

We do hereby certify that the bill entitled "An act to incorporate the Lancaster county bank" was presented to the Governor on Thursday, the twenty-second day of April, eighteen hundred and forty-one, 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.

ALEX. RAMSEY,

*Clerk of the House of Representatives.*

GEO. W. HAMERSLY,

*Clerk of the Senate.*

HARRISBURG, May 5th, 1841.

[No. 125.]

## AN ACT

To incorporate the Allegheny and Butler Turnpike Road Company, and for other purposes.

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* Walter H. Lowrie, William Huggins, Benjamin Ramage, Peter Bates, A. H. Harvey, John Otterson, Joseph Wilson, be and they are hereby appointed commissioners to receive subscriptions of stock to the Allegheny and Butler turnpike road company, and in doing so they shall proceed in the same manner as is directed in the act entitled "an act to incorporate the president and managers of the Armstrong, Jefferson, and Clearfield turnpike road company," passed the twenty-fifth May, one thousand eight hundred and forty, changing however, the agreement of subscription, so as to suit the style of the company herein provided, and giving notice of the first places of opening the subscription books, in one or more public newspapers in the city of Allegheny, or city of Pittsburg, and in all other respects the provisions of the first section of said act, are hereby incorporated into and made part of this act.

SECTION 2. It shall be lawful for the governor of this Commonwealth, by letters patent, under his hand and seal of state, to create and erect the subscribers, and all those who shall thereafter subscribe, until enough shall be subscribed to complete the road herein provided for, into one body corpo-

Com'issioners

Subscription

Notice

Letters patent

rate and politic, in deed and in law, by the name, style and title of "the Allegheny and Butler turnpike road company," Name whenever the provisions made in relation to the road aforesaid, by the act aforesaid, shall have been complied with; and the said company, when so incorporated, shall have the same privileges and franchises as are granted to the company aforesaid, by the second section of the act aforesaid.

SECTION 3. The notice to be given of the first, and all subsequent elections by the stockholders, shall be by advertisement, in one or more newspapers in the city of Allegheny or Pittsburg, and the officers shall be a president and six managers, who shall have power to elect a treasurer, and such other officers as they may think necessary, and the board of managers first elected, shall hold their offices until the first Monday of April next ensuing their election, and the first Monday of April, shall be the day for the annual election by the stockholders, and four members of the board shall constitute a quorum for transacting business, and in all other respects the provisions of the act aforesaid contained in the third, fourth, fifth, sixth, and seventh sections of said act, are hereby extended to the company hereby incorporated, and are made part of this act: *Provided*, That the president and managers shall receive no compensation for services rendered, or that may be rendered the company.

SECTION 4. The said road shall connect the easterly end of the city of Allegheny with the Pittsburg and Butler turnpike road, by a route over the hills to some point not more than ten miles from the said city of Allegheny, and said road shall be not less than forty, and not more than fifty feet wide, and at least eighteen feet thereof shall be made a good and substantial turnpike road, to secure as near as the materials will admit of, a firm and even surface, and so nearly level in its course as that it shall in no place rise or fall more than will form an angle of five degrees with a horizontal line, and at least two miles thereof from its commencement at the said city of Allegheny, shall be well covered with stone, and the remainder shall be constructed of such materials as may be found in the vicinity thereof, and the said company shall have power to erect permanent bridges over all water courses crossing the said road.

SECTION 5. So soon as said road shall have been completed for the distance of two miles from the city of Allegheny, and also when it shall have been completed for the remainder of the distance, the said company shall give notice to the Governor of the Commonwealth, who shall thereupon appoint three disinterested persons to view and examine the same, and report to him in writing whether the said road is so far executed in a workmanlike manner, according to the true intent of this act, and if they report in the affirmative, then the Governor

Elections

Officers

Annual election

Part of former act extended to company

Proviso

Commencement and termination

Width

Viewers

**License** shall, by license, under his hand and the lesser seal of the Commonwealth, permit and suffer the said company to erect and fix so many gates and turnpikes upon and across said road as shall be necessary and sufficient to collect the toll and duties hereinafter granted to said company from all persons travelling on the same with horses, cattle, carriages, carts, and other vehicles and animals, and the said company shall, after the license aforesaid, have like rights and privileges and remedies, as to taking and collecting toll, as are granted to the aforesaid Armstrong, Jefferson and Clearfield turnpike road company by the eleventh and twelfth sections of the act aforesaid.

