

1830

12593

MS
(Del. & Rar.)

350-

260 m

STATE OF NEW-JERSEY.

AN ACT

TO INCORPORATE THE

DELAWARE & RARITAN CANAL COMPANY.

SEC. 1. *BE IT ENACTED*, by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same, That subscription books to the capital stock of the Delaware and Raritan Canal Company shall be opened within six months after the passing of this act, by James Parker and James Neilson, of Middlesex, John Potter, of Somerset, William Halsted, of Hunterdon, and Garret D. Wall, of Burlington; or any three or more of them, who are hereby appointed commissioners to receive subscriptions to the said stock, at such times and places as they or a majority of them may direct, giving notice thereof, at least twenty days prior to the opening of said books, by publishing the same in at least three of the newspapers published in this state, three in the city of Philadelphia, and three in the city of New-York.

Subscriptions to be taken.

How advertised

SEC. 2. *And be it enacted*, That the capital stock of the said company shall be one million of dollars, to be divided into shares of one hundred dollars each; and that when five thousand shares are subscribed for, the persons holding the same shall be, and they are hereby incorporated into a company by the name of "The Delaware and Raritan Canal Company," and by that name shall be capable of purchasing, or of otherwise receiving and becoming possessed of, holding, and conveying of real and personal estate, shall have perpetual succession, and power to make and use a common seal, and by said corporate name may sue and be sued, and shall have, enjoy, and exercise all the rights, powers, and privileges pertaining to corporate bodies, and necessary to perfect an expeditious and complete line of communication from Philadelphia to New-York; and to carry the objects of this act into effect.

Capital.

Company incorporated.

SEC. 3. *And be it enacted*, That at the time of subscribing for the said stock, five dollars shall be paid upon each share subscribed for, to the commissioners, or some of them, which money shall be paid over to the treasurer of the company, as soon as one shall be appointed, and that the residue of the subscriptions shall be paid in such instalments, and at such times and places, and to such persons as the president and directors of the company shall from time to time direct and give public notice of, and upon failure of payment thereof, as so directed, the said president and directors shall have power to forfeit the shares of each and every person so failing to pay the

Sum to be paid on subscription.

Residue, when to be paid.

On penalty of forfeiture.

- said instalments, or any of them, to and for the use of the said company: *Provided*, that if the number of shares subscribed for, shall exceed the amount or number of shares authorized by this act to be subscribed for, that the said commissioners shall apportion the said stock among such subscribers in proportion to the amount or number of shares by them subscribed for as aforesaid: *Provided also*, that no subscription for less than six shares of said stock shall be reduced by such apportionments.
- SEC. 4.** *And be it enacted*, That if the number of shares herein before made necessary for the incorporation of said company be not subscribed within one year from the time of opening the said subscription books, this act, and all the subscriptions under it, shall be null and void, and the said commissioners, after deducting thereout the expenses incurred, shall return the residue of the money paid in to the respective subscribers or their representatives, in proportion to the sums paid by them.
- SEC. 5.** *And be it enacted*, That when five thousand shares of the said stock are subscribed for, the said commissioners shall call a meeting of the stockholders, giving at least twenty days notice of the time and place of said meeting, as herein before directed, with regard to the opening of the books, at which meeting the subscription books shall be laid before the stockholders, who shall thereupon proceed to elect by ballot, nine directors, a majority of whom shall be citizens of this state, to manage the affairs of the said company for one year, of which election the said commissioners, or a majority of them, shall be judges, and that at the expiration of that term, and annually thereafter, upon like notice to be given by the directors for the time being, the said stockholders shall elect the same number of directors, a majority of whom shall be citizens of this state as aforesaid, and that at every such election, and in all other cases in which the stockholders shall be entitled to a vote, a vote may be given for each share by the holder or holders thereof, either in person or by proxy.
- SEC. 6.** *And be it enacted*, That within twenty days after their annual election, as aforesaid, the said directors shall elect a president of their said company, who shall hold his office for one year; and until another shall be elected, and receive such compensation for his services as a majority of the said directors shall direct, and shall be the presiding officer at all meetings of the said directors, and have the casting vote when they shall be equally divided: he shall have charge of the seal of the company, and shall appoint the judge or judges of all elections of the stockholders, or, in case of his death, absence, or inability so to do, the said directors shall appoint some other suitable person who, for the time being, shall possess the same power and authority, and perform all the duties herein prescribed.
- SEC. 7.** *And be it enacted*, That the said directors, or a majority of them, may supply any vacancy occurring in the interval between the annual elections, by the death, resignation, removal, or refusal to act of any president or director, and may appoint a treasurer and all other officers, engineers, agents, superintendants, and servants that may be required to transact the business of the company, with such compensation as they may determine upon, and may exact from them such security for the due performance of their respective trusts as they may think expedient: they shall regulate the tolls, and have the superintendance and direction of all the receipts and disbursements, and all other affairs of the company, and may make and enforce such ordinances and by-laws as they may think expedient for regulating the transfers of stock, and for the general government of
- Apportionment of Shares,
- No. of Shares necessary in one year.
- Meeting of the Stockholders, & Election of Directors.
- Vote for each Share.
- President to be elected.
- Compensation & duty.
- Directors may supply vacancies, appoint the Treasurer and other officers,
- regulate tolls.
- make by-laws & ordinances.

the company, and management of its affairs: *Provided* the same are not repugnant to the laws of this state or of the United States.

