

No. 102.

An Act

To incorporate the Columbia and Maryland Line Railroad 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 Christian Haldeman, Joseph Cottrel, John Forry, James Given, Reuben Mullisen, Evan Green, John Herr, George G. Brush, Benjamin Mellinger, George G. Gross, John W. Eagle, Henry Shenk, Samuel Hess, Joseph Wentz, William C. Boyd, William McCreary, Simon Pennock, George Morrison, George W. Hammersley, William Barnes, Jeremiah Brown, Jeremiah B. Haines, James McSparren, William Poist, Gardner Furness, Christian Herr, Jacob Mellinger, Abraham S. Herr, George Ford, Jr., Jesse Cutler, Jacob Neff, Jr., of the county of Lancaster, or any six 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 day of June next, procure a book or books, which shall be opened at some convenient place or places in the city or county of Lancaster, and city of Philadelphia, in which they shall enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president and managers of the Columbia and Maryland Line Railroad company, the sum of fifty dollars for each share of the stock set opposite to our respective names, 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 incorporate the Columbia and Maryland Line Railroad company;' Witness our hands, this day of _____, in the year of our Lord one thousand eight hundred and thirty-seven," and shall thereupon give notice, in one or more newspapers printed in the county of Lancaster, and in the city of Philadelphia, three weeks 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 said commissioners shall attend, and permit all persons of lawful age who shall offer to subscribe in said books,

Commiss'rs.

To procure books.

Form of subscription.

Shares 50 dollars each.

Notice.

Who may subscribe.

in their own names, or in the names of any other person who shall authorize the same, for shares in said stock, and the said books shall be kept open respectively, for the space of six hours in every juridical day, for the space of six days, or until there shall have been subscribed twelve thousand 12000 shares. shares; and if at the expiration of six days, the books aforesaid shall not have the number of shares aforesaid therein subscribed, the said commissioners may adjourn from time to time, and transfer the books elsewhere, at pleasure, until the whole number of twelve 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, the books shall be closed, but no subscription shall be valid, unless the person so subscribing, shall pay to the said commissioners, at the time of making the same, the sum of five dollars on each share, for the use of the company. \$5 to be paid on each share

SECTION 2. When five thousand shares, or more, of the said stock shall be subscribed, and the sum of five dollars paid on each and every share, the commissioners, or any six 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, and the sums paid thereon, 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 shall not be 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 "Columbia and Maryland Line Railroad company;" and by the same name the subscribers shall have perpetual succession, and be able to sue and be sued, implead and be impleaded, in all courts of record and elsewhere, and to purchase, receive, have, hold, and enjoy, to them and their successors, lands, tenements and hereditaments, goods, chattels, and real estate, personal or mixed, of what kind or quality soever, and the same from time to time to sell, mortgage, grant, alien, or dispose of, and to make dividends of such portion of the profits as they may deem proper, and also, to make and have a common seal, and the same to alter or renew at pleasure, and also, to ordain, establish, and put in execution such by-laws, ordinances, and regulations, as shall appear necessary and convenient for the government of the said corporation, not being contrary to the constitution and laws of the United States or of this commonwealth, and generally, to do all and singular, the matters

Letters patent.
Name and style.
Privileges & liabilities.

Proviso. and things which to them it shall lawfully appertain to do, for the well being of the said corporation, and the due management and ordering the affairs of the same: *Provided*, That nothing herein contained shall be considered as in any way giving to the said corporation any banking, manufacturing, or trading privileges whatsoever, or any other liberties, privileges, or franchises, but such as may be necessary or incident to the making of the said railroad, and such cars, locomotives, fixtures, and devices, proper and convenient for facilitating traveling or transportation on the said railroad.

