix the several sums of money, which shall be paid by the subscriber or holder of every share of the stock of the said company, in part or for the sum subscribed, and the time when each and every dividend or part thereof shall be paid, and the place where it shall be received, and shall give at least twenty days' notice in one of the public newspapers published in the city of Philadelphia, in the newspaper published at Easton, and in the newspaper published at Wilkes-barre, of the sum or dividend, and the time and place of receiving the same; and if the holder of any share shall neglect to pay such proportion, at the place aforesaid, for the space of twenty days after the time so appointed for paying the same, every such shareholder, or his assignee, shall, in addition to the proportion so called for, pay after the rate of five per centum for every month's delay of such payment; and if the same, and the said additional penalty, shall not be paid for such space of time, as that the accumulated penalties shall become equal to the sums before paid

for and on account of such shares, the same shall be forfeited to the said company, and may and shall be sold by them to any person or persons wiling to purchase, for such price as can be obtained therefor.

[Section IX.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the president and managers shall begin to clear the said river Lehigh, at the mouth of said river, and from thence progressively up the same to the Great Falls: and so soon as the said president and managers shall have cleared the said river Lehigh, in such manner as to have made a good navigation, at all seasonable times of the year, for loaded boats not exceeding the burden of five tons, from the mouth thereof to the ferry near the town of Northampton, that part of the navigation of said river shall be declared free.

[Section X.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That as soon as the said president and managers shall have cleared the said river from the ferry near the town of Northampton to the Blue mountains, and from the said Blue mountain to the mouth of Neshoning creek, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three skilful and judicious persons, who hold no share in the stock of the said company, to view and examine the said river, for any such part or space thereof as aforesaid, and report to him, in writing, whether the navigation is completed in the manner aforementioned, according to the true intent and meaning of this act, and if the report of them, or a majority of them, shall be in the affirmative, then the governor shall, by license under his hand and the lesser of the commonwealth, permit and suffer said president, managers and company to fix upon and appoint so many places, at or between the places beforementioned, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company.

[Section XI.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That as soon as the said president and managers shall have cleared the said river so as to have made a good navigation for rafts at certain seasons of the year to the distance of ten miles from the mouth of Neshoning creek

and so on from time to time any other like distance of ten miles progressively from the mouth of, the said creek to the great falls of said river where the Wilkes-barre road crosses said river from the city of Philadelphia, they shall give notice thereof to the governor, who shall thereupon forthwith nominate and appoint three skillful and judicious persons, who hold no share of the stock of the said company, to view, examine and report to him as foresaid whether the navigation is far completed in the manner herein last before mentioned, according to the true intent and meaning of this act and if the report of them or a majority of them shall be in the affirmative then the governor shall, by license under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers and company to fix upon and appoint so many places between the said mouth of Neshoning Creek and the Great Falls as will be necessary and sufficient to collect the tolls and duty hereinafter granted to the said company.

[Section XII.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the president and managers of the said company, as soon as they have obtained the governor's permission as aforesaid, for fixing upon and appointing proper places for collecting tolls and duties as aforesaid, to appoint so many collectors of tolls for the passage of loaded boats, vessels and rafts in and through the said rivers, and in such places as they shall think proper; and that it may and shall be lawful for such toll collectors, and their deputies, to demand and receive of and from the person having the charge of all loaded boats, vessels and rafts passing through the said river, such tolls and rates, for every ton weight of the ascertained burden of the said boats and vessels, and for every one thousand feet board measure of timber, boards, plank or scantling in rafts, as the said president and managers shall think proper, at any place appointed for receiving of tolls, as ascertained. Provided, That the amount of the said tolls shall not in the whole exceed the rate of six cents per mile for every ton of the burden of such boat or vessel, and for every one thousand feet board measure of boards, plank

or scantling, and two cents for every one thousand feet of timber; from the Great Falls to the mouth of Neshoning creek, and from thence to the town of Northampton, two cents per mile for every ton of the burden of such boat or vessels, and for every one thousand feet board measure of boards, plank or scantling, and one cent per mile for every one thousand feet of timber.

