

School district

SECTION 14. That the territory within the limits of the said borough shall be a separate district for school purposes, and for the levy and collection of county rates and taxes, and shall be a separate election district, and hold all their elections at a separate window of the school house, in said borough; and in all other respects, shall be separate from the township of Boggs, in said county: and that all jurisdiction and powers of the officers of said township, from the third Friday of March next, shall cease and determine, except so far as to collect any taxes that may be then due and owing to them from the inhabitants of said borough.

HENDRICK B. WRIGHT,
Speaker of the House of Representatives.

B. CRISPIN,
Speaker of the Senate.

APPROVED—The third day of March, eighteen hundred and forty-three.

DAVID R. PORTER.

[No. 20.]

AN ACT

To authorize the Governor to incorporate the Erie Canal company.

Comms.

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 Charles M. Read, William Kelly and John Galbraith of Erie; Hugh Brawley, David Dick, Horace Cullum, Martin Martzall, John M'Namara, Charles Rich and Morrow B. Lowry, of Crawford; William S. Rankin, Lorin Lusk, James M. Power, John Reynolds, Samuel Kerr and Samuel Goodwin of Mercer; James Patterson, Daniel Agnew and Joseph Pollock of Beaver; Har-mar Denny, William Hays and William Robinson of Allegheny county; Frederick Fraley, John K. Kane and William J. Leiper of Philadelphia; William Beaty and William Stewart of Butler county, 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 the first day of August next, procure books, which shall be opened at the Reed House in the town of Erie, and also at Girard, Jacksonville, Conneautville, Meadville, Hartstown, Greenville, Mercer, New Castle, New Brighton, Beaver, Butler, at the Monongahela House, in the city of Pittsburgh, at the Merchant's Exchange, in the city of Philadelphia, at such times and places as said commissioners, or any two of them, shall designate, in which they shall enter as follows :

" We whose names are hereunto subscribed, do promise to pay to the president and managers of the Erie canal company, the sum of fifty dollars for every share of stock set opposite our respective names, in such manner and proportions, and at such times as may be determined by the president and managers of said company, in pursuance of an act, entitled " An Act to authorize the governor to incorporate the Erie canal company." Witness our hands this

day of one thousand eight hundred and

; " and shall thereupon give notice in two daily newspapers in the cities of Philadelphia, Pittsburg and New York, and in the newspapers in the counties of Erie, Crawford, Mercer, Beaver and Butler, four 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 time and place, one or more of the commissioners shall attend and permit the commissioners of said counties, who are hereby authorized to subscribe for stock in said company, and all persons of lawful age, who shall offer to subscribe in the said book in their own names, or in the name or names of any other person or persons, who shall authorize the same, for shares in the said stock, and the said books shall be kept open for the said purpose, at least six hours in every juridical day, for the space of ten days, or until there shall have been subscribed ten thousand shares, and if at the expiration of ten days, the book 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, until the whole number of ten 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, then the books shall be closed.

Form of subscription.
Notice of subscription.

Adjournment and transfer

SECTION 2. That when one thousand shares or more of the said stock shall be subscribed and paid, or secured to be paid, in a satisfactory manner as aforesaid, the commissioners shall, or a majority of them may certify to the governor, under their hands and seals, the names of the subscribers, and the num-

ber of shares subscribed by each, whereupon the governor shall, if he shall be satisfied that the amount so subscribed is paid, or secured to be paid, by letters patent, under his hand and the seal of the commonwealth, create and erect the subscribers, who have complied with the terms of the subscription, and if the subscription be not full at the time, then also those who shall thereafter subscribe and comply with the terms of subscription, into a body politic and corporate, in deed and in law, by the name, style and title of "The Erie Canal 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 all estate, real, personal or mixed, of what kind or quality soever, necessary for the proper business of said company, and the same from time to time to sell, exchange, mortgage, grant, alien, or otherwise dispose of, and also to make and have a common seal, and the same to alter and renew at pleasure, and also to ordain, establish and put into execution, such by-laws, ordinances and regulations, as shall appear necessary and convenient for the government of 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 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 privileges whatever.