**Tolls**

**Proviso** *And provided*, That persons attending divine worship on the Lord's day, and persons attending funerals and military companies, with their horses and carriages, shall be exempt from toll.

**2d proviso** *And provided*, That said company shall be authorized to charge on all wagons and carts transporting coal, stone or bricks one half more toll than they are hereby authorized to charge in cases of other wagons and carts.

**Parts of former act, extended to company** SECTION 6. The provisions of the thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth sections of the act aforesaid, relative to the aforesaid Armstrong, Jefferson and Clearfield turnpike road, and fourth and fifth sections of an act entitled "an act relative to certain turnpike corporations," passed the fifth April, one thousand eight hundred and thirty, are hereby extended to the company to be formed under this act, and are incorporated and made part of this act, so far as the same are applicable to the road herein provided for. *Provided*, That the semi-annual dividends under this act shall be made on the first Monday of April and October in each year, and that no dividend shall be made until the whole road shall be completed.

**Proviso**

**Hawkers and pedlers—how licensed** SECTION 7. That no person shall be licensed as a hawker or pedler, under the several acts of assembly now in force, unless he shall have resided at least one year in the county in which such application shall be made, and shall produce satisfactory evidence, on oath, from at least two respectable practising physicians, who shall be citizens of the united residents in such county, that such applicant is, in point of fact, by reason of bodily disability; the nature and character of which shall be stated, unable to procure a livelihood at his trade, if he have any, or by bodily labor.

**Commonw'th to sell or loan surplus water on canals** SECTION 8. The canal commissioners, or such other persons as the Governor shall from time to time be authorized to appoint as agents for that purpose, may sell, dispose of, lease, or demise on behalf of this Commonwealth, the surplus water owned by the Commonwealth and not required for the purpose of navigation on the several lines of the Pennsylvania canal and slack water, agreeably to the following rules, regulations and restrictions:

*First*, The use of the surplus water aforesaid, shall be demised or leased for any term not exceeding fifty years. Term

*Second*, The canal commissioners or agents as aforesaid, before making any sale as aforesaid, shall give at least thirty days notice in one or more newspapers, of the time and place of sale, and of the number and amount of water privileges to be sold, leased, or demised as aforesaid, which sales shall be by sealed proposals directed to the commissioners or agents as aforesaid: *Provided*, That before any water privileges are offered for sale, it shall be the duty of the canal commissioners to cause an examination to be made of the several places on the Pennsylvania canal where surplus water can be spared, and they shall thereupon appraise the value thereof by some fixed and uniform scale and principle, and no proposal for such surplus water shall be received before the scale of value shall be fixed as aforesaid: *And provided further*, That nothing herein contained, shall be construed to authorize the appointment or sale of water privileges secured to any person or persons by virtue of any special act of assembly, or by virtue of the act passed the twenty-second of March, eighteen hundred and three, entitled "An act to authorize any person or persons owning lands adjoining navigable streams for mills and other water works:" *And provided further*, That nothing done in pursuance of this act, shall in any way affect the rights of the owners of land upon which such water privileges shall be created. Notice of sale  
Proviso  
2d proviso  
3d proviso

*Third*. No sale, lease, or demise of water privileges as aforesaid, shall be so construed in any case as to obstruct or in any manner interrupt the navigation, on any of the said canals or slack water; and in case such obstruction or interruption shall arise from any such sale, lease, or demise, the same shall be deemed and taken to be altogether null and void. Not to obstruct navigation

*Fourth*. The rights and privileges so sold, leased, or demised, shall be conveyed by the said canal commissioners or agents as aforesaid, to the purchaser or purchasers, lessee or lessees, by deed of conveyance in the name of the Commonwealth, fully describing the nature, amount, situation, and duration of the rights and privileges so conveyed, and shall contain a covenant or covenants for the semi-annual payment of the rent reserved, and such other covenants and reservations as the canal commissioners or agents as aforesaid shall deem necessary for the preservation of the interests of this Commonwealth. Deeds of conveyance

*Fifth*. Duplicates of such conveyance shall be duly executed and acknowledged, one of which shall be recorded in the office for recording of deeds, in the county where the privilege so sold is situated, and shall be transmitted to the auditor general to be filed in his office; and the expense attending the Deeds—how recorded, &c

execution of the said conveyance and recording the same as aforesaid, shall be paid by the purchaser.