[Section XIII.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That in order to ascertain the size of rafts and tonnage of boats, using and passing the said river, and to prevent disputes between the supercargoes and collectors of tolls, upon the request of the owner, skipper or supercargo of such boat or raft, or of the collector of the said tolls, or his duty, at any place appointed for receiving tolls as aforesaid, it shall and may be lawful for each of them to choose one skilful person to measure and ascertain the size of the said rafts, or the number of tons which the said boat or vessel is capable of carrying, and to mark the said tonnage, so ascertained, in figures, upon the head and stern of the said boat, in colors mixed with oil, and that the said boat or vessel, so measured and marked, shall be permitted to pass through the said river, for the price per ton to which the number of tons so marked on her shall amount, agreeably to the rates fixed in manner aforesaid; and if the owner, skipper or supercargo of such boat or vessel shall decline choosing a person resident within two miles of the place where such toll is payable, to ascertain the tonnage thereof, then the amount of such tonnage shall be fixed and ascertained by the person appointed for that purpose by the president and managers, or chosen by the said collector of tolls for the said company, and the toll shall be paid according to such measurement before any such boat or vessel shall be permitted to pass the place, where such toll shall be made payable by the said company.

[Section XIV.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the collector of tolls, duly appointed and authorized by the said president and managers, may stop and detain all boats and vessels, and also all rafts, using and passing through the said river, until the owner,



skipper or supercargo of the same shall pay the toll so as aforesaid fixed, or may distrain part of the cargo therein contained, or a part of such rafts, sufficient, by the appraisment of two reputable disinterested persons, to satisfy the toll, which distress shall be kept by the collector of tolls taking the same, for the space of five days and afterwards sold by public auction to the highest bidder, in the same manner and form as goods distrained for rent are by law sold and salable, rendering the overplus, if any there be after payment of the said tolls and costs of the distress and sale, to the skipper, supercargo or owner thereof, on his or their application for the same.

[Section XV.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if any owner, skipper, supercargo or conductor of such boat or raft shall pass by any place appointed for receiving tolls, without making payment thereof, with intent to defraud the company out of such toll, he, she or they shall forfeit and pay, for every time they shall so pass by, to the said president, managers and company, the sum of twenty dollars, to be sued for and recovered before any justice of the peace, in like manner and subject to the same rules and regulations as debts under twenty pounds may be sued for and recovered, together with reasonable costs or prosecution.

[Section XVI.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers of the said company may require and demand of and from the said treasurer, and all other offices, superintendents and other persons by them employed, bonds in sufficient penalties and by such sureties as they shall by their rules, orders and regulations require, for the faithful discharge of the several duties and trusts to them, or any of them, respectively committed.

[Section XVII.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of the said company shall keep fair and just accounts of the moneys received by them from the subscribers to the said undertaking, for their subscription thereto, and all penalties for delay or non-payment thereof, and of all moneys by them expended in the payment of the costs and charges of

procuring and purchasing all estates, rights and titles, in the said company to be vested in pursuance of this act, or by any other means, and in paying their several officers by them to be appointed, and the wages of the different engineers, artists, workmen and laborers by them to be employed and other expenses attending the performance of the said undertaking; and shall, once at least in every year, submit such account to the general meeting of the stockholders, until the said river shall be completely cleared and rendered navigable as aforesaid, and until all the charges, costs and expenses of affecting the same shall be fully paid and discharged, and the aggregate amount of the said expenses shall be liquidated, and from and after the said liquidation thereof; and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said navigation in manner aforesaid, according to the true intent and meaning of this act, it shall and may be lawful for the president, managers and company, at a general meeting of the stockholders, held in pursuance of the preceding provisions, or called by the said president and managers for the especial purpose, by public notice in one of the newspapers published in the city of Philadelphia, in the newspaper published at Easton, and in the newspaper published at Wilkes-barre, in manner aforesaid, to increase the number of shares to such extent, as shall be deemed sufficient to accomplish the purpose of this act, and to demand and receive such additional subscribers from the former, or in case of their neglect or refusal, after ten successive days from the time of such meeting, from new subscribers, and upon such terms, and in such manner, as by the said general meeting shall be agreed upon.

