

Assembly met, and it is hereby enacted by the authority of the same, That the Governor be, and he is hereby authorised and required to appoint two commissioners to view and examine the Chickesalongo, Conestogo and French creeks, as well as the connecting ground near the head waters of the same, and make report to him, to be laid before the next legislature, of the practicability, importance and probable expense of making and completing a slack water navigation by means of said creeks; and of digging and completing a canal through the connecting grounds, at the head waters thereof, together with such other information as they may be able to obtain.

Two commis-
sioners to be
appointed to
view and
make report.

Their com-
pensation.

How payable

SECT. 2. *And be it further enacted by the authority aforesaid,* That the said commissioners shall be entitled to receive respectively, three dollars per day for their services and travelling expenses, together with such other reasonable expenses as they may be at in the performance of said duties, to be paid by the treasurer of the counties respectively, through which it runs, in proportion to the length the same may pass through the counties, on orders drawn for that purpose.

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

ISAAC WEAVER,
Speaker of the Senate.

APPROVED—the twenty-ninth day of March, one thousand eight hundred and nineteen.

WILLIAM FINDLAY.

CHAPTER CLIII.

AN ACT

Authorising the Governor to incorporate the Ooctararo Navigation Company.

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 Jesse Moore, Joshua Webster, David Dickey, Phineas Ash, David Thomas, John Andrews, Arthur Andrews, James Andrews, James Steele, William Noble, Simeon Pownell, Timothy Kirk, of the state of Pennsylvania, and Wil-

Commission-
ers named.

Ham Stansbury, Charles Carrol, Eli Balderston, Thomas Tenant, of the city of Baltimore; James Jenny, Samuel Rowland, reverend James McGraw, Samuel Clendennin, Thomas Richards, Jonas Preston, of Cecil county, state of Maryland, 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 of May, anno domini one thousand eight hundred and twenty, procure a sufficient number of books, one or more of which shall be opened at some convenient place in each of the following places, viz. In the city of Lancaster, borough of Strasburg, Andrew's tavern, John Hill's tavern, in the county of Lancaster; at George Phillip's tavern, David Thomas's tavern, in Chester county, all in the state of Pennsylvania; in the city of Baltimore, Port-Deposit and Nathaniel Ewing's tavern, at Baldfryer ferry in the state of Maryland, 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 Octararo Navigation company the sum of twenty-five dollars for every share of stock set opposite to our respective names, in such manner and 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 the Octararo Navigation company." 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 Lancaster, in one or more newspapers printed in the county of Chester, in the state of Pennsylvania; in two or more newspapers printed in the city of Baltimore and town of Havre de Grace, in the state of Maryland, 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 respective times and places one or more 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, 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 juridical day for the space of two days, or until there shall have been subscribed in the city of Lancaster three hundred shares, in the borough of Strasburg four hundred shares, at Andrew's tavern five hundred shares, at Phillip's tavern five hundred shares, at Hill's tavern five hundred shares, at Thomas's tavern five hundred shares, in the city of Baltimore seven hundred shares, at Port-Deposit three hundred shares, and at Baldfryer ferry three hundred shares. And if at the expiration of two days, the books aforesaid shall not have the

Books to be procured.

Places of opening the same.

Engagement of subscribers

Notice to be given.

Subscriptions to be taken.

How long books shall be kept open.

Power to adjourn.

Notice to be given.

Proviso.

\$2 50 payable on subscribing.

When letters patent may issue.

Name and title.

Powers and privileges.

Proceeding to organise the company.

number of shares aforesaid, or any of them therein subscribed, the said commissioners may adjourn from time to time and transfer the books elsewhere, until the whole number of four thousand shares shall be subscribed. Of which adjournment and transfer 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 two dollars fifty cents for every share to be 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 incorporation as soon as the same shall be organised and the officers chosen as hereinafter mentioned.