Organization SECTION 3. That the said commissioners, or a majority of them, shall, as soon as conveniently may be after the said letters patent shall be obtained, appoint a time and place for the subscribers to meet, in order to organize the said company, and shall give at least twenty days previous notice thereof, in the newspapers before mentioned; and the said subscribers, when met, shall choose, by a majority of the votes of the said subscribers by ballot, to be given in person or by proxy duly authorized, seven managers, a treasurer, secretary, and such other officers as shall be deemed necessary; that the said directors shall conduct the business of the said company until the first Monday of March then next, and until other directors are 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.

Annual meeting SECTION 4. That the stockholders shall meet on the first Monday of March, in every year, at such places as may be

fixed upon by the by-laws of the company, of which notice shall be given at least twenty days previously, in one or more newspapers published in the county of Erie, and in the city of Pittsburg, and choose, by a majority of the votes present, directors, qualified as is provided in the third section, for the ensuing year, who shall continue in office for one year, and until others are chosen; and the stockholders may meet at such other time as they may be summoned by the directors, in such manner and form, and giving such notice as shall be prescribed by the by-laws, at which annual or special meeting **By-laws** they shall have full power and authority to make, alter or repeal, by a majority of the votes given, all such by-laws, rules, orders and regulations, as aforesaid, and to do and perform every other corporate act—and the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he or she shall hold, in the proportions following: for every share, not exceeding two shares, one vote; **Ratio of votes** for every two shares above two shares, and not exceeding ten shares, one vote; and for every five shares above ten shares, one vote; but no share shall confer a right of suffrage, unless it be holden by the person in whose name it appears, absolutely and bona fide, in his own right or in that of his wife, or for his or her sole use and benefit, or as executor, 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 persons **Proviso** holding shares, by transfer, shall be entitled to vote, unless the same shall have been transferred at least three months before the election.

SECTION 5. That the election of directors, provided for in this act, shall be conducted in the following manner, that is **Manner of** to say: the directors for the time being shall appoint two of **election** the stockholders, not being directors, to be judges of the said election, and to conduct the same, who shall severally take and subscribe an oath or affirmation, before an alderman 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 voters; and when the election is closed, shall count the votes, and declare who has been elected, and if it shall at any time happen that an election of directors shall not have been made, the corporation shall not for that reason be dissolved; but it shall be lawful to hold and make such election of directors on any day thereafter, by giving at least ten days' notice of the time and place of holding the said election, in the newspapers, as aforesaid: and the directors of the pre-

ceding year shall in that case continue to act, and be invested with all the powers belonging to them as directors, until an election shall take place; and in case of the death, resignation, or removal from the state, of any one of the directors, elected by the stockholders, or in case any one of them shall cease to be a stockholder, the vacancy may be filled by the board of directors.

Quorum

SECTION 6. That the directors shall meet at such times and places as shall be found most convenient for the transaction of their business, and when met, four shall be a quorum; they shall elect a president of their own number, who shall always be a stockholder, and in his absence a president pro tempore, and shall keep minutes of their transactions, fairly entered in a book; they shall be empowered to choose a secretary, treasurer, and appoint all such other officers and agents as may be necessary, in conducting the affairs of said corporation, in such manner, and under such regulations, as they may determine; they may require security of said officers, in such amounts as they may deem necessary; and generally, to do all such other acts, matters and things, as by this act and by the by-laws and regulations of this company, they may be authorized to do.

Treasurer

SECTION 7. The treasurer of the company shall enter into bonds with one or more sureties, in such sums as the directors may from time to time direct, conditioned for the faithful discharge of the duties of his office, and for the faithful accounting for all moneys that may come into his hands, as treasurer; and it may be lawful for the said directors to accept from the said treasurer, several bonds in several amounts with different sureties: *Provided however,* That the bond or bonds of the treasurer be renewed; at least once in every two years, and that duplicates of the same be in every case executed, one to be retained by the said directors, and the other to be filed in the office of the prothonotary of the county of Erie.

Proviso

Salaries &c.

SECTION 8. The directors shall fix the salaries and wages of the several officers or agents employed by them, but no director shall be allowed any compensation, except the president, whose salary shall be fixed by the stockholders at some annual meeting held in pursuance of the charter.

