

## No. 164.

**An Act**

To authorize the Governor to incorporate the Susquehanna 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 Robert McCurdy, Joseph M. Sanderson, Edward Coleman, Simon Gratz, Charles S. Boker, Henry White, George H. Hickling, of Philadelphia; Jeremiah Brown, James A. Caldwell, of Lancaster county; Evan Green of Columbia, Lancaster county; Charles A. Barnitz, York, in York county; Jacob M. Haldeman, Harrisburg; Simon Cameron of Middletown; James Hepburn, John C. Boyd of Northumberland county; Joseph Todhunter, William Bose, Samuel Jones, of Baltimore; James Evans, Port Deposit; Roland Curtin, Centre county; William McKelvey of Columbia county; George M. Hollenback of Luzerne county, or a majority of them, be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they shall on or before the first Monday of August next, 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 Susquehanna Canal Company, fifty dollars for each 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 said company, in pursuance of an act to authorize the Governor to incorporate a company to make a canal navigation from the termination of the Pennsylvania canal, at Columbia, in Lancaster county, to the Maryland line. Witness our hands this                    day of                    A. D. eighteen hundred and                    ;"

Commissioners.

Form of subscription.

Public notice to be given where books are to be opened.

No. of shares 3000.

upon give notice in at least one newspaper printed in each of the cities of Philadelphia, Lancaster, Harrisburg and Baltimore, for two weeks, 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 two 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 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 five thousand shares; and if at the expiration of said three days, there shall not be

subscribed upon the books aforesaid, the number of shares aforesaid, the said commissioners may adjourn from time to time, and transfer the said books elsewhere, until the whole number of five 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 five thousand shares shall be subscribed, the said books shall be closed: *Provided always*, That every person offering to subscribe in said books, in his own or any other persons name, shall previously pay to the attending commissioners the sum of five dollars on each 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 corporation, as soon as the same shall be organized, and the officers chosen as hereinafter mentioned: *And provided further*, That the whole number of shares subscribed before the organization of the company, shall not exceed thirty thousand, and if an excess above the said number be subscribed, the commissioners shall reduce such excess proportionally among the subscribers.

SECTION 2. When the said five thousand shares shall have been subscribed by ten or more persons, 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 the greater seal of the Commonwealth, create and constitute the subscribers into a body politic and corporate by the name, style and title of the Susquehanna canal company, and by the same name, the said 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 by new subscriptions, in such manner and form as they may think proper, if such enlargement shall be found necessary to fulfil the intention and purposes of this act, and of purchasing, taking and holding to them, their successors and assigns, in fee or for any less estate, such lands, tenements, hereditaments and estate, real and personal as shall 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.

SECTION 3. The commissioners hereinbefore named or a majority of them, shall as soon as conveniently may be the said letters patent have been obtained, give at least ten days notice in the newspapers hereinbefore mentioned 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, one president, twelve managers and a treasurer, and such other officers as shall be deemed necessary to conduct the

Proviso.

2d Proviso.

When 5000 shares are subscribed, commissioners shall certify to Governor.

Style &amp; title.

Privileges &amp; liabilities.

Election of officers.

business of the said company until the second Monday of May next ensuing, and until like officers shall be chosen; and the said president and managers may make then or at any subsequent meeting, such by-laws, rules, orders and regulations as do not contravene the constitutions and laws of the United States or of this State, and may be convenient or necessary for the well governing of the affairs of the said company.

Ann. meeting  
for election  
of officers, &c

**SECTION 4.** The stockholders shall meet annually on the second Monday of May 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, and every person holding ten or any less number of shares of said stock, shall be entitled to one vote for every share so held at any election for officers of said company or other meeting of stockholders, and one vote for every additional ten shares: *Provided*, That no number of shares shall entitle the holder thereof to more than twenty-five votes: *And provided*, That the omission of the stockholders to meet and elect as aforesaid, shall work no forfeiture, but they may be afterwards called together for that purpose by the managers.

Ratio of votes  
to shares.

Proviso.

2d Proviso.

Duties of  
managers.

Proviso.

**SECTION 5.** The said president and managers shall meet at such times as shall be found by them most convenient, and when met seven shall form a quorum, who in the absence of the president shall choose a chairman and keep minutes of all their proceedings fairly entered in a book, and a quorum being formed shall have full power to appoint surveyors, engineers, superintendents and all other artists and officers necessary to carry on their intended works, to fix their salaries and wages, to ascertain and direct the times, manner and proportions in which the stockholders shall pay the moneys due on their respective shares and to draw orders on the treasurer: *Provided*, Such orders be signed by the president or in his absence by the president pro tem. or a majority of the quorum present, 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 company they are authorized to do.

Certificates  
of stock.

