

[No. 53.]

A N A C T

To improve the navigation of the Lehigh river, in the counties of Monroe and Luzerne.

Preamble.

WHEREAS, It is represented by the petition of a large number of the inhabitants of the counties of Monroe and Luzerne, that the improvement of the navigation of the Lehigh river, at and above the Great Falls of the same, would tend to the public benefit: Therefore,

Upper Lehigh
Navigation
Company in-
corporated.

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 all such persons as shall become subscribers according to the mode hereinafter prescribed, their successors and assigns shall be and they are hereby created a body politic and corporate, by the name of "The Upper Lehigh Navigation Company," and by that name shall be capable in law to sue and be sued, implead and be impleaded, to make and use a common seal, and the same at pleasure to alter and amend, and also to ordain, establish, and carry into execution, such by-laws and regulations as shall by its president and directors be judged necessary and convenient for said company from time to time; *Provided*, the same shall not be contrary to the constitution of the United States, or of this State.

To construct
Locks at
Great Falls.

SECTION 2. That the said company when regularly organized as provided for in this act, are hereby authorized to construct at the Great Falls of the Lehigh river, in the counties of Monroe and Luzerne, a lock or locks, or inclined plane, or both with the necessary machinery for the safe passage of rafts descending said river, and also to put in such dams, wing-walls, locks, and schutes, as they may deem necessary to improve the navigation of the river above said Falls, and it shall and may be lawful for the said Company from time to time, and at all times to remove all obstructions in the line of said navigation; *Provided*, That no authority hereby given

To remove
obstructions.

shall authorize said company to place any obstructions in said river to prevent the several owners along the said river from erecting any Mills or Factories thereon; and, *provided*, that no unnecessary damage shall be done to the adjacent proprietors or lands. Water power
protected.

SECTION 3. That Charles Trump, Miller Horton, John S. Comfort, William P. Clark, Henry W. Drinker, Lewis S. Coryell and Lord Butler, be and they are hereby appointed commissioners for receiving subscriptions to the stock, and the said commissioners or a majority of them shall, after giving three weeks notice thereof, in at least one newspaper published in the counties of Luzerne and Monroe, open books of subscription at Stoddartsville, and shall keep said books open or close them on adjournment, to be re-opened after giving due notice thereof, as aforesaid, until the stock is subscribed for the amount of ten per cent. on each share of stock subscribed, being required to be paid at the time of subscribing, and further instalments to be paid in, on at least three weeks notice being given thereof, in such sums as the directors, whose appointment is hereinafter provided for, shall deem necessary to meet the expenses of the work, the number of shares not to exceed two hundred, and the cost of the share not to exceed thirty dollars. Commission-
ers.

Subscriptions
to stock.

SECTION 4. That the management of the concerns of said company shall be and the same is hereby vested in five directors, to be elected from the stockholders, and the said directors shall choose by plurality of votes a president from among themselves, and as soon as conveniently may be after the stock is taken, or provided, after the books have been kept open for three successive days, one half the number of shares have been subscribed for, then the said commissioners or a majority of them shall convene the said stockholders by public notice, to be given as aforesaid, and at such time and place as they shall designate in such notice, to choose the first board of directors, who shall hold their offices until the second Tuesday in March, eighteen hundred and forty-one, and if for any cause whatsoever an election of directors should not be made on the day, whereon in pursuance of this act, it ought to be made, the president and directors for the time being shall continue in office until others are chosen in their stead; *provided*, the said election be held on or before the second Tuesday in January, eighteen hundred and forty-three, and in case of the death, resignation, incapacity, or removal of the president, or of one or more of the directors, the vacancy thereby created may be supplied by appointments, to be made by the board of directors, and at all elections of directors each stockholder shall be entitled to one vote for every share of stock by him or her held. Directors.
President.

Election di-
rectors.

Vacancies.

SECTION 5. That the president and directors, or a majority

Engineers & of them, shall have power to elect all engineers, agents, officers. workmen and officers whatsoever necessary in their judgment for conducting the affairs of the company, and to dismiss and elect others at their pleasure, and to charge and receive the following tolls, that is to say, for every thousand feet of lumber taken over the falls, twenty-five cents; and one and a quarter cents per mile, for every thousand feet of lumber descending the upper navigation, whenever the same shall be completed to the distance of five miles above the Great Falls; Tolls. *Provided, always,* that no tolls shall be charged on any description of grain or seed, either whole or ground, beef or pork, potatoes or turnips. No tolls.

SECTION 6. That if any person or persons, freeholders along the line of said navigation, and interested in the same, Damages. shall consider themselves as having suffered damage by reason of any thing which has been done by said company, he, she, or they may, if unable to settle the same with the company, apply to one of the justices of the supreme court, whose duty it shall be to appoint one discreet disinterested person to meet one also appointed by said company, and which two when How settled. so met shall, if unable to agree themselves, choose a third person, and the award of said three or a majority of them when made, shall be final and conclusive; the expenses of the arbitration to be borne by the party complaining, if the award is less than they had been offered by the party complained of; and if the award is more, then the party complained of shall pay the expenses.

SECTION 7. That if any person or persons shall in any manner wilfully or maliciously destroy, injure, or obstruct the navigation or any of the works connected therewith, or unnecessarily and maliciously open any gate or lock thereon, or cast adrift loose lumber to the detriment of said navigation, he, she, or they so offending shall forfeit and pay the sum of one hundred dollars, to be recovered by any person who will sue for the same; but such prosecution shall in no wise impair the right of action by a civil suit to be brought by the company; *Provided always,* That nothing in this act contained shall deprive the owners of timber lands adjacent to the river and along the line of the improvement from driving their logs in loose drifts to their respective mills; when the rise of the river is above a rafting height, and at no other time; *Provided,* That no part of this act shall authorize the taking of any property by said company, unless the same is previously paid for, or adequate security given for the payment thereof. Injuring works punished. Loose drifts when authorized. Property taken to be paid for.

SECTION 8. That the Legislature reserves the right to alter, amend, or annul the charter at any time hereafter, whenever in their opinion, the same may be injurious to the citi- Legislature may repeal this act.

zens of this Commonwealth, in such manner, however, that no injustice shall be done to the corporators.

WM. HOPKINS,

Speaker of the House of Representatives.

W. T. ROGERS,

Speaker of the Senate.

APPROVED—The fourteenth day of March, eighteen hundred and forty.

DAVID R. PORTER.

[No. 54.]

A N A C T

To confirm the sale of certain real estate in York county, and to vest certain authorities in John D. Thomas, trustee of Sophia H. E. Ash.

WHEREAS, it hath been represented that a certain Jacob Wilt, of the borough and county of York, in this commonwealth, lately died seized inter alia of a certain house and half lot of ground in the same borough, situate on George street, and bounded on the south by a lot of John Mosey, on the north by a lot of Henry Ernst, on the east by North George street, and on the west by an alley: having first made his last will and testament, constituting a certain James R. Reily, as the executor thereof: *And whereas*, the said James R. Reily is represented to have sold the said premises for the payment of debts due by the testator, at the time of his decease, to a certain Jacob Pfeifer for a valuable consideration, but without authority under said will, and without any application to the orphans' court: Therefore,

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 the orphan's court of the county of York be, and it is hereby authorized to decree the confirmation of the said sale, and to authorize a conveyance to be made of the premises by the said executor to the said purchaser thereof: *Provided*, Such a case shall be made out to the satisfaction of the said court, as would have authorized a decree therefor un-

Preamble.

Sale by J. R. Reily, of estate of Jacob Wilt confirmed.