Organization SECTION 3. The said named commissioners, or any six of them, shall, as soon as conveniently may be after the said letters patent shall be obtained, give at least twenty days notice, in 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, which proxy shall have been obtained, and bear date within three months previously to the election at which such proxy shall be presented, duly authorized, one president and nine managers, all of whom shall be residents of this commonwealth, a treasurer and secretary, and such other officers as shall be deemed necessary; that the president and managers aforesaid, shall conduct the business of said company until like officers shall be chosen, and may make such by-laws, rules, orders and regulations, as are not inconsistent with 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. SECTION 4. The stockholders shall meet on the first Monday in November 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, as 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 and repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform every other corporate act, and the number of votes each stockholder shall be entitled to, shall be according to the number of shares he or she shall hold, in the proportions following, that is to say; for each share not exceeding two shares, one vote, for every two shares above two and not exceeding ten shares, one vote, for

Ratio of votes.

every four shares above ten and not exceeding thirty, one vote, for every ten shares above thirty and not exceeding one hundred, one vote, but no share, or number of shares above one hundred, as aforesaid, shall confer any additional right of voting, and no share shall confer a right of voting, unless it be holden by the person in whose name it appears, absolutely and bona fide in his own right, or that of his wife, or for his or her sole use and benefit, or as an executor or administrator, trustee or guardian, or in the right, and for the use and benefit of some co-partnership, corporation or society, of which he or she may be a member, and not in trust for and to the use and benefit of any other person: *Provided*, That no person shall be permitted to vote at the first election of the said company, unless he or she have fully paid five dollars on each share of stock by him or her subscribed, as directed by the second section of this act, and at all subsequent elections of said company, no person shall be permitted to vote, unless he or she shall have fully paid all the instalments called for and then due on the shares by him or her subscribed: *And provided further*, That no shares held by transfer, shall be entitled to vote, unless the same shall have been transferred at least three months before the election.

SECTION 5. The election of officers provided for in the fourth section of this act, shall be conducted in the following manner, that is to say: the managers for the time being, shall appoint two of the stockholders not being managers, to be judges of the said election, and to conduct the same, after having severally taken and subscribed an oath or affirmation, before an alderman, judge, or justice of the peace, well and truly, and according to law, to conduct such election; to the best of their knowledge and abilities, and the said judges shall decide upon the qualifications of the voters, and when the election is closed, shall count the votes, and declare who is elected, and if it shall at any time happen that an election of president, managers, treasurer, secretary, or other officers, shall not be made, the corporation shall not for that cause be deemed to be dissolved, but it shall be lawful to hold and make such election of president, managers, treasurer, secretary, or other officer, on the same day, or any other day thereafter, by giving at least ten days notice, signed by the president or secretary, in the newspapers before mentioned, of the time and place of holding said election, and the president, managers, treasurer, secretary, and other officers of the preceding year, shall in that case continue to act, and be invested with all the powers belonging to their respective situations, until an

Proviso.

2d proviso.

Manner of conducting election.

Neglect to hold election not to dissolve.

Vacancies
how filled.

election shall take place; and in the case of death or resignation, or removal from the state of any president, manager, treasurer, secretary, or other officer, his place shall be filled by the board of managers, until the next annual election.

Meetings,

SECTION 6. 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

Quorum.

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, and a quorum being formed,

Minutes.

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 money due on their respective shares, to draw orders on the treasurer for the same, which shall be signed by the president, or in his absence by a majority of the managers present, and countersigned by the secretary, 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 are authorized to do.

Power to ap-
point offi-
cers, etc.

Certificates
of stock.

SECTION 7. The president and managers first chosen, shall procure certificates 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 the share or shares by him subscribed and held, which certificate or evidence of stock, shall be transferable, 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 a book of the company, to be kept for the transfer of stock, shall be a member of the said corporation, and for every share assigned, shall be entitled to one share of the capital stock, of all the estates and emoluments of the company incident to such share or shares, 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 subscriber would have been.

Seal.

Of transfer.

SECTION 8. 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 one 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 president and managers may at their election, cause suit to be brought before any 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.

Penalty for neglecting to pay instalments.

Forfeiture.

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SECTION 9. The president and managers of said company shall demand and require of and from the treasurer, and all other officers and every officer, and other person by them employed, bonds, in sufficient penalties, and with such securities as they shall by their rules, orders and regulations, require, for the faithful discharge of the several duties and trusts to them, or any of them, committed respectively.

Treasurer & other officers to give bond.