**SECTION 6.** 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 a corporate seal of the said company, to each person for every share of stock by him subscribed or held, he paying five dollars for each share, 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 **Transferable:** 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 transfers of stock, shall be a 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, **Emoluments and penalties.** 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.

**SECTION 7.** 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: **Penalty for non-payment of instalment.** *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. **Proviso.**

**SECTION 8.** The said president, managers and company shall have power and authority, by themselves or their superintendents, engineers, artists and workmen, to enter in and upon and occupy for the purpose, all the land which shall be necessary and suitable for constructing said canal, doing as little damage as possible thereto, and dig, construct, make and erect such canal, satisfying **Right to occupy land for construction, &c.**

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, who shall be under oath or affirmation, 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, 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 the said court what damages, if any, have been sustained by the owner or owners of said ground by reason of such canal 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 said county, in the same manner as appeals are allowed in other cases: *And provided also*, That if any person owning land or any other property which shall be affected by this act, be feme covert, under age, non compos mentis or out of the State, then and in either of the cases, the president, managers and company, shall within one year represent the same to a neighboring justice of the peace, or to the court of Common Pleas of the said county, as the case may be, who shall proceed thereon in the same manner and to the same effect as is directed by this act in similar cases.

**SECTION 9.** 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 of the said canal, giving or publishing notice to the owners thereof, and from thence take and carry away any stone, gravel, sand, earth or other material necessary to the construction of said canal, doing as little damage as possible, and repairing any breaches they make in the enclosures thereof, and making amends for any damages that may be done thereon, and paying for the materials taken away; the value thereof, if the parties do not agree, to 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 the said county, upon petition, from whose decision an appeal may be entered as in the eighth section of this act.

**SECTION 10.** 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

How compensation shall be made.

Proviso.

2d Proviso.

Right of entry on lands contiguous for materials, &c

Make amends for damages.

On completion notice to be given to the Governor, who shall appoint three persons to view, &c.

examine the same, and report to him in writing, under oath or affirmation, whether the said navigation is executed in a masterly, 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 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 toll of and from the persons having the charge of any boat, ark or other vessel passing through said canal; (the tolls and charges on this canal shall not at any time be less than those which shall from time to time be charged on the Philadelphia and Columbia rail road, with the exception of those on coal, iron and lumber; and the said Susquehanna canal company shall guarantee to this Commonwealth, that the tolls and charges on the Conowingo canal shall be at all times uniform with those charged on said Susquehanna canal;) *Provided*, That if at the expiration of two years after the said work shall be completed, the tolls should enable the company after paying all repairs and other necessary expenses, to divide more than ten 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 ten per cent. and shall so continue for five years; and if at the expiration of that time, they shall exceed ten per cent. they shall be so reduced as not to exceed ten per cent., and shall after that period be so regulated from time to time as not to exceed ten 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 six per cent. upon the money expended, it shall be lawful to raise the said tolls so as to divide six per cent.: *Provided*, That the Legislature reserve the right to regulate the tolls on said canal at any time hereafter, in such manner as they shall think proper.

Upon report in the affirmative, the Gov<sup>r</sup> shall license to receive tolls.

Toll shall not be less than Philadelphia and Colum. and Columb. rail road.

*Proviso.*

2d *Proviso.*

**SECTION 11.** The toll collectors appointed as aforesaid, shall and 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, shipper, supercargo or captain, before any competent tribunal, according to law, in the name of the said company.

Of tolls.

**SECTION 12.** The president and managers of the said company shall 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

Accounts annually to be submitted to stockholders

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.

Increase of capital stock.

Semi annual declaration of dividends.

SECTION 13. The said president, managers and company shall also keep a just and true account of all the moneys received by their several and respective collectors of 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 second Monday in November, and the second 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 on the first Monday in February of every year after the date of this incorporation, there shall be furnished to the Legislature an abstract of the accounts of the company, showing the whole amount of their capital actually paid in, the amount of transportation in each year, and the amount of dividends declared in each year or the losses sustained, as the case may be; which abstract shall be verified by oath or affirmation of the president of the company for the time being.

Abstract of accounts to be furnished annually to Legislature.

Company to commence work within 3 and finish in 7 years.

SECTION 14. If the president, managers and company shall not proceed to carry on the said work within three years from the passing of this act, and shall not complete the navigation as aforesaid, in seven years according to the true intent and meaning of this act, 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, the Legislature reserves to itself the right to amend, alter or annul the charter hereby granted, if it shall at any time appear that the privileges granted by this act operate to the injury of the Commonwealth, an abuse of the chartered privileges hereby granted.

Legislative right.

Securities for faithful discharge of duties.

SECTION 15. The said company may demand and take such securities from their officers and agents, and in such sums as may be fixed by the by-laws or by resolution of the board, for the faithful discharge of their respective duties.

