

tion, to be paid in three equal annual instalments, to the order of the president of the trustees of said corporation, in favor of the treasurer of the same, the first of which payments to be made at any time on or after the first day of June next. \$2000 appropriated for the use of the institution.

REES HILL, *Speaker of the House of Representatives.*

ISAAC WEAVER,
Speaker of the Senate.

APPROVED—the twenty-fourth day of March, one thousand eight hundred and seventeen.

SIMON SNYDER.

CHAPTER CLIX.

AN ACT

To authorise the Governor to incorporate a company to make a lock navigation on the river Monongahela.

SECT 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 George Sutton, Anthony Beelen and Thomas Baird, of the city of Pittsburg, John Wilson and John Robinson, of Elizabethtown, William Laughhead and James Evans, of M'Keesport, in the county of Allegheny, Charles Bollman, Joel Butler and James P. Stewart, of the town of Williamsport, Henry P. Pearson and Joseph Alexander, of Fredericktown, in the county of Washington, Andrew Linn, esquire, and Hugh Ford, of Freeport, James Tomlinson, Elisha Hunt, George Dawson, William Hoge, Jacob Bowman, Basil Bra-shear, Joseph Thornton and Israel Miller, of the borough of Brownsville, James W. Nicholson, Thomas Williams, esquire, of New Geneva, in Fayette county, and George Reppart and Alexander Vance, of Greensburg, in Greene county, or any two of them be, and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say, They shall, on or before the first Monday in September next, procure a sufficient number of books, one or more of which shall be opened at convenient places in the city of Pittsburg, at Elizabethtown and M'Keesport, in Allegheny county, at Williamsport and Fredericktown, in the county of Washington, at Brownsville, Geneva and Freeport, in the Commission-
ers named.

Books to be
opened, and
where.

county of Fayette, and at Greensburg, in the county of Greene, and in each of them enter as follows: " We, whose names are hereunto subscribed, do promise to pay to the president and managers of the Monongahela Navigation Company, the sum of thirty dollars for every share of stock set opposite to our names respectively, in such manner and in such proportions, and at such times as shall be determined by the president and managers of the said company, in pursuance of an act of the General Assembly of this Commonwealth, entitled ' An act to authorise the Governor to incorporate a company to make a lock navigation on the river Monongahela.' Witness our hands this day of in the year of our Lord one thousand eight hundred and . " And shall, thereupon, give notice in one or more newspapers printed in the city of Pittsburg, one or more newspapers printed in the county of Fayette, and one or more newspapers printed in the borough of Washington, one or more newspapers printed in Greene county, for one calendar month at least, of the times and places when and where the said books shall be kept open to receive subscriptions for the stock of the said company; at which times and places at least two of the commissioners shall attend and permit all persons of lawful age, who shall offer, to subscribe in the said books in their own name, or the name of any other person who shall authorise the same, to subscribe for any number of shares in the said stock; and the said books shall be kept open respectively for the purpose aforesaid, at least six hours in every juridicial day for the space of ten days, or until there shall have been subscribed in Pittsburg two hundred shares, in Elizabethtown and McKeesport, in the county of Allegheny, fifty shares, in Williamsport and Fredericktown four hundred shares, in Brownsville, Freeport and Geneva seven hundred and fifty shares, and at Greensburg, Greene county, two hundred shares; and if at the expiration of ten days, the books aforesaid, or any of them, shall not have the number of shares aforesaid therein subscribed, the said commissioners may adjourn from time to time, and transfer the books elsewhere until the whole number of sixteen hundred shares shall be subscribed, of which adjournment and transfer of the books, the commissioners aforesaid shall give such public notice as the occasion may require, and when the whole number of shares shall be subscribed then the books shall be closed: *Provided always,* That every person offering to subscribe in the said books in his own or any other name, shall previously pay to the attending commissioners the sum of five dollars for every share subscribed, out of which shall be defrayed the expenses attending the taking of 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 hereinafter mentioned.

Notice of opening books to be given.

Who may subscribe.

Transfer books.

Proviso.