[Section XVIII.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall also keep a just and true account of all moneys received by their several and respective collectors, and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, on the first Mondays of January and July in every year, and pub-

lish the half yearly dividend to be made of the said clear profits to and amongst the stockholders, and of the time and place when and where the same shall be paid, and shall cause the same to be paid accordingly.

[Section XIX.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall, at the expiration of every third year from the date of their incorporation, lay before the general assembly of this commonwealth an abstract of their accounts, showing the whole amount of the capital expended in purchasing real estates, and in clearing the said river, and in rendering it navigable, in the manner beforementioned, and the whole income and profits from the same for and during the said periods, together with an exact account of all the contingent expenses attending the same for the said period, to the end that the clear profits may be known; and if, at the end of two years after the said navigation shall be completed in manner aforesaid, it shall appear that the said clear profits and income will not bear a dividend of six per cent. per annum on the whole capital stock of the said company so expended, it may and shall be lawful to and for the said president, managers and company to increase the tolls hereinabove allowed to them so much, as will raise the dividend up to six per cent. per annum; and at the end of every period of six years after the said navigation shall be completed, they shall render the like abstract to the general assembly of their accounts for five preceding years; and if, at the end of such period, it shall appear from the said abstract that the clear profits and income of the company will bear a dividend of more than fifteen per centum per annum, then and in such case the said tolls shall be reduced so much, as will reduce the clear profits and income to a dividend not exceeding fifteen per cent.

[Section XX.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall wilfully, or without order from the president and managers, pull down, break and destroy, with intent to injure, any part or parts of said navigation, and works erected or made for the use of said navigation, or the persons employed in con-

ducting the business thereof, or of raising tolls, or who shall wilfully and maliciously obstruct or impede the passage of any boat or raft on the said river Lehigh, or any part thereof, he, she or they, so offending, shall each of them forfeit and pay to the said president, managers and company the sum of thirty dollars, to be sued for and recovered before any justice of the peace, in like manner and subject to the same regulations as debts under twenty pounds may be sued for and recovered; and he, she or they, so offending, may and shall remain liable to actions, at the suit of the said president, managers and company, for damage, if the said sum or sums herein mentioned be not sufficient to repair and satisfy such damage, together with costs of prosecution.

[Section XXI.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the president and managers of the said company to raise, by way of lottery, ten thousand dollars, to be employed in carrying on the improvements of the Lehigh navigation. Provided always nevertheless, That nothing herein contained shall be construed or held to authorize the said president, managers and company, or either of them, to form the said sum into capital stock, or to consider the same as any of their capital stock, upon which a dividend or profit can be made.

[Section XXII.] (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers, previous to selling any ticket in the said lottery, shall lay the scheme thereof before the governor of this commonwealth, to be approved of by him; and shall also enter into bonds to the governor, for the due and faithful payment of all prizes that may be drawn in the said lottery, when the same shall be demanded after the drawing of said lottery shall be completed.

[Section XXIII.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That, as soon as three-fifths of the tickets shall be sold, the said president and managers shall certify the same to the governor of this commonwealth, and upon such certificate being presented, it shall and may be lawful for the governor to appoint three commissioners to su-

perintend the drawing of the said lottery, which said commissioners shall take an oath or affirmation diligently and faithfully to perform the duties intrusted to them.

[Section XXIV.] (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners, or any three of them, shall attend at the drawing of each day, and when the whole is completed, shall cause an accurate list of the fortunate numbers to be published in at least three newspapers, one thereof in the city of Philadelphia, one in Easton, in Northumberland county, and one at Wilkes-barre, in the county of Luzerne; and the said commissioners shall receive of the president and managers of the said company, two dollars for each day's attendance on the duties enjoined on them.

[Section XXV.] (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That all prizes not demanded within twelve months after publication, as aforesaid, shall be applied as aforesaid to carrying on and completing the works of said company.

[Section XXVI.] (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall not proceed to carry on the said work within the space of three years after they have been incorporated, or shall not, within the space of ten years from the passing of this act, complete the said navigation in the manner directed by this act, it shall and may be lawful for the legislature to resume all and singular the rights, liberties and privileges hereby granted to the said company.

\*The original is so expressed, but it ought obviously to be "leave," instead of "and leaving."

Passed February 27, 1798. Recorded L. B. No. 6, p. 223, etc.