

aforesaid, shall be valid if inconsistent with the constitution and laws of this state or of the United States.

SECTION 27. The present officers of the said corporation shall continue in their respective stations until an election shall be had under this act, and the rules and by-laws now in force, shall be good and valid until altered, amended or abrogated by the corporation.

LEWIS DEWART,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—The fourteenth day of April, Anno Domini one thousand eight hundred and thirty-eight.

JOS. RITNER.

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No. 70.

An Act

To incorporate the Sugar Loaf Coal 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 James S. Spencer, Lardner Vanuxem, James B. Porter, John Troubat, Jr., Sansom W. Trotter, William A. Budd, John L. Newbold, Albert G. Waterman, Richard Morris, Richard Peltz, Joseph B. Smith, Benjamin T. Bioren, William J. Crans, Joel B. Sutherland, Alex^r. M. Peltz, and their associates, successors and assigns, be, and they are hereby constituted a body corporate and politic, by the name, style and title of the Sugar Loaf Coal company, for the purpose of mining coal, and for the transacting the usual business of companies engaged in the mining, transporting to market, and selling of coal and the other products of coal mines; and the said corporation, by the said name, is hereby declared and made capable in law to sue and be sued, to plead and be impleaded, to have a common seal, and the same to alter and renew at pleasure; to make rules and by-laws for the regulation and management of the said corporation, consistent with the laws of the United States and of this commonwealth, and generally to do and execute, for the well being of said company, whatever shall lawfully pertain to such bodies politic: *Provided,* That nothing herein contained

- shall be considered as in any way giving to said company any banking privileges, but they shall be exclusively confined to the operations pertaining to the business aforesaid, according to the true intent and meaning of this act: *And provided also*, That each stockholder shall be liable, in his individual capacity, for the debts and performance of all contracts entered into by the said company, to the amount of the balance unpaid on the stock of said stockholder.
- 2d Proviso.** SECTION 2. The said company shall have the right to hold, either by purchase or lease, not exceeding two thousand acres of land at any one time, the whole to be within Sugar Loaf township, in the county of Luzerne, in the commonwealth of Pennsylvania, and the same, or any part thereof to sell or otherwise dispose of as the interest of the company may require: *Provided*, That the said company may hold, as above, such lot or lots of land, not exceeding five acres in any one place, as may be found convenient, as places of deposite in the transportation and sale of the products of their mines.
- Company may hold 2000 acres of land.** SECTION 3. The capital stock of said company shall be and consist of two hundred and fifty thousand dollars, and shall be divided into five thousand shares of fifty dollars each, which capital stock shall only be employed in the holding and purchasing the lands aforesaid, with the improvements, if any thereon, and in constructing such other improvements, buildings, cars, boats, engines and machinery as may be necessary or useful for the mining, transportation and sale of coal, and in the payment of such salaries, wages and other expenditures as shall be requisite for the purposes aforesaid, of the company, and said stock shall be assignable and transferable according to such rules as the board of directors shall establish.
- Proviso.** SECTION 4. When the above named James S. Spencer, Lardner Vanuxem, James B. Borter, John Troubat, jr., Sansom W. Trotter, William A. Budd, John L. Newbold, Albert G. Waterman, Richard Morris, Richard Peltz, Joseph B. Smith, Benjamin T. Bioren, William J. Crans, Joel B. Sutherland, Alexander M. Peltz, and their associates, shall have subscribed the whole number of shares aforesaid, and actually paid and expended not less than fifteen per cent. of the capital, aforesaid, in purchasing lands, and in such other investments as are authorized by this act for the use of said company, the Governor, on due evidence thereof, shall, by letters patent under his hand and the seal of the state, create and erect the said James S. Spencer, Lardner Vanuxem, James B. Porter, John Troubat, jr., Sansom W. Trotter, William A. Budd, John L. Newbold, Albert G. Waterman, Richard Morris, Richard Peltz, Joseph B. Smith, Benjamin T. Bioren, William J. Crans, Joel B. Sutherland, Alexander M. Peltz and their associates, successors and assigns,
- Capital stock.**
- How to be employed.**
- Letters patent.**

into one body corporate, by the name, style and title of the Sugar Loaf Coal company.