SECTION 10. Dividends of so much of the profits of the institution as shall appear advisable to the president and managers, shall be declared at least twice a year in every year, and paid to the stockholders on demand, at any time after the expiration of ten days therefrom, but they shall in no case exceed the amount of nett profits actually acquired by the company, so that the capital stock shall never be thereby impaired; if the said president and managers shall make any dividend which shall impair the capital stock of said institution, the president or managers consenting thereto, shall be liable in their individual capacities to said company, for the amount of the stock so divided, and each manager present when such dividend is made, shall be judged to be consenting thereto, unless he forthwith enter his protest on the minutes of the board, and give public notice to the stockholders at the declaring of such dividend: *Provided*, No dividend shall exceed fifteen per cent. per

Dividends.

Liabilities.

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annum, nor shall the contingent fund of the company at any time exceed one-fourth of their capital stock.

SECTION 11. When actual operations shall have commenced, and at the end of every year thereafter, there shall be furnished to the legislature an abstract of the accounts of the company, showing the whole amount of their capital actually paid into the funds of the company, the sums expended, the tolls and other profits accruing within the 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 the oath or affirmation of the president of the company for the time being, and said company shall pay annually into the treasury of the commonwealth, a tax of eight per centum on all dividends which may exceed six per centum on the capital stock actually paid in.

SECTION 12. The president and managers of the said railroad company shall have power to survey, lay down, ascertain, mark and fix such route as they shall deem expedient for said railroad, within the county of Lancaster, beginning at a convenient point of intersection of the Columbia and Philadelphia Railroad, at or near the borough of Columbia, in the county of Lancaster, and thence through the county of Lancaster, along the margin of the river Susquehanna, to the Maryland line, having due regard to the situation and nature of the ground, and of the buildings thereon, the public convenience, and the interest of the stockholders, and so as to do the least damage to private property, and the said road shall not be more than three rods wide, and the said president, managers and company, shall, within six months after ascertaining the route of the said railroad, cause an accurate survey of the lines of the said road to be made, a map or plot of which survey, they shall cause to be filed in the Secretary's office of this state, which map or plot, or a certified copy thereof, shall be sufficient evidence of the course of the said road, which may then be opened, and all expenses incurred thereby, shall be defrayed by the said company:

Provided, That the manner of forming the connection of said railroad with the Philadelphia and Columbia railroad, shall be made in accordance with the directions of the Canal Commissioners.

SECTION 13. It shall be lawful for the president, managers and company of the said railroad company, and their agents, and all persons employed by or under them, for the purpose contemplated in this act, to enter upon any land they shall deem necessary for laying out said road, and also, for the purpose of searching for and procuring stone and gravel for constructing said road, but no stone, sand, or gravel, shall

be taken away from any land without the consent of the owner thereof, until the rate of compensation for the same be ascertained, which rate of compensation, if the parties cannot agree thereon, shall be ascertained in the manner hereafter prescribed, as for the compensation for lands over which said road may be laid. Compensation.

SECTION 14. It shall and may be lawful for the company hereby incorporated, to make, erect, or establish a double or single track railroad, on the route laid out as aforesaid, and the said company are also hereby empowered to erect, make and establish, all works, edifices and devices, to such railroad, as may by the said company be deemed expedient, for the purpose of carrying into effect the objects of their incorporation, and also, to contract and agree with the owner or owners, for the purchase of any lands or tenements which may be necessary for the purpose of erecting the said railroad, works, devices, and edifices. Power of the company.