Forfeiture for neglect to improve water power

*Sixth.* In all cases where the lessee or purchaser shall wilfully neglect or refuse to prosecute the works contemplated in his conveyance, and to exercise the privileges according to the true intent and meaning of the contract, the canal commissioners, or a majority of them, after six months notice to the purchaser to prosecute the same, shall rescind the said contract and re-sell the said privilege to any other person or persons.

Repairs of canals, &c

*Seventh.* The water may be drawn off by the agents of the Commonwealth from the canals and pools at any time, for repairs and other necessary purposes; and if the operation of the water works, or any of them, shall by reason thereof be suspended for a period of more than thirty days in any one year, then and in that case, there shall be a pro rata deduction of rent for said time.

Reservations

*Eighth.* The right shall be reserved on the part of the Commonwealth, to resume a portion of all the water thus demised or disposed of, whenever in the opinion of the board of canal commissioners, or other legally constituted agents of the Commonwealth having the management of the public improvements, the same shall be necessary for the purpose of navigation on said improvements, without allowing any compensation for damages or disappointment, except remitting the annual rent where the water is all resumed, or a pro rata proportion thereof where it is in part resumed.

Prohibition

SECTION 9. It shall not be lawful for any person in the service of the Commonwealth on the public works, to purchase or hold any interest, directly or indirectly, in any of the water rights or privileges so as aforesaid authorized and directed to be sold or demised; and any person so offending, shall forfeit all right to the same, and pay to the Commonwealth upon conviction thereof, a fine not exceeding one thousand dollars.

Rent—how recovered

SECTION 10. In case of the non payment of the rent reserved as aforesaid, the remedy for the recovery of the same shall be by distress by the canal commissioners, or any agent appointed by them for that purpose, in the same manner as other rents are recoverable in this Commonwealth, or by action of covenant or debt in the name of the Commonwealth, as shall be deemed most expedient; and in addition thereto, it shall be lawful for the commissioners or their agents as aforesaid, to shut off, or by other means suspend the further use of the said water right or privilege, until payment shall be fully made.

Rents—how paid and disposed of

SECTION 11. The water rents contracted for under the provisions of this act, to be paid to the canal commissioners or their authorized agents, who shall pay over the amount to the state treasurer for the use of the Commonwealth, within thirty days after receiving the same; and the canal commissioners shall, in their annual report, set forth the whole amount re-

ceived for water privileges, giving the names of and the amount by each individual or firm.

SECTION 12. That the purchaser or purchasers of unseated lands, at the treasurers' sales, in the counties of Pike and Monroe, shall hereafter give bonds in the like manner as is now required by law, with one or more sufficient security or securities, to be approved of by the judges of the court of common pleas of said county at the time the deed or deeds to such purchaser or purchasers are acknowledged, and if the security required by this act shall not be given and approved as aforesaid, the deed shall not be acknowledged, and shall be null and void, and the said lands shall again be offered for sale as other lands are sold.

Unseated  
lands in Pike  
and Monroe  
counties

SECTION 13. All the provisions of the act of the fifth of May, eighteen hundred and thirty-two, entitled an act regulating lateral railroads, and the supplements thereto, are hereby extended to the construction of canals, not exceeding in width the canals of this Commonwealth: *Provided*, That no canal constructed under the authority of this act, shall drain the water from any canal or pool with which the same may be connected; and all such canals shall be so constructed as not to permit the water conveyed into the same, to be lost or wasted by leakage or drainage: *And provided*, That the plan of any such canals shall be submitted to the board of canal commissioners, and its consent be first had and obtained to the construction thereof.

Lateral canals  
—how made,  
&c

SECTION 14. That the president and managers of the company for erecting a bridge over the river Susquehanna, at the falls of Nescopeck, may and hereby are authorized to call a meeting of the stockholders interested in the old bridge which was carried off by the ice flood in the winter of eighteen hundred and thirty-five and six, for the purpose of making final settlement and distribution of the property and the funds belonging to the stockholders interested in the old bridge, of which meeting at least thirty days notice shall be given in one paper in the borough of Berwick, and in the United States Gazette, printed in the city of Philadelphia; and if, at the meeting held as aforesaid, there shall be any funds or proportionate share of property due to stockholders, either upon account of stock in the old bridge, or of unclaimed dividends which shall not then be claimed, it shall be the duty of the president of the company, by and with the consent of the stockholders who shall be in attendance at the meeting, to give notice in one paper in Berwick, and in the United States Gazette in Philadelphia, requiring all stockholders entitled to receive the same, to call for and receive it within thirty days from the date of the notice, and that if the same shall not be withdrawn or claimed by the stockholders entitled thereto within that time, that then the president and managers of the new bridge shall

Nescopeck  
bridge comp.  
may call meet-  
ing of stock-  
holders of old  
bridge for  
final settle-  
ment

appropriate the funds thus left and unclaimed towards the completion of the hydraulic works in the town of Berwick, where it shall remain for the use of the stockholders, at an interest not less than four per cent. per annum, and the neglect of the stockholders to claim or withdraw the funds due upon stock or unclaimed dividends shall be deemed and taken as consent of the stockholders entitled to the same, that said funds may be so applied.