SECT. 2. *And be it further enacted by the authority aforesaid*, That when one thousand 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 subscription be not full at the time, then also those who shall thereafter subscribe to the number of shares 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 Oclaro 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, and 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 intentions of this act, and of purchasing, taking and holding to them and 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, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the seven first named persons 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 hereinbefore mentioned, of the time and place by them appointed for the subscribers to meet, in order to organise the said company, and to choose by a majority of votes of the said subscribers, by ballot, to be giv-

en in person or by proxy duly authorised, one president and Officers to be
ten managers, a treasurer, secretary and such other officers chosen.
as shall be deemed necessary; which proxy shall have been
obtained and bear date within three months previously to the Voting by
election, at which such proxy shall be presented; that the proxy.
president and managers aforesaid shall conduct the business
of said company until the first Monday of January next suc-
ceeding, and until like officers shall be chosen; and may Power to
make such by-laws, rules, orders and regulations as do not make by-laws
contravene the constitution and laws of the United States or &c.
of this state, that may be necessary for the well governing
the affairs of the company.

SECT. 4. *And be it further enacted by the authority afore-*
said, That the stockholders shall meet on the first Monday Meeting of
in January in every year, at such place as may be fixed upon stockholders
by the by-laws, of which notice shall be given at least twenty to choose of-
days by the secretary, in the newspapers before mentioned, ficers.
and choose by a majority of votes present, their officers for
the ensuing year, as mentioned in the third section of this
act, who shall continue in office for one year and until oth-
ers are chosen, and at such other times as they may be sum-
moned by the managers, in such manner and form as shall
be prescribed by the by laws. At which annual or special Power at
meetings they shall have full power and authority to make, such meet-
alter or repeal by a majority of votes in manner aforesaid, ing.
and to do and perform any other corporate act: *Provided* Proviso, as to
always, That no person shall have more than twenty votes voting.
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 for each
share by him or her held under that number.

SECT. 5. *And be it further enacted by the authority afore-*
said, 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 Quorum.
a quorum, who in the absence of the president may choose a
chairman, and shall keep minutes of their transactions fairly
entered in a book, and a quorum being formed, they shall Their duty
have full power and authority to appoint all such surveyors, and powers.
engineers, superintendants and other artists and officers as
they shall deem necessary to carry on the intended
work, and to fix their salaries and wages, to ascertain the
times, manner and proportions in which the said stockhol-
ders shall pay the monies due on their respective shares, to
draw orders on the treasurer: *Provided,* That such drafts Proviso.
or orders be signed by the president, or in his absence by a
majority of a quorum present, and generally to do all such
other acts, matters and things, as by this act and by their by-
laws and regulations of the company they are authorised to
do.

Certificates of stock to be issued. **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, and shall deliver one such certificate signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him subscribed and held, he paying five dollars for each share. Which certificate or evidence of stock shall be transferrable at his pleasure, in person or by attorney duly authorised, in the presence of the president or treasurer, each of whom 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 a book of the company to be kept for the transfer of stock, shall be a member of said corporation, and for every certificate assigned to him as aforesaid, shall be 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 subject to all penalties and 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.

How transferable.

Duty of assignee.

Penalty for not paying up instalments. **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 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 an 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.

When the share may be forfeited or suit brought.

Proviso, as to voting.

SECT. 8. *And be it further enacted by the authority aforesaid,*

said, 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 creek to open, enlarge or deepen the same in any part or place thereof which shall appear to them most convenient for opening, changing, making anew or improving the channel, and also to cut, break and remove, and take away all trees, rocks, stones, earth, gravel and sand, or other materials, or any obstruction or impediment whatsoever within the said creek, or to use all such timber, rocks, stones, gravel, earth or other materials in the construction of their necessary works, 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 from one end thereof to the other, as far as the same may be practicable, so as to admit a safe and easy passage for loaded boats and other vessels up as well as down said creek, or by means of such collateral sluices and locks as they may devise for the purpose.

ter on the creek and remove obstructions, &c.
And erect dams, &c.