Power to borrow money

SECTION 9. The directors shall have power to borrow money, from time to time, on the security of the corporate property, by mortgage of the same, or any part thereof, or by pledge of capital stock, at a rate of interest not exceeding seven per cent., but the total amount of such loans shall at no time exceed four hundred thousand dollars, without the con-

sent of the legislature; they shall, from time to time, declare and make dividends of the nett profits of the said company, Dividends into and among the whole number of shares into which the capital of the said company is divided: *Provided however, Proviso* That before making any dividends of nett profits, as aforesaid, the said directors shall reserve thereout two per centum, to be invested in state loans, or other securities, and together with the accumulations, to constitute a contingent fund to provide for extraordinary repairs, and as a sinking fund for the extinguishing of any loans which said company may make.

SECTION 10. All mortgages executed and acknowledged Mortgages under the provisions of this act, by said company, shall be recorded in the recorder's office of one of the counties through which said canal passes, within thirty days after the execution thereof; and when so recorded, shall be as good and effectual, to all intents and purposes, as if the same had been recorded in all the counties in which said mortgaged property lies: and thereupon, the said company may receive loans, and issue certificates therefor, in sums not less than fifty dollars, to be transferred on the books of the company. And all legal proceedings upon said mortgages shall be instituted in the county or counties in which the same may be recorded, and upon a sale of the mortgaged property, the purchaser shall be invested with all the rights and privileges which said company possessed or enjoyed in the same, at the execution of said mortgage; and the proceeds of sale shall be first applied to the repayment of the loans, secured thereby, and then to the other debts of said company, under the direction of the court, and the balance, if any, shall be paid to the treasurer of said company for its use.

SECTION 11. That immediately upon the issuing of the letters patent by the Governor, as provided by the second section of this act, the Erie division of the Pennsylvania canal, from the town of Erie to the mouth of Beaver, on the Ohio river, together with the French creek feeder, shall be immediately vested in the said corporation, authorized to be created by this act, and their successors forever, together with all the surplus water power of said canal, all toll houses, implements, and all the estate, real and personal, purchased and owned by the commonwealth, for the use of said canal: *Provided, That* the Beaver line of canal, from New Castle to the Ohio river, shall not be surrendered up to the said company until the whole line, from New Castle to Erie, shall be completed, and in actual use for the transportation of merchandize, throughout its whole length: *And provided further, That* the legislature reserves the right to resume the possession of the said Beaver division, from New Castle to the Ohio river, with all

When property to vest in company

Proviso

Legislative reservation

the privileges and franchises hereby granted in relation to said division, if it shall be deemed necessary to secure the interests of the commonwealth or the rights of any other party: *And provided further*, That in the event of a resumption by the state, it shall be had on such terms as to do no injustice to the corporators under this act. And all persons using French creek and the Franklin line of the Pennsylvania canal, shall have the use of the French creek feeder for the passage of persons with their horses, boats, merchandize and other commodities, they or the owners thereof, paying no greater toll therefor than is or may be charged to other persons using said feeder; but no toll shall be charged for entering into or passing out of said feeder from and into the Franklin line of said Pennsylvania canal. Said Erie canal company shall keep in good repair the out-let locks at the aqueduct, on said feeder; said out-let locks, and a sufficient quantity of water through said feeder for all navigable purposes on the Franklin line, shall be subject to any regulations or restrictions that the legislature may hereafter make.

SECTION 12. The said company shall be empowered to charge and receive tolls for the passage of persons and merchandize on the said canal, subject to the restrictions and limitations hereinafter provided, to convey passengers, transport the mail, and goods, merchandize and commodities thereon, and to charge and receive freight therefor; and the said company may detain any boat or vessel passing through the said canal, until the said tolls are paid, or may recover the same, as debts of similar amount are by law recovered: *Provided*, That the said canal shall forever be and remain a public highway for the passage, at all times, of all persons with horses, boats and merchandize, paying toll therefor, under such general regulations as the said company may with the assent of the governor, from time to time ordain and publish: *Provided however*, That no person or persons shall be permitted, without the license of the said company, to employ steam power on the said canal.

SECTION 13. The rates of toll to be charged and received by the said company shall be uniform throughout the whole line, and at no time, without the approbation of the legislature, shall exceed those now charged on the Pennsylvania canal; nor shall the rates of tolls to be charged and received by said company upon articles, passengers or boats, coming from or bound to the Pennsylvania and Ohio canal, be higher, for each mile passed, than upon similar articles, passengers or boats passing through the entire length of said line.