No banking, commercial or manufacturer's concern allowed.

SECTION 16. The said canal company shall not engage directly or indirectly in any banking, monied, commercial or manufacturing concern, or in the transportation or storage of

any merchandize, lumber, coal, grain, flour or other articles, nor they shall hold, erect or own any other lands, buildings, wharves or docks, than such as are necessary and convenient for their business as a canal company.

SECTION 17. The said canal shall be so constructed as not to obstruct or impede the use and 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 the said company, to make or cause to be made a good and sufficient causeway or bridge to enable persons passing or travelling 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.

Canal not to obstruct public roads.

Causeway or bridge to be made.

Penalty for neglect.

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 land 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 in repair 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 persons 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 compa-

Private bridges to be made.

Proviso.

ny shall be good and valid in law as if served upon the president thereof: *Provided*, That the owner or owners 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.

**Suits must be commenced within six months.** SECTION 19.. No suit or action shall be brought or prosecuted by any 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.

**Commonwealth's right to purchase.** SECTION 20. At any time hereafter it shall be lawful for the Commonwealth to purchase the said canal from the said company, by paying to the said company the original cost expended in the construction thereof, and the subsequent expenses together with six per cent. interest thereon, deducting from the sum of principal and interest aforesaid, the dividends before declared by the said company on the capital stock; and on the payment thereof by the Commonwealth to the said company, in such manner and form as shall be agreed upon by the said company and by agents duly authorized by the Commonwealth, all and singular the canal aforesaid, with its appurtenances shall be vested in the Commonwealth, and the corporate rights hereby granted shall thereupon cease and determine, excepting so far as the same may be necessary in the settlement of the concerns of said company.

**Penalty for wilful injury to works.** SECTION 21. 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 the 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; and shall also be subject to indictment in the court of Quarter Sessions of the proper county, and upon conviction of such offence, shall be punished by fine and imprisonment, at the discretion of the court.

**Connexion of canal with Penn. canal.** SECTION 22. The Susquehanna canal company shall connect their canal with the Pennsylvania canal, at or near the town of Columbia, in Lancaster county, or at any other point which they may consider more advantageous and beneficial, or more eligible for the purpose of feeding said canal from the Susquehanna river; and in the location of said Susquehanna canal, it shall be done in such manner, as to form an extension to the Pennsylvania canal, and the said Susquehanna canal shall be located and constructed on the eastern side of the Susquehanna

river: *Provided*, That all expenses created by said connexion, <sup>Proviso.</sup> shall be paid by said company: *And provided further*, That <sup>2d Proviso.</sup> the said company in the prosecution of their work, shall not unnecessarily impede the navigation of the Susquehanna; and if any part of the navigation channel of said river shall at any time be necessarily interrupted in the progress of the said works, the same shall be cleared, or another channel shall be formed on the completion thereof, and made as safe for all purposes of navigation, as before the commencement of said works: *Provi-* <sup>3d Proviso.</sup> *ded also*, That in forming a connexion with the Pennsylvania canal, it shall be done at such time, so as not to interfere with the business of the Pennsylvania canal, and in such manner as shall be approved of by the board of canal commissioners.

SECTION 23. *And whereas*, the object of this act is to connect the Pennsylvania canal with the tide water of the Chesapeake bay, by a uniform canal navigation, and to effect this, it will be necessary to extend the canal hereby authorized, through a part of the State of Maryland. It is therefore enacted that the said company hereby incorporated, be and they are hereby authorized and empowered to procure the right from the proper authorities of the State of Maryland, to extend the said canal from the Pennsylvania line to some point at tide water, on the Chesapeake bay, which may be determined upon by the said company, or to connect with any other canal, so as to form a continuous line of canal from Columbia to the Bay mentioned: *Provided*, <sup>Proviso.</sup> That the said Susquehanna canal company shall guarantee to this Commonwealth before the commencement of the Susquehanna canal, that the said extensions shall be located or constructed on the eastern side of the Susquehanna river: *Provided*, <sup>2d Proviso.</sup> That the charter or grant which shall be obtained from the said State, for the purpose aforesaid, shall stipulate that no higher or other tolls or charges shall be made or exacted on so much of the said canal, as shall be located within the said State, than are permitted to be charged by the provisions of this act, on that portion of the said canal which shall be located in the State of Pennsylvania; and in default of such stipulation within three years from the passage of this act, the Legislature of this Commonwealth reserves the right to make such alterations and additions to the charter hereby authorized, as may be deemed just and expedient.

JAMES THOMPSON,  
Speaker of the House of Representatives.

THOMAS S. CUNNINGHAM,  
Speaker of the Senate.

APPROVED—The fifteenth day of April, Anno Domini, eighteen hundred and thirty-five.

GEO: WOLF.