SECT. 9. *And be it further enacted by the authority aforesaid*, That the said president, managers and company shall

have power and authority by themselves or their superintendants, engineers, artists and workmen, to enter in and upon, and occupy for the purpose any land which shall be necessary and suitable for erecting of a lock, sluice or canal, and then to dig, construct, make and erect such lock, sluice or canal, satisfying the owner or owners thereof, but if the parties cannot agree upon the compensation to be made to such owner or owners, it shall and may be lawful for the parties to appoint six suitable and judicious persons within the proper county where the land lies, or if they cannot agree on such persons, then either of the parties may apply to the court of common pleas of the proper county where the land lies, and said court shall award a venire directed to the sheriff to summon a jury of disinterested men in order to ascertain and report to said court what damages, if any have been sustained by the owner or owners of said ground, by reason of such lock, canal or sluice passing through his, her or their land, which report being confirmed by the court, judgment shall be entered thereon and execution may issue in case of non-payment for the sum awarded, with reasonable costs, to be assessed by the court; and it shall be the duty of the jury or the six appraisers as the case may be in valuing any land, to take into consideration the advantage derived to the owner or owners of the premises from the said navigation passing through the same: *Provided*, That either party may appeal to the court within thirty days after such report may have been filed in the prothonotary's office of the proper county, in the same manner as appeals are allowed in other cases.

Power to enter on and occupy land.
Mode of ascertaining compensation for damage done.

Proviso respecting an appeal.

SECT. 10. *And be it further enacted by the authority aforesaid*, That the president and managers, by and with their su-

Power to enter on lands contiguous, and take stone, gravel, &c.

Making amends for damages.

How valued.

perintendants, engineers, artists, workmen and laborers, with their tools, instruments, carts, waggons, and other carriages, and beasts of draft or burthen, may enter upon the lands contiguous and near to the said creek, giving notice to the owner or occupiers thereof, and from thence to take and carry away any stone, gravel, sand or earth, doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making amends for any damages that may be done to the improvements thereon, and paying for the materials taken away, the amount whereof if the parties do not agree, shall be assessed and valued by any three freeholders residing in the neighborhood under oath or affirmation, to be appointed by consent of the parties, or if they cannot agree, by any disinterested justice of the peace of the proper county.

When viewers may be appointed by the governor

When license shall issue.

Toll.

Proviso regulating the tolls and dividends.

SECT. 11. *And be it further enacted by the authority aforesaid,* That as soon as the said president, managers and company shall have perfected five miles at any one place of the said canal or slack water navigation, and so from time to time as they shall perfect five additional miles of the same, they shall give notice thereof to the Governor, who shall thereupon nominate and appoint three disinterested persons to view and examine that part said to be completed, and report to him in writing whether the said navigation is so far executed in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if at any time their report shall be in the affirmative, then the Governor shall by license under his hand and the less seal of this commonwealth, permit the said president, managers and company, or such person or persons as they shall from time to time appoint as toll collectors or their deputies, to demand and receive of, and from the persons having the charge of any boat or other vessel passing through any lock erected on said canal or slack water navigation, ten cents at each lock upon each and every ton of the ascertained burthen of such vessel: *Provided,* That if at the expiration of two years after the said work shall be completed, the tolls together with the interest of the money arising from the sale 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 nine per centum per annum on the capital stock expended, then and in such case the tolls shall be so reduced that the dividends shall not exceed nine per cent and shall so continue for five years, and if at the expiration of that time shall exceed fifteen per cent they shall be so reduced as not to exceed fifteen per cent, and shall at that period be so regulated from time to time as not to exceed fifteen per cent per annum; and if at any time after the expiration of two years from the completion of the said work, the nett profits aforesaid shall not amount to nine per cent upon the money expended, it shall be lawful to raise the said tolls so as to divide nine per cent.

SECT. 12. *And be it further enacted by the authority aforesaid,* That in order to ascertain the size of rafts, and the tonnage of boats using and passing the said canal and lock navigation, and to prevent disputes between the supercargoes and collectors of tolls concerning the same, upon the request of the owner or supercargo of such boat or raft, or of the collector of the said tolls at any lock upon the said canal and navigation, it shall and may be lawful for each of them to choose one skilful person to measure and ascertain the size of said rafts, and the tonnage the said boat is capable of carrying, and to mark the said tonnage so ascertained in figures upon the head and stern of the said boat in colours mixed with oil; and that the said boat or vessel so measured and marked shall be permitted to pass through the said canal and locks for the price per ton to which the number of tons so marked on her shall amount to, agreeably to the rates fixed in the manner aforesaid; and if the owner or supercargo of any raft or boat shall decline choosing a person resident within two miles of the place where the said 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 raft shall be permitted to pass the place where such toll is made payable by the said president and managers.