SECTION 14. At any time hereafter, it shall be lawful for the commonwealth, upon the passage of a law by the legislature

for that purpose, to resume the said line of canal, and the Power of
 privileges and franchises hereby granted, by paying to the state to re-
 said company the amount of money expended by them, in sume canal
 finishing and completing the same, together with the money
 expended for repairs and supervision, with interest thereon at
 the rate of eight per cent. per annum, from the time the same
 was expended, if resumed by the state within eight years, and
 if after that time, seven per cent., deducting from the princi-
 pal and interest, aforesaid, the amount of tolls received during
 the period which the company has possession of said canal.

SECTION 15. The directors shall make a report to the legis- Directors to
 lature on the second Tuesday of January, in every year, of report to Le-
 their proceedings during the past year, showing the amount gislature
 of cost for repairs and supervision, and tolls collected the pre-
 ceding year, and such other information as they may deem
 proper, on the condition of the works and prospects of the
 company, and the treasurer of the said company, on the same
 day, in every year, shall transmit to the legislature a state-
 ment of the affairs of the company; the said statement of the
 treasurer shall be sworn or affirmed to by the said treasurer,
 and the report of the directors shall be sworn or affirmed to
 by the said directors; and any false swearing shall be deemed
 and taken as perjury, and every person so convicted, in any
 court having jurisdiction, within this commonwealth, shall be
 imprisoned for a term of not less than six months, nor more
 than two years, at the discretion of the court.

SECTION 16. No sale or lease of water privileges on the Sale or lease
 canals and slackwater, is hereby vested in the said company, of water
 except under and subject to the exceptions and regulations privileges
 prescribed in the eighth, ninth, tenth, eleventh and twelfth
 sections, of the act of the fifth of May, eighteen hundred and
 forty-one, entitled "An Act to incorporate the Allegheny and
 Butler turnpike road company, and for other purposes."

SECTION 17. The said company shall be bound by all con-
 tracts heretofore made by the commonwealth, when the same
 have been made by virtue of existing laws, in the grant or
 lease of water privileges heretofore made, and shall be entitled Water privi-
 to all the rights and privileges of the commonwealth, under leges and re-
 such contracts; and they shall maintain and keep in repair all strictions
 farm bridges and causeways on the line of said canal.

SECTION 18. As soon as the said company shall be organi-
 zed, and shall give notice to the governor of their readiness to
 take possession of the said works, he shall cause notice thereof Possession
 to be given to all superintendents, toll collectors, officers and how obtained
 agents of the commonwealth, employed on or about said canal,
 who shall continue nevertheless to discharge the duties of
 their offices or employments, and be entitled to receive their

present rate of compensation from the said company, until removed by the directors thereof; and the official bonds of the said officers and agents shall inure to the use of the said company, as to all moneys received by them on account of the works, subsequent to the time when the said company shall so take possession of them, as aforesaid.

Power to enter lands for materials
Proviso

SECTION 19. That it shall be lawful for said company, their officers, engineers, contractors and agents, to enter upon any lands adjoining, or in the neighborhood of said canal, and take, dig, and carry away therefrom, any stone, gravel, clay, sand, or earth, necessary for the maintaining and repairing said canal, or for constructing any bridges, culverts, viaducts, and other buildings, which may be required in the maintenance and repair of said canal: *Provided however,* That compensation shall first be made or secured to the owner or owners of any such lands or materials, as shall be agreed upon between the parties, or in such manner as is hereinafter pointed out.

Proceedings when parties cannot agree
Proviso

SECTION 20. That when the said company cannot agree with the owner of any lands or materials, for the compensation proper for the damage done or likely to be done or sustained by any such owners of such lands and materials, which it may be necessary for said company to enter, use or take away, in the repair of said canal, or by reason of any legal incapacity of any such owner or owners, no such compensation can be agreed upon, the court of quarter sessions of the proper county, on application thereto by petition, either by said company or owner, or any one in behalf of either, and at the cost and charge of said company, shall issue their precept to the sheriff of the county, commanding said sheriff to summon twenty discreet and disinterested persons, freeholders of said county, to meet on the lands from whence materials are to be taken, in not less than ten or more than twenty days, giving such reasonable notice as the court may designate to both parties, by publication, or otherwise, in the discretion of the court; and if twelve or more of said jurors attend, they shall be empannelled, and if twelve do not attend, the sheriff may summon others, at a day fixed by him for that purpose, or at once; and the said twelve or more jurors being so empannelled, and sworn or affirmed, faithfully, justly and impartially to value the materials to be taken, and find the rate of compensation to be paid therefor by said company, the said jury shall have power to swear and examine witnesses and make report of their proceedings, stating the compensation adjudged, and to whom payable, who, upon confirmation thereof, may order such damages to be paid, or order new inquisition, until full justice is rendered: *Provided always, nevertheless,* That any owner or owners, applying for a re-