SECT. 2. *And be it further enacted by the authority aforesaid,* That when five hundred shares or more of the said stock shall be subscribed, the commissioners, or a majority 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 his hand and the seal of the Commonwealth, create and erect the subscribers, and if the subscriptions be not full at the time, then also those who shall thereafter subscribe to the number of shares as aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "The President, Managers and Company of the Monongahela Navigation Company;" and by the same name the subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their capital stock, and the increase and profits thereof, of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such enlargements shall be found necessary to fulfil the intention of this act, of purchasing, taking and holding to them, their successors and assigns, in fee simple, or for any less estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works, of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

When letters patent may issue.

Style of corporation.

Their powers.

SECT. 3. *And be it further enacted by the authority aforesaid,* That George Sutton, William Laughead, Charles Bollman, Henry P. Pearson, James Tomlinson, George Dawson, Jacob Bowman, George Reppart, or a majority of them, shall, as soon as conveniently may be after the said letters patent shall be obtained, give at least twenty days notice in all the public newspapers herein before mentioned, of the time and place by them appointed, for the subscribers to meet in order to organize the said company, who shall choose, by a majority of votes, by ballot, to be given in person or by proxy duly authorised, one president and ten managers, a treasurer, secretary and such other officers as shall be deemed necessary, which proxy shall have been obtained and bear date within three months previously to the election at which such proxy shall be presented; and the president and managers chosen as aforesaid, shall conduct the business of said company until the fourth Monday in January next, and until like officers shall be chosen, and may make such by-laws, rules, orders and regulations as do not contravene the constitution and laws of the United States or of this state, that may be necessary for the well-governing the affairs of the company.

Notice to be given of the time & place of organizing the company.

What officers to be chosen, and how.

Of by-laws.

SECT. 4. *And be it further enacted by the authority aforesaid,* That the stockholders shall meet on the first Monday in January in every year, at such place as may be fixed upon by the by-laws, of which notice shall be given at least twenty

Annual meetings of the stockholders.

Notice to be given thereof.

days by the secretary, in the newspapers before mentioned, and choose by a majority of votes present, such officers for the ensuing year as are 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 may 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 and authority to make, alter or repeal such by-laws, by a majority of votes in manner aforesaid, and to do and perform any other corporate act: *Provided always,* That no person shall have more than ten votes at any election or in determining any question arising at any meeting, whatever number of shares he may be entitled to, and that each person be entitled to one vote by him or her held under that number.

Proviso.

SECT. 5. *And be it further enacted by the authority aforesaid,* That the said president and managers shall meet at such times and places as shall be found most convenient for the transacting of their business, and when met five shall be a quorum, who, in the absense of the president, may choose a chairman, and shall keep minutes of their transactions, to be fairly entered in a book; and a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendants and other artists and officers as they shall deem necessary to carry on the intended work, to fix their salaries and wages, to ascertain the times, manner and proportions in which the said stockholders shall pay the monies due on their respective shares, to draw orders on the treasurer: *Provided,* That such drafts or orders be signed by the president, or in his absence by a majority of the quorum present: and generally to do all such other acts, matters and things as by this act and by the by-laws and regulations of the company they shall be authorised to do.

Five to constitute a quorum.

Keep minutes of their proceedings. Appoint surveyors, &c.

Proviso.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the president and managers first chosen, shall procure certificates or evidence of stock for all the shares of the said company respectively, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the corporation, to each person for every share by him, her or them subscribed and held, he, she or they paying five dollars for each share as aforesaid; which certificate or evidence of stock shall be transferable at pleasure, in person or by attorney duly authorised, in the presence of the president or treasurer, to be entered in a book to be kept for that purpose, subject, however, to all payments due or to become due thereon, and the assignee holding any certificate, entered as aforesaid, shall be a member of the said corporation, and entitled to one share of the capital stock, and of all the estates and emoluments of the company incident to one share, and to vote as aforesaid at the meetings thereof, and be subject to all the penalties and

Certificates to issue, and

how transferable.

forfeitures, and of being sued for all the balance and penalty due or to become due on each share, as the original subscribers would have been.

SECT. 7. *And be it further enacted by the authority aforesaid,* That 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 having neglected or refused 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 such 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 penalties 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 a 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 said company, on whose share or shares any instalments or arrearages may be due and payable more than thirty days previously to said election or meeting.