Mode of ascertaining and marking the size of rafts and tonnage of boats

Proceeding in case the owner, &c. declines choosing.

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 or other vessel navigating the said creek, when they shall arrive within one fourth of a mile from any lock so erected, under a penalty of two dollars to blow a trumpet or horn, whereupon the keeper of such lock shall attend for the purpose of opening the gate or sluice, to let the said boat or other vessel pass without unnecessary delay and in safety; and if any boat or other vessel shall be prevented from passing up or down any of 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 before any justice of the peace of the proper county, forfeit and pay to the person so hindered, the sum of two dollars for every twenty minutes beyond the said time that he shall be so prevented, and in the same proportion for any longer or shorter time.

Duty of master, &c. to blow a trumpet.

Duty of keeper of the lock.

Penalty for not raising the lock.

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 or repair any dam, lock or sluice of their own construction, or shall neglect to remove any obstacle which may occur, so that boats, rafts or other vessels may at all times safely navigate the said creek, the president, managers and company shall for each and every such offence pay the sum of twenty dollars, to be recovered

Penalty for not keeping in repair the dam, &c. and not removing obstacles.

How recovered and payable.

in the same manner as debts of equal amount are by law made recoverable before a justice of the peace of the proper county where the offence shall be committed, 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 may occur.

Penalty for impeding navigation or injuring any lock, &c.

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, canal, 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 fourfold the damages by them sustained together with costs, to be recovered by action of debt before a justice of the peace, or in any court of competent jurisdiction.

Accounts to be kept of monies received.

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 the 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 meeting, to choose the 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 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 for the original subscription, or as shall be provided by their by-laws.

And annually exhibited to the stockholders.

When the number of shares may be increased.

Accounts to be kept of other monies received.

SECT. 17. *And be it further enacted by the authority aforesaid,* That the said president, managers and company shall also keep a just and true account of all the monies received by their severai and respective collectors of tolls in the several and respective locks, and all the monies received for the use, 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, all contingent costs and charges being first deducted, and shall on the first Monday in January and the first Monday in July 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, and shall once in every period of three years from the passing of this act, lay an abstract of the accounts of their receipts and disbursements before the legislature, under oath or affirmation of the president of the company.

SECT. 18. *And be it further enacted by the authority aforesaid,* That if the president, managers and company, shall not proceed to carry on the work within four years from the passage of this act, and shall not complete the same in fifteen years, according to the true intent and meaning of this act, then and in either of those cases, all and singular the rights, liberties, privileges and franchises hereby granted to said company shall revert to the commonwealth: *Provided always,* ^{Time for proceeding in and completing the work.} That in case of forfeiture or resumption by the legislature, of the rights, liberties, privileges and franchises hereby granted, nothing herein contained shall be construed to work a forfeiture of the rights of individuals to water power, under the grants made by the president, managers and company, but the same shall be held by individuals in as full and ample a manner as they might do if no such forfeiture or resumption had taken place, and in lieu of such resumption the principal sum paid or secured to be paid, when the conveyance has been in fee simple, and the accruing rents and profits when the said water power has been let for one or more years shall be forfeited to the commonwealth. Or shall at any time here- ^{Power of resumption of chartered privileges reserved.} after misuse or abuse any of the chartered privileges hereby granted, the legislature may at any time thereafter resume all and singular the rights, privileges and franchises hereby granted to said company.

SECT. 19. *And be it further enacted by the authority aforesaid,* That the Governor be, and he hereby is directed to transmit an attested copy of this act to the Governor of the state of Maryland, so that he may lay the same before the legislature of that state, and so soon as they shall concur in and ratify the same, with all and singular the provisions therein contained, then this act shall be in full force and operation and not otherwise. ^{Governor to transmit a copy to the Governor of Maryland.}

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

ISAAC WEAVER,
Speaker of the Senate.

APPROVED—the twenty-ninth day of March, one thousand eight hundred and nineteen.

WILLIAM FINDLAY.