

No. 129.

**An Act**

Authorizing the Governor to incorporate the Muncy Canal company, and to authorize the United States Bank to establish a branch at the town of Erie.

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 William A. Petriken, Isaac

Commission-  
ers.

Bruner, John Montgomery, Robert Risk, William C. Ellis, Thomas Taggart, Francis Cole, and Jacob Marker, and Doctor Thomas Wood, 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

To procure  
books.

the first day of September next, procure a sufficient number of books, one or more of which shall be opened at some convenient place in the county of Lycoming, and insert in

Form of sub-  
scription.

each of them as follows: "We, whose names are hereunto

Shares twen-  
ty-five dollars  
each.

subscribed, do promise to pay to the president and managers of the Muncy Canal 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 said company, in pursuance of act of the General Assembly of this commonwealth, entitled 'An act authorizing the Governor to incorporate the Muncy canal company;' Witness our hands this            day of            , in the year of our Lord

Notice.

one thousand eight hundred and            ;" and shall thereupon give notice, in one or more newspapers printed in Lycoming county, for one calendar month at least, of the times and places when and where the said books shall be kept open to receive subscription for the stock of the said company. at which respective times and places, one or more

Who may  
subscribe

of the commissioners shall attend, and permit all persons of lawful age who shall offer to subscribe in said books, in their own names or in 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 respectively for the purpose aforesaid, at least six hours in every juridical day, for the space of ten days, or until there shall

Whole num-  
ber of shares  
one hundred

have been subscribed the number of one hundred shares; and if at the expiration of ten days, the books aforesaid shall not have the 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 one hundred shares shall be subscribed, of which adjournment and transfer, the commissioners aforesaid shall give 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,* Proviso.

That every person offering to subscribe in the said books, in his own or any other name, shall previously pay to the attending commissioner the sum of two dollars 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 organized and the officers chosen, as hereinafter mentioned. Two dollars to be paid on each share.

SECTION 2. When fifty shares or more of the said stock shall be subscribed, the commissioners, or a majority of them, may 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 as aforesaid, into a body politic and corporate, in deed and in law, by the name, style and title of "The president and managers of the Muncy Canal 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 their 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 an enlargement shall be found necessary to fulfil the intentions of this act, and of purchasing, taking and holding, to them and their successors or assigns, in fee simple or for any lesser 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 or thing which a corporation or body politic may lawfully do. When letters patent shall issue. Name, style and title. Powers and privileges.

SECTION 3. The six 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 newspapers hereinbefore mentioned, of the 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 said subscribers, by ballot, to be given in person, or by proxy duly authorized, one president and six 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; that the president and managers aforesaid, shall conduct the business of the said company until the third Monday of January then 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, and that may be necessary for the well governing the affairs of the company.

Annual election

Meeting of stockholders

SECTION 4. The stockholders shall meet on the last Monday of December in every year, at such place as may be fixed upon by the by-laws, of which notice shall be given at least twenty days, by the secretary, in the newspapers before mentioned, and choose by a majority of votes present, their officers for the ensuing year, 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, by a majority of votes, in manner aforesaid, and to do and perform any other corporate act; and each person shall be entitled to one vote for each share not exceeding twenty, by him or her held; for every five additional shares one vote.

Ratio of votes

Meetings of the board.

Quorum.  
Minutes.

Powers of the board.

Proviso.

SECTION 5. 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 three shall be 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; a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents, 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 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 managers 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 authorized to do.

Certificates.

Seal.

SECTION 6. 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, which certificate or evidence of stock

shall be transferrable at his pleasure, in person or by attorney, (duly authorized, 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 the book of the company, to be kept for the transfer of stock, shall be a member of the 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, 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.

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 or refuse 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 sum before paid in part and on account of such share, 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 stockholders 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.

SECTION 8. It shall and may be lawful for the president, managers and company, their superintendents, surveyors and engineers, artists and workmen, to enter upon the lands between the borough of Muncy and the Pennsylvania canal, for the purpose of constructing a canal between the above points, which shall appear to them most convenient for making a canal, and also to cut, break, remove and take away all trees, rocks, stones, earth, gravel, sand or other materials, or any obstructions or impediments whatsoever.

on the route they may adopt between those points, or to use all such timber, rocks, stones, gravel, earth, or other material, in the construction of their necessary works, and to form, make, erect and set up any dams, locks, or any other device whatever, which they shall think most fit and convenient to make a complete canal from the borough of Muncy to the Pennsylvania 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 five 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 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, or 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 costs, to be assessed by the court; and it shall be the duty of the jury, or five appraisers, as the case may be, in valuing any land, to take into consideration the advantages derived to the owner or owners of the premises from the said canal 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.

Mode of as-  
certaining  
damages, &c.

Proviso.

The presi-  
dent mana-  
gers and their  
engineers,  
&c. may en-  
ter upon  
lands.

Damages to  
be assessed.

When license  
shall issue.

SECTION 9. The president and managers, by and with their superintendents, engineers, artists, workmen and labourers, with their tools, instruments, carts, wagons and other carriages, and beasts of draft and burthen, may enter upon the lands contiguous and near to the said canal, giving notice to the owner or occupiers thereof, and from thence to take and carry away any stone and gravel, or earth, doing as little damages thereto as possible, and repairing any breaches they may make in the enclosures 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.