SECTION 5. The affairs of the said company shall be managed by seven directors, to be chosen annually from the stockholders ; the first election shall be held in the city of Philadelphia, within thirty days after letters patent, of which election public notice shall be given by four or more of the corporators named in the first section of this act, at least two weeks prior thereto, in two or more newspapers printed in the city of Philadelphia, and the subsequent elections shall be held, annually, at such convenient time and place as the directors shall determine, of which thirty days previous notice shall, in like manner, be given by the president of said company, or by any five of the directors : *Provided*, That in the event of a failure to hold such election the former directors may continue in office for a period not exceeding six months, or until such election shall be held.

SECTION 6. The election for directors shall be held by ballot, and each stockholder shall be entitled to vote according to the number of shares held by said stockholder, in the proportion following, that is to say : for each share and not exceeding four shares, one vote ; for every two shares above four and not exceeding ten, one vote ; for every four shares above ten and not exceeding thirty, one vote ; for every ten shares above thirty and not exceeding one hundred, one vote ; for every twenty shares above one hundred, one vote ; no share shall confer a right of voting which shall not have been transferred at least three calendar months prior to the day of election, nor unless it be bona fide held or owned by the person in whose name it appears, in his own right or in 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 or for the use and benefit of some co-partnership, society or corporation of which he or she may be a member ; and all votes by proxy shall be on such terms and conditions as are prescribed by the act, passed on the twenty-eighth day of March, one thousand eight hundred and twenty, entitled An act to regulate proxies.

SECTION 7. The directors shall, as soon as convenient after their election, choose one of their number as president, to serve for one year ; they shall also have power to appoint, as occasion may require, all other officers and agents of the company, and to supply vacancies in the board arising from death, resignation or otherwise, until the next annual election ; at all meetings of the board four directors shall form a quorum to transact business.

SECTION 8. The directors may, from time to time, call in, on thirty days notice thereof in at least one newspaper printed in the county of Luzerne, and two daily newspapers printed in the city of Philadelphia, such instalments on the stock of said company as they may judge best, not exceeding twenty per cent. thereof at any one time and place appointed, and if any instalment on the stock so called in shall remain unpaid for the space of thirty days after the time so appointed, every such stockholder, or his or her 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 prices as can be obtained for the same, or in default of payment by any stockholder of any such instalment, as aforesaid, the president and directors 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 an 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 instalments 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.

Proviso.

SECTION 9. Dividends of so much of the profits of the company as shall appear to the directors advisable, shall be declared twice a year, and paid to the stockholders or their legal representatives, on demand, at any time after the expiration of ten days after having been declared, but said dividends shall in no case exceed the amount of the nett profits actually acquired by the company, so that the capital stock shall never thereby be impaired; and if any dividend shall be declared which shall impair the capital stock of the said company, the directors consenting thereto shall be liable, in their individual capacities, to said company, for the amount of the stock so divided; and each director present when such dividend shall be declared, shall be adjudged consenting thereto, unless he shall forthwith give public notice to the stockholders of the declaring of such dividend: *Provided*, That whenever the dividends shall exceed six per cent. per annum, the said company shall pay a tax of eight per cent. on all such dividends, into the treasury of the state, for the purposes of education, and the president or secretary

Dividends.

Proviso.

of said company, shall annually, in the month of January, transmit to the legislature, under oath or affirmation, a statement of the receipts and expenditures thereof, and of any dividends which may have been declared during the preceding year.

SECTION 10. It shall not be lawful for the said president, directors and company, nor any of their agents, nor any other person whatever employed by or under them, or any of them, for the purpose contemplated in this act, to enter upon any land which they shall deem necessary, for the construction and completion of a railroad or railroads, or any part thereof, either by the making of any excavation or embankments, or for the mere purpose of searching for stone, earth or gravel, or for the felling of timber, for the construction and completion of the said road or roads, until the rate of compensation for injury sustained, or to be sustained, by reason of the construction thereof, shall have been previously ascertained and paid, or the amount thereof secured, in such manner as shall prove satisfactory to the owner or owners of such land, which said compensation, if the parties cannot agree thereon, shall be ascertained by six suitable and disinterested persons, to be by them chosen, to estimate such damages, who shall be under oath or affirmation fairly and impartially to estimate the same, and who shall reside within the county where the land lies, and the expenses incurred by the said appraisers shall be defrayed by the said 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 shall refuse or neglect to join in such appointment within twenty days after requisition made upon him for that purpose, or if such owner be feme covert, under age, non compos mentis, 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, and at the costs and charges of said company, to appoint six disinterested persons of said county to view, examine and estimate the injury or damages, if any, in their opinion may be sustained by reason of said railroad or railroads, and report the same, under their oaths or affirmations, to the said court, within ten days thereafter, which report, if confirmed by said court, judgment shall be entered thereon, and the viewers and appraisers shall be entitled to one dollar per day for their services, to be paid by said company; and it shall be the duty of said viewers and appraisers to take into consideration, in estimating such injury or damage, the advantages to be derived by said owner or owners of said lands by