SECT. 8. *And be it further enacted by the authority aforesaid,* That the said president and managers shall, in making their improvements, erect at Bagg's ripple a dam of the height of three feet six inches, at Braddock's lower ripple a dam of the height of three feet six inches, at Braddock's upper ripple a dam of the height of three feet six inches, at Peter's creek ripple a dam of the height of four feet two inches, at Baldwin's ripple a dam of the height of four feet three inches, at Frye's ripple a dam of the height of three feet ten inches, at Forsyth's ripple a dam of the height of three feet eight inches, at Brownsville ripple a dam of the height of four feet six inches, at Smith's ripple a dam of the height of four feet eight and an half inches, at Heaton's ripple a dam of the height of four feet five inches, at Muddy creek ripple a dam of the height of four feet five inches, at Gilmore's ripple a dam of the height of three feet ten inches, at Little Whitely ripple a dam of the height of four feet four inches, at Geneva ripple a dam of the height of three feet four inches, at Dunkard ripple a dam of the height of three feet six inches, and at Cheat river ripple a dam of the height of three feet three inches; *Provided,* That if it should be found necessary to raise any of the aforesaid dams higher than is herein specified, the said

Penalty on neglecting to pay instalments.

Proviso.

Where dams to be erected and their height.

Proviso.

president and managers are at liberty so to do, but so as not to exceed six inches in the additional height of each dam; the said president and managers shall divide the said river into two sections, the first whereof shall extend from Bagg's ripple to the mouth of Dunlap's creek, and the second section from the mouth of Dunlap's creek to the mouth of Cheat river.

SECT. 9. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said president, managers and company, their superintendants, surveyors, engineers, artists and workmen, to enter upon the said river Monongahela, and upon the lands opposite to or near said ripples, for the purpose of erecting the dams aforesaid, and to use the rocks, stones, gravel or earth which may be found thereon, in the construction of their works. first giving notice to the owners or occupiers of the land, and to form, make, erect and set up any dams, locks or any other device whatsoever which they shall think most fit and convenient to make a complete slack water navigation between the points aforesaid, so as to admit a safe and easy passage for loaded barges, boats and other crafts, up as well as down said river; they shall make amends for any damage that may be done on said lands, and pay the owner or owners for the materials taken away, as well as for the land occupied in the construction of said dams and water-works: *Provided* the consent of the owner or owners of the land be first obtained to erect such water-works; and the damages done, if the parties cannot agree, valued by three disinterested freeholders, appointed by consent of the parties, or if they cannot agree, by any disinterested justice of the peace of the proper county, allowing an appeal to the court of common pleas.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the said president, managers and company shall have the privilege and be entitled to use the water power from the said river, to propel such machinery as they may think proper to erect on the land which they may previously have purchased from the owner or owners, or may sell in fee, lease or rent for one or more years the said water power, to any person or persons, on such terms as shall be most advantageous to the corporation: *Provided* it may be so done that it shall not injure, impede or interrupt the navigation, and that the monies arising from such sale of the water power be applied to the use and benefit of the said corporation.

SECT. 11. *And be it further enacted by the authority aforesaid,* That as soon as the eight first named dams and locks shall be erected and completed, the said president and managers 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 works have been so far executed in a workmanlike manner, according to the true intent and meaning of this act, and if at any time their

Right of entry upon the river and adjacent lands, and take materials.

Compensate for damages.

Proviso.

Right to use water power for machinery, &c.

And sell rights.

Proviso.

Report to the Governor when eight locks and dams are completed. Commissioners to view them.