view, shall be liable for the costs of the proceedings prayed for, in case a report more favorable is not obtained upon such review.

SECTION 21. The said company shall keep a true and accurate account of all moneys necessarily expended, in the construction and supervision of said canal, of whatever character; and after the final completion of the work, shall file a full statement of all the expenditures, duly attested under oath of the president of said company, in the office of the auditor general of the commonwealth.

SECTION 22. It shall at all times be lawful for a committee of the legislature, or either branch thereof, appointed for that purpose, to inspect the books and examine into the proceedings of the corporation hereby created, and to report whether the provisions of this charter have been by the same abused or violated, and if the officers of said corporation should refuse to be sworn or affirmed, or give evidence, or to produce all such of their books or papers as may be demanded before any such committee, then the legislature may, by law, declare the said charter void, and repeal the same; and whenever any committee, as aforesaid, shall find and report, or the governor shall have reason to believe, that the charter has been violated, it may be lawful for the legislature to direct, or the governor to order, a scire facias to be issued out of the supreme court of Pennsylvania, in the name of the commonwealth of Pennsylvania, (which shall be executed on the president of the corporation, for the time being, at least ten days before the commencement of the term of the said court,) calling on the said corporation to show cause wherefore the charter, hereby granted, shall not be declared forfeited; and it shall be lawful for the said court, upon the return of the said scire facias, to examine into the truth of the alleged violations, and if such violations be made to appear, then to adjudge that the said charter is forfeited, and thereupon, and in case the legislature shall declare the said charter void and repeal the same for the cause aforesaid, the canal aforesaid, with its appurtenances, and all the estate, real and personal, of the said corporation, shall revert to and revert in the commonwealth, upon the payment by the commonwealth to the stockholders, the money expended, with interest, as prescribed in the fourteenth section of this act: and until the commonwealth shall have made such payment to the directors of said company, to be by them distributed among the stockholders, the rights, privileges, and franchises, of said corporation, shall remain as though said judgment or forfeiture had not been pronounced: *Provided* however, That every issue of fact which may be joined between the commonwealth and the corporation, in said pro-

Account of
expenditures

Power of le-
gislation to
inspect books
&c.

Proceeding
to annul
charter

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ceeding, shall be tried by a jury, summoned by an officer to be named by the court, from the body of the state; and it shall be lawful for the court, aforesaid, to require and compel the production of such of the books and papers of the corporation, on such trial, as it may deem necessary for the ascertainment of the controverted facts, and the final judgment of the court shall be subject to all the usages of law, as in other cases.

Commence-
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SECTION 23. The said company shall commence operations on said canal within eighteen months, and shall complete the work, so as to open the same for navigation to lake Erie, within three years from the passage of this act.

HENDRICK B. WRIGHT,

Speaker of the House of Representatives.

B. CRISPIN,

Speaker of the Senate.

APPROVED—The seventh day of March, one thousand eight hundred and forty-three.

DAVID R. PORTER.

[No. 21.]

AN ACT

To protect the property of the city of Pittsburg, situated without the city limits, 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 if any person or persons shall hereafter throw or cast, or wilfully suffer to fall into the new reservoir or Stone Quarry Hill, near the city of Pittsburg, any dead animal, or any putrid or corrupt thing whatsoever, or any noxious or offensive matter of any kind, or shall do any act whatever, to corrupt, pollute, or render unwholesome, the water in said reservoir, every person or persons so offending, shall, for each and every such offence, forfeit and pay a sum not less than five dollars, nor more than fifty dollars, at the discretion of the magistrate before whom suit is brought,

Penalty for
polluting wa-
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