Damages how and when to be estimated and paid.

Proviso. means of said railroad or railroads : *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.

Service of legal process SECTION 11. Any legal process served on any agent or manager of said company, is hereby declared to be, to all intents and purposes, as valid as the same would have been if served on the president and directors thereof.

Power to construct railroads. SECTION 12. The company hereby incorporated shall have power to construct railroads, with one or more tracks, from any point or points on their lands, to intersect the Hazleton Coal company's railroad, at such places as they may deem most convenient, or any other railroad leading to the state improvements or works connected therewith : *Provided*,

Proviso. That the said company shall not prevent any person or persons, company or companies, hereafter incorporated, being the owner or owners of land bordering on the said railroad or railroads, or adjacent thereto, from making lateral railroads and to connect them with said railroad or railroads from their said lands, as the said person or persons, company or companies may conceive necessary, for the purpose of transporting their coal, or produce upon said railroad or railroads, subject to the payment of the following rates of toll, that is to say : on each ton of produce, coal, or other minerals, or of any other goods, wares, merchandise or commodities of any kind whatsoever, not exceeding two and one half cents per ton per mile ; on each horse, not employed in drawing a carriage or car on which toll is charged, one cent per mile ; on each horse and its rider not exceeding one cent per mile ; on every person drawn in a car or carriage, other than the rider, not exceeding one cent per mile ; and all fractions not less than half a ton to be considered as a ton, and if less than half a ton to be rated at half a ton, and all fractions of half a mile in distance to be rated at half a mile ; and besides the tolls to be so charged, it shall be lawful for the said company to demand and receive, for the use of the collector of tolls on the said road or roads, for the time being, as a compensation for weighing and booking all coal or other minerals which may pass over said road or roads, the further sum of not exceeding one cent per ton on the said coal or other minerals, transported on said road or roads, in consideration of which he shall, at all reasonable times when so requested, exhibit to any person or persons interested therein, the account of the said coal or other minerals so transported as aforesaid, and deliver to him or them a certified copy thereof without any other fee or reward, and

Tolls.

that the said company shall not be authorized to charge toll on empty coal cars returning from the landings to the mines, Empty coal and that the turn-outs for such lateral roads shall be so constructed and kept so as not to interfere with the use of the main road or roads, and all cars or wagons run upon the same shall be subject to such general rules and regulations as may be prescribed by the company, and be intended to keep the track of said road or roads free and open for the uninterrupted passage of the cars of every person desiring to travel thereon.

SECTION 13. This act shall continue and be in force until Continuanco the first day of May, in the year of our Lord one thousand of act. eight hundred and fifty eight : *Provided*, That it shall be Proviso. lawful for the legislature, at any time, to amend or repeal any of the foregoing provisions, and to rescind the powers hereby granted, upon failure of the corporators to comply with any or every part of this act.

LEWIS DEWART,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

We do hereby certify, that the bill entitled "An act to incorporate the Sugar Loaf Coal company," was presented to the Governor on Monday the second day of April, one thousand eight hundred and thirty-eight, and was not returned within ten days (Sundays excepted) after it had been presented to him; wherefore it has, agreeably to the constitution of this commonwealth, become a law in like manner as if he had signed it.

FR. R. SHUNK,

Clk. H. R.

GEO. W. HAMERSLY,

Clk. of the Senate.

Harrisburg, April 16, 1838.

No. 71.

An Act

To incorporate the Plymouth Coal company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in*