SECTION 15. Whenever it shall be necessary for the president, managers, and company of the said railroad company, to enter in and upon, and occupy, for the purpose of making said railroad, any land upon which the same may be located, if the owner or owners of the said lands shall refuse to permit such entry and occupation, and the parties cannot agree upon the compensation to be made for any injury, or supposed injury, that may be done to said land by such entry and occupation, it shall and may be lawful for the parties, to appoint six suitable and disinterested persons to estimate such damages, who shall, or a majority of whom, under oath or affirmation, fairly and impartially estimate the same, and who shall reside in the proper county where the land lies, and the expenses incurred by the said appraisers, shall be defrayed by the said railroad company, but if the parties cannot agree upon such persons, or if the persons so chosen shall not decide upon the matter, or if the owner of such land shall refuse or neglect to join in such appointment, within twenty days after requisition for that purpose upon him, or if such owner shall be feme covert, under age, non compos mentis, or out of the state, or unknown, then it shall be lawful for the court of Common Pleas of the county in which the land lies, on application of either party, at the costs and charges of the said corporation, to appoint six disinterested men of said county to view, examine, and survey the said lands, tenements or hereditaments, and estimate the injury or damage, if any, that in their apprehension will be sustained as aforesaid, by reason of said railroad, and report the same, under their oaths or affirmations, to the said court, which report being confirmed by the said court, judgment Mode of ascertaining damages.

shall be entered thereon, and the said viewers shall be entitled to the like fees for their services, as are allowed by law to viewers of public roads and highways, to be paid by the said company, and it shall be the duty of the said appraisers, in estimating such injury or damage, to take into consideration the advantages that will be derived to the owner or owners of the said lands, from the said railroad: *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, and upon the coming in of such report, and the confirmation thereof, or upon final judgement or appeal therefrom, the said company shall pay such owner the sums in such report or judgment specified, in full compensation for the injury sustained as aforesaid, and the said company, and those who shall act under them, shall be acquitted and freed from all responsibility for and on account of such damage or injury: *Provided further*, That upon payment, or tender of payment by the said company, of the sum specified in the report of said viewers or appraisers, to the owner of said land, the said president and managers, their agents or contractors for making or repairing the said road, may immediately take and use the same, without awaiting the issue of proceeding, as herein before prescribed.

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Canals and public roads not to be obstructed.

Public causeways.

Penalty for neglect.

SECTION 16. The said railroad shall be so constructed by the said company, as not to obstruct or impede free use or passage of any canal, public road or roads, which may cross or enter at the same, being now laid out, or hereafter to be laid out, and in all places where the said railroad may cross, or in any way interfere with any public road or canal, it shall be the duty of the said company to make, or cause to be made, a good and sufficient bridge, causeway or causeways, to enable all persons passing or traveling such canal or public road, to cross and pass over or under the said railway, which bridge and causeway, or causeways, shall be made and maintained by the said company, and the sufficiency of the same shall be judged by the supervisor or supervisors of the proper township, and if the said company shall refuse or neglect to make such bridge, causeway or causeways, or when made, to keep the same in good repair, they shall be liable to pay a penalty of five dollars for every day the same shall be neglected or refused to be made or repaired, to be recovered by the supervisor of the township, with costs, for the use of the township, as debts of 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 said company, shall be as good and as available in law as if served upon the president thereof.

SECTION 17. For the accommodation of all persons owning or possessing land through which the said railroad may Private or shall pass, and to prevent inconveniences to such persons causeways. in crossing or passing the same, it shall be the duty of the said company, when required, to make, or cause to be made, a good and sufficient causeway or causeways, wherever the same may be necessary, to enable the occupant or occupants of said land to cross, or pass over or under the same, with wagons, carts, and implements of husbandry, as occasion may require: *Provided*, That the said company shall in no case be required to make, or cause to be made, more than one such causeway through each plantation or lot of land, for the accommodation of any one person, owning or possessing land through which the said railroad may or shall pass, and the said causeway or causeways, when so made, shall be maintained and kept in repair by said company; and if said company shall refuse, or neglect to make such causeway or causeways, or when made to keep the same in good repair, the said company shall be liable to pay any person aggrieved thereby, all damages sustained by such person in consequence of such refusal or neglect, to be sued for and recovered by any magistrate, or any court having cognizance thereof, and the service of process upon any officer or agent of said company, shall be as good and available in law as if served upon the president thereof: *Provided*, That this act shall not be so construed as to prevent owners of land through whose property the said railroad passes, from constructing a bridge, causeway, or crossing place, over or under said railroad, in conformity with such as are usually made by said company.

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Penalty for neglect.

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SECTION 18. 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 one year next after the offence shall have been committed, or the cause of action shall have accrued, and the defendant or defendants in such suits or actions, 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.