SECTION 10. As soon as the president, managers and company shall have perfected the said canal, they shall give notice thereof to the Governor, who shall thereupon nominate and appoint three disinterested persons to view and

examine the canal so completed, and to make report to him, in writing, whether the said canal is executed in a masterly, 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 lesser seal of this commonwealth, permit the said president, managers and company, or such person or persons as they shall from time to time appoint toll collectors, or their deputies, to demand and receive of and from the persons having the charge of any boat, ark, or other vessel passing through said canal, what in the opinion of said company may appear just and equitable.

SECTION 11. In order to ascertain the size of arks, and the tonnage of boats using and passing the said canal, and to prevent disputes between the supercargoes and collectors of toll concerning the same, upon the request of the owner or supercargo of such boat, or craft, or the collectors of said tolls, upon the said canal, and it shall and may be lawful for each of them to choose one skilful person to measure and ascertain the size of said craft and arks, and the loading the said boat is capable of carrying or actually contains, and the said boat or vessel so measured, and her loading ascertained, shall be permitted to pass through the said canal for the price per ton to which the number of tons so ascertained shall amount to, agreeably to the rates fixed, in the manner aforesaid; and if the owner or supercargo of any craft, ark, or boat, shall decline choosing a person resident within the township 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 collectors of tolls for the said company, and the toll shall be paid according to such measurement, before any such boat or craft shall be permitted to pass the place where such toll is made payable by the said president and managers.

SECTION 12. It shall be the duty of the master or commander of any boat, ark, or other vessel, intending to pass through said canal, when they shall arrive within one-fourth of a mile from the collector's office, so erected, under the penalty of two dollars, to blow a trumpet or horn, whereupon the collector of such tolls shall attend for the purpose of receiving said tolls, to let the said boat, ark, or other vessel pass without unnecessary delay.

SECTION 13. If the president, managers and company neglect or refuse to keep in good order or repair the canal of their own construction, or shall neglect to remove any obstacle which may occur, so that boats, arks, crafts, or other vessels may at all times safely navigate said canal, the president, managers and company shall, for each and every

Tolls.

Size and tonnage of boats and arks—how to be ascertained.

Trumpet or horn to be sounded.

Penalty for neglect.

such offence, pay the sum of ten dollars, to be recovered before a justice of the peace of the proper county where the offence shall be committed, one half to the use of the poor, and the other half to the use of the poor of the township where the neglect may occur; the said canal shall be so constructed as not to impede or obstruct the free use or passage of any public road which may cross or enter the same, in all cases where the said canal may cross, or in any manner interfere with any existing public road or navigation, the said company shall make or cause to be made, as soon

Causeways or  
crossing pla-  
ces.

as conveniently may be, a good and sufficient causeway or causeways, to enable all persons passing or traveling such public roads or canals, to cross or pass over said canals, and if the company shall neglect or refuse to keep such causeways in good repair, they shall be liable to a penalty of five dollars for every day the same shall be so neglected or refused to be repaid, after being duly notified thereof, to be recovered by the supervisors of the township or borough, as debts of the same amount are by law recoverable, and shall moreover, be liable to all actions, at the suit of any person who may be aggrieved thereby.

Penalty for  
neglect.

Just accounts  
to be submit-  
ted annually  
to the stock-  
holders.

SECTION 14. 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 the penalties for delay in the payment thereof, and the amount of the profits on the shares which may be forfeited as aforesaid, and also 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, 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 canal, according to the true intent and meaning of this act, it shall and may be lawful for the said president and managers, and company,

Capital stock  
may be in-  
creased.

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 herein before provided for the original subscription, or as shall be provided

Annual state-  
ment to Aud-  
itor General.

by their by-laws; that the president and managers of the aforesaid company shall annually, on the first Monday in December, transmit to the Auditor General a full statement of their affairs, under oath, and shall pay annually into the treasury of this commonwealth, a tax of eight per cent. on all dividends which may exceed six per cent. on the capital

Tax.

stock actually paid in.

SECTION 15. 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 all emoluments, and shall make and declare a dividend *Dividends.* 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 profits, 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 on or before the first Monday in January, 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

SECTION 16. If the president, managers and company shall not proceed to carry on the work, within five years from the passage of this act, and shall not complete the same within ten years, according to the true intent and meaning of this act, then and in either case, all and singular, the rights, privileges and franchises hereby granted to said company, shall revert to the commonwealth: *And provided also,* That if the said company shall at any time hereafter 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 the said company. *Time of commencement and completion.* *Providso.*

SECTION 17. The connection of said canal with the Pennsylvania canal shall be constructed at such place and in such manner as the Canal Commissioners, for the time being, shall prescribe and direct. *Connection with Penn'a. canal.*

SECTION 18. The United States Bank, incorporated by an act passed the eighteenth day of February, one thousand eight hundred and thirty-six, may, in addition to the two offices specified in the fourteenth section of said act, establish an office of discount and deposite in the town of Erie in this state. *Office U. S. Bank at Erie.*

SECTION 19. That the office of discount and deposite hereby permitted to be established at the town of Erie shall not be continued there longer than the first day of January, one thousand eight hundred and fifty. *Erie Office of U. S. Bank to be continued until 1850.*

NER MIDDLESWARTH,

Speaker of the House of Representatives.

THOMAS S. CUNNINGHAM,

Speaker of the Senate.

APPROVED—The first day of April, Anno Domini, eighteenth hundred and thirty-six.

JOS: RITNER,