report shall be in the affirmative, then the Governour shall, by license under his hand and the seal of this Commonwealth, License to permit the said president, managers and company, or such take toll. persons as they shall from time to time appoint to collect the tolls, which shall not exceed the following rates, that is Rates of toll. to say: Any person or persons having charge of any boat, barge or other vessel passing through any lock erected as aforesaid, shall pay one cent per foot for each foot each boat, barge or other vessel may measure in length; and for any raft passing said locks as aforesaid, the person or persons having charge thereof shall pay half a cent per foot for each foot such raft may measure in length: *Provided* each raft, boat, Proviso. barge or other vessel do not exceed fifteen feet in width, nor draw more than three and an half feet water: *And provided* also, That the aforesaid rate of toll do not extend to canoes 2d proviso. and skiffs of the ordinary size, which are to pass said locks for six and one-quarter cents each: the owner or owners of said locks shall be subject to the damages of double tolls for every thirty minutes delay for each canoe and skiff, and in proportion for any longer time; and that such rates of toll shall be set up and continued at some conspicuous place near each lock, for inspection: *And provided further*, That if at the expiration of two years after the said work shall have been 3d proviso. completed, the tolls, together with the interest of the surplus of any money arising from the sales of water power, or the rents and profits thereof, should enable the company, after paying all repairs and other necessary expenses, to divide more than seven per centum per annum on the capital stock Dividends not to exceed 7 per ct. for 5 years, and not exceed 9 per ct. afterwards. expended, the tolls shall be so reduced that the dividends shall not exceed seven per cent. and shall so continue for five years, and if at the expiration of that time they shall exceed nine per cent. they shall be so reduced as not to exceed nine per cent. and shall thereafter be so regulated from time to time, as not to exceed nine per cent. per annum; and if at Tolls may be raised so as to nett 7 per cent. any time after the expiration of two years from the completion of the said work, the nett profits aforesaid shall not amount to seven per cent. upon the money expended, it shall be lawful to raise the said tolls so as to divide seven per cent.: *Provided also*, That if it should be found at any time When the profits of the water power produce 7 per ct. tolls. to cease. after the said company goes into operation, that the profits arising from the sale, rent or lease of the said water power, should amount to seven per centum per annum on the capital stock actually expended, then it shall not be lawful to demand or receive any toll at any of the locks aforesaid, but to permit all persons going up or down said river in boats, barges or other vessels to pass through the said locks free of any toll or other charges whatsoever.

SECT. 12. *And be it further enacted by the authority aforesaid*, That the said company shall not have power to issue any note or notes of the nature of bank notes, to be indorsers on any note or notes in their corporate capacity, or to make Prohibited from acting as a banking company.

discounts or receive deposits after the manner of any bank or banks.

Navigators to blow horn.

SECT. 13. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the master or commander of any boat barge or other vessel navigating the said river, when he shall arrive within one-fourth of a mile from any lock so erected, under the penalty of two dollars, to blow a horn or trumpet, whereupon the keeper of such lock shall attend for the purpose of opening such gate or sluice to let the said boat, barge or other vessel pass without unnecessary delay, and in safety; and if any boat, barge or other craft shall be prevented from passing up or down any of the said locks or sluices, by reason of the lock not being raised, for more than thirty minutes, the president, managers and company shall, on conviction thereof, forfeit and pay to the person so hindered, the sum of one dollar for every thirty minutes beyond the said time that he shall be so prevented, and in the same proportion for any longer or shorter time; and the service of any civil process upon the toll gatherer in the proper county, and next to the place where the offence shall have been committed, shall be held as good and available in law as if served upon the president, managers and company.

Penalty on keeper of a lock for unnecessary delay.

On whom process may be served.

Penalty for suffering the works to be out of repair.

SECT. 14. *And be it further enacted by the authority aforesaid,* That if the president, managers and company shall neglect or refuse to keep in good order and repair, any dam, lock or sluice of their own construction, or shall neglect to remove any obstacle which may occur therein, so that boats, barges, rafts or vessels cannot at all times safely navigate the said river (when the same is not prevented by ice or other unavoidable cause) they shall, for every such offence, pay the sum of fifty dollars, to be recovered in the same manner as debts of equal amount are or shall be by law recoverable, one half to the use of the informer, and the other half to the use of the poor of the township or county where the neglect or refusal may occur.

How fine applied.

Penalty for injuring the works.

SECT. 15. *And be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully and knowingly do any act or thing whereby the navigation shall be impeded, or any dam, lock, gate or engine, machine or device thereunto belonging, or any machinery or property of the company shall be injured or damaged, he, she or they so offending shall forfeit and pay to the said company double the damages by them sustained, together with costs, to be recovered by action of debt before any justice of the peace, or in any court of competent jurisdiction.

Accounts to be kept and annually submitted to stockholders.