Suits when to be commenced.

SECTION 19. The company shall not prevent any person or persons being the owner or owners of land bordering on the said railroad, or adjacent thereto, making such lateral railroads, and to connect them with the said railroad, from their said lands, as the said person or persons may conceive necessary, for the purpose of transporting merchandise, stone, timber, produce, or coal, upon the said railroad.

Lateral roads to connect.

Tolls. SECTION 20. On the completion of any part of the said road, or any portion of one track not less than ten miles, the same shall be esteemed a public highway, for the conveyance of passengers, merchandise and commodities, under such regulations as shall be prescribed by the managers, and it shall and may be lawful for the said company to demand and receive such sum or sums of money for tolls, as they shall from time to time think reasonable: *Provided,*

Proviso. That the tolls on the said road shall at no time be less per mile than those charged per mile on the Columbia and Philadelphia Railroad, for the same description of property, or for passengers, excepting the article of limestone, the toll on which may be reduced to any sum which the said company may deem proper, but shall in no case exceed three cents per ton per mile; and it shall be further lawful for the president and managers of said company, to prescribe the kind of carriages, wagons and conveyances which shall be used on the said railroad, for the transportation of persons and commodities, and to adopt such regulations as to the transit of wagons and carriages on the said road, as may seem to them most conducive to the interests of the public, and the persons using the same.

Penalty for injuring the road. SECTION 21. If any person or persons, shall wilfully and knowingly break, injure, or destroy the railroad, or any part thereof, or any work, edifice, car, engine, or other device, or any part thereof, to be erected by the said company, in pursuance of this act, he, she, or they, shall forfeit and pay to the said company, 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 be subject to indictment in any 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.

Time of commencing and completing the work, &c. SECTION 22. If the president and managers of said company shall not proceed to carry on said work within five years from the passage of this act, and shall not complete the same as aforesaid, in ten years, according to the true intent and meaning of this act, or if after the completion of the said railroad, or any part thereof, the said corporation shall suffer the same to go to decay, and be impassable for the term of two years, then this charter shall become null and void, except so far as compels said company to make reparation for damages.

SECTION 23. If any owner or driver of any car, carriage, wagon, or conveyance, upon the said railroad, shall pass by

any place appointed for receiving tolls, without making pay-
 ment thereof, with intent to defraud the said company, he, she, or they, so offending, shall forfeit and pay for every such offence, for the use of said company, the sum of twenty dollars, to be sued for and recovered by action of debt, before any justice of the peace, in like manner, and subject to the same rules and regulations, as debts under one hundred dollars may be sued for and recovered, together with the costs of suit. Penalty for defrauding company.

SECTION 24. If any increase of the capital stock be deemed necessary by the stockholders, to complete the said railroad, cars, engines, and other devices, it may be lawful for the said president, managers and company, at a stated or special meeting, convened for that purpose, to increase the number of shares, so that the capital of said company shall not exceed nine hundred thousand dollars, and to receive and demand the money 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 for by their by-laws. Capital stock may be increased.

SECTION 25. If said company shall at any time misuse or abuse any of the privileges hereby granted, the legislature may resume, all and singular, the rights and privileges hereby granted to said company; the legislature also reserves the right to purchase the rights of said company, and the railroad, with its appurtenances, at any time after twenty years from the passage of this act, by paying to said company a sum of money which, together with the tolls received, shall be equal to the cost and expenses of said railroad, with an interest of eight per centum per annum thereon. Legislature reserve the right to resume & purchase the rights of the company.

SECTION 26. If the said company, in the construction of said road, or in any other manner, by themselves, their agents, or contractors, shall obstruct or impede the navigation of the Susquehanna river, the said company shall pay any damages which may be occasioned to any individual or individuals, by such obstruction, or by so impeding the said navigation, which damages shall be recovered by the party aggrieved, by an action of trespass on the case. Penalty for obstructing the navigation of the Susq'na.

LEWIS DEWART,

Speaker of the House of Representatives.

J. R. BURDEN,

Speaker of the Senate.

APPROVED—The fourth day of April, one thousand eight hundred and thirty-seven.

JOS : RITNER.