SECTION 15. That the secretary of the commonwealth be and he is hereby authorized and required to contract with Kay and Brother, of the city of Philadelphia, for five hundred copies of their proposed edition of the laws of this Commonwealth, passed after the second of April, one thousand eight hundred and twenty-two, including the acts that may be passed during the present session of the legislature, to be printed, bound and lettered so as to correspond with the seven volumes of the laws now published, in octavo form, including, at the end of each volume, a general index thereto, and in all other respects to be edited on the same plan, prefixing the titles of all the laws which are repealed or have expired or become obsolete, giving abstracts of all private acts and acts of incorporation, and noting under each act the decisions of the supreme court of Pennsylvania, and of the courts of the United States, which have been given upon the construction thereof; the said copies to be paid for by warrants drawn by the Governor in the usual manner, at the rate of two dollars and seventy-five cents per volume, from time to time, as they are delivered at the office of the secretary of the commonwealth: *Provided*, That no warrant shall be drawn by virtue of this act, until the said work, as each volume is completed, shall be approved by the chief justice, or one of the judges of the supreme court of this State.

Councils of  
Pittsburg em-  
powered to  
assess and  
collect certain  
taxes

SECTION 16. That it shall be lawful for the select and common councils of the city of Pittsburg, in addition to the power already enjoyed by them, to levy, assess and collect for the use of the said city, a tax on all descriptions of property owned by inhabitants of said city, and made taxable for State purposes by the act to create additional revenue to be applied towards the payment of interest, and the extinguishment of the debts of the Commonwealth, passed the eleventh day of June, Anno Domini, one thousand eight hundred and forty: *Provided*, That the same shall not exceed the amount therein directed to be levied for the use of the Commonwealth, or be construed to authorize any additional assessment upon real estate.

SECTION 17. That so much of the resolution passed the fourteenth day of April, one thousand eight hundred and forty, authorizing Rebecca H. Duncan, Thomas Duncan, and Benjamin S. Duncan, to pass the bridge at Duncan's Island free of

Washington  
and Pittsburg  
turnpike road

toll, and for other purposes, as authorizes the Washington and Pittsburgh turnpike road company to abandon a portion of said road, be and the same is hereby repealed: *Provided however,* That if the said company shall agree on or before the first day of July next, to surrender to the Monongahela bridge company all that portion of their road lying between Jones' ferry, on the Monongahela river, and the point of junction thereof with the Pittsburgh and Steubenville turnpike road, and the same shall not be accepted in writing within one month afterwards by the said bridge company, then this act shall be of no force or effect; and the said bridge company is hereby authorized to accept the said road if offered, and to hold the same, together with that portion of road lying between the said ferry and bridge, upon the same terms and conditions, and with the same rights and liabilities as the same has been at any time heretofore held and enjoyed by the said Washington and Pittsburgh turnpike road company: *Provided,* That said bridge company shall pay to the Washington and Pittsburgh turnpike road company, what may be considered a fair valuation for the money expended in completion of said part of the road between the toll gate and Monongahela bridge, to be ascertained by three individuals agreed on by the companies.

SECTION 18. That the name of the Washington Dragoons, a volunteer company of the volunteer battalion of Columbia Guards within the eighth division of the Pennsylvania militia, be and the same is hereby changed to that of the Washington Cavalry, of Luzerne and Columbia counties, and that all the provisions of the second section of an act entitled "An act for the relief of the Greene Cavalry, and for other purposes," approved the fourth day of April, one thousand eight hundred and thirty-seven, be extended to the volunteers of the eighth division of the Pennsylvania militia.

WM. A. CRABB,

*Speaker of the House of Representatives.*

JN. H. EWING,

*Speaker of the Senate.*

APPROVED—The fifth day of May, one thousand eight hundred and forty-one.

DAVID R. PORTER.