SECT. 16. *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 all monies received by them from the said commissioners, and from the subscribers to the said undertaking on account of the several subscriptions, of all penalties for delay in the payment thereof, and

the amount of profits on the shares which may be forfeited as aforesaid, and also of all monies by them expended in the prosecution of the said works, and shall in every year submit such accounts to the stockholders at their annual meetings; and when the aggregate amount of such receipts and expenditures shall be ascertained, and upon such liquidation, or when the capital stock shall be nearly expended, it shall be found that the said capital stock will be insufficient 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 shall be deemed sufficient to accomplish the work, and to receive and demand the monies for shares so subscribed, in like manner and under like penalties as are herein before provided, or as shall be provided by their by-laws.

Number of shares may be increased.

SECT. 17. *And be it further enacted by the authority aforesaid,* That the president, managers and company shall keep a just and true account of all of the monies received by their several and respective collectors of tolls at the several and respective locks, and all monies received for the rent or hire of the water power, and all other emoluments, and shall make and declare a dividend of the clear profits and income thereof among all the stockholders, in proportion to the stock held by each, all contingent costs and charges being first deducted, and shall, on the first Monday in January and the first Monday in July in every year, publish the half-yearly dividend made of the clear profits, and the time when and place where the same will be paid to the stockholders, not exceeding twenty days thereafter, and shall cause the same to be paid accordingly; and shall once in every year after the incorporation of the company, lay an abstract of the accounts of their receipts and disbursements before the Legislature, under oath or affirmation of the president of the company.

Dividends to be made half-yearly.

SECT. 18. *And be it further enacted by the authority aforesaid,* That nothing herein contained shall at any time injure, destroy or any ways impair any right, privilege or legal claim which may have been granted to individuals by any act or acts of Assembly heretofore passed, for the purpose of erecting mill-dams on said river, but such persons as have mill-dams thereon, are hereby enjoined to have them constructed or raised to the same height as is prescribed in the eighth section of this act, where each particular ripple is designated, at their own proper costs and expense, and also to build and erect a suitable lock or locks and guard wall at the same, to be inspected and approved of by the said president and managers, or a majority of them, and to maintain and keep the same in perfect order and repair, to receive the same toll, and be subject to the same penalties and forfeitures, and be liable to have process served on him, her or them in the

Rights of individuals to erect dams secured.

same manner as the president, managers and company are subject to, according to the provisions of this act.

SECT. 19. *And be it further enacted by the authority aforesaid,* That if the said president, managers and company shall not proceed to carry on the said work within five years from the passage of this act, and shall not complete the navigation as high up the said river as the mouth of Dunlap's creek in seven years thereafter, according to the true intent and meaning, then and in either of those cases all the rights, privileges, liberties and franchises hereby granted to said company shall revert to the commonwealth; and if the said president, managers and company shall not proceed to carry on the improvements aforesaid from the mouth of Dunlap's creek to the mouth of Cheat river, and have the same completed and finished agreeably to the true intent and meaning hereof, in twenty-five years from the passage of this act, then all and singular the privileges herein granted shall revert to the Commonwealth; *And provided,* That in case of forfeiture by the company the owner or owners of any water powers created by any dam erected by virtue of this act, shall be obliged to keep in perfect repair and good condition any dam or dams, lock or locks connected with such water power, under and subject to the same penalties as the company originally were, and shall have the right to charge and receive the same tolls as the said company had received; and in case the owner or owners of such water power shall neglect or refuse to keep the said dam or dams, lock or locks as aforesaid in good order and repair, fit for the passage of boats, barges and other vessels, as the case may be, the Legislature may resume all and singular the rights, privileges, liberties and franchises granted by this act.

Time limited for commencing & completing the work.

Proviso.

Persons owning water powers to keep dams, &c. in repair and may take tolls.

REES HILL, *Speaker of the House of Representatives.*

ISAAC WEAVER,
Speaker of the Senate.

APPROVED—the twenty-fourth day of March, one thousand eight hundred and seventeen.

SIMON SNYDER.

CHAPTER CLX.

AN ACT

To provide for the payment of a balance for enclosing the public ground at Harrisburg.

SECT. 1. *BE it enacted by the Senate and House of Repre-*