SEC. 8. *And be it enacted*, That, at the annual meetings of the stockholders, it shall be the duty of the president and directors of the preceding year to exhibit to the stockholders a full and complete statement of the affairs of the company during the said term. To exhibit state of Company.

SEC. 9. *And be it enacted*, That special meetings of the stockholders may be called by order of the said president and directors, or by the stockholders owning one-fourth of the whole stock of the company, by giving notice of the time and place of holding the same, as is herein before directed with regard to the annual meetings, which said notice shall specify the particular object of the meeting; but that no business of the company shall be transacted at such special meetings, unless a majority in value of the stockholders attend and concur therein, who may require the books, accounts, and all papers and proceedings of the company, to be exhibited by the president and directors. Special meeting of Stockholders. how convened.

SEC. 10. *And be it enacted*, That if, from any cause, any election herein before named shall not be had at the time specified therefor, the same may be made at any other time, on notice as aforesaid, and that until such election is had the officers for the preceding year shall continue to hold their respective offices until others are elected in their stead, and that the charter shall not be defeated or avoided by reason of the irregularity or want of such election. Election not made provision for.

SEC. 11. *And be it enacted*, That it shall be lawful for the said canal company to construct, make, erect, and execute a canal or artificial navigation from the waters of the Delaware river to the waters of the Raritan, and to improve the navigation of the said rivers, respectively, as may from time to time become necessary below where the said canal shall empty into the said rivers, respectively; which canal shall be at least fifty feet wide at the water line, and the waters therein be at least five feet deep throughout; and the said company are hereby empowered to supply the said canal with water from the river Delaware, by constructing a feeder, which feeder shall be so constructed as to form a navigable canal, not less than thirty feet wide, and four feet deep, to conduct the water from any part of the river Delaware. Power to construct a Canal. Dimensions and feeder.

SEC. 12. *And be it enacted*, That it shall be lawful for the said company to construct, make, and execute all the locks, works, devices, wharves, tollhouses, and offices necessary for the use of said canal and feeder; and it shall and may be lawful for the said company, by the president and directors, and by any agent, engineer, superintendant, or contractor, or any other person or persons employed in the service of said company to enter from time to time, and at all times, upon all lands, whether covered with water or not, for the purpose of exploring or surveying the route or routes for said canal and feeder, and locating the several works as above specified, doing thereunto no unnecessary damage; and when the said route or routes shall have been fixed upon, and its several works located by the president and directors, or a majority of them, and a survey thereof deposited in the office of the secretary of state, then it shall be lawful for them, and for any agent, superintendant, engineer, contractor, or any person or persons employed in the service of said corporation, at any time to enter upon, take possession of, and use all and singular such lands, waters, and streams, subject to such compensation to be made therefor, as is hereinafter directed. Company may make locks, &c. enter on lands.

SEC. 13. *And be it enacted*, That when the said company or its agents cannot agree with the owner or owners, of such required lands or materials for the use or purchase thereof, and the damages

J-386-4

A188

VAULT

Compensation
for lands and
damages, how
made.

4

sustained by such owner or owners, or when by reason of the legal incapacity or absence of such owner or owners, no such agreement can be made, a particular description of the land or materials so required for the use of said company, in the construction of the said canal and feeder, shall be given in writing, under the oath or affirmation of some engineer or proper agent of the company, and also the name or names of the occupant or occupants, if any there be, and of the owner or owners, if known, and their residence, if the same can be ascertained, to one of the justices of the Supreme Court of this state, who shall cause the said company to give notice thereof to the persons interested, if known, and in this state, or if unknown or out of the state, to make publication thereof, as he shall direct, for any term not less than twenty days, and to assign a particular time and place for the appointment of the commissioners hereinafter named, at which time, upon satisfactory evidence to him of the service or publication of such notice aforesaid, he shall appoint under his hand and seal, three disinterested, impartial, and judicious freeholders, not resident in the county in which the lands or materials in controversy lie, or owners reside; commissioners to examine and appraise the said land or materials, upon such notice to be given to the persons interested, as shall be directed by the justice making such appointment to be expressed therein, not less than twenty days; and it shall be the duty of the said commissioners, having first taken and subscribed an oath or affirmation before some person duly authorized to administer an oath, faithfully and impartially to examine the matter in question, and to make a true report, according to the best of their skill and understanding, to meet at the time and place appointed, and proceed to view and examine the said lands or materials, and to make a just and equitable estimate or appraisement of the value of the same, and assessment of damages, and after taking into view the benefits that will result from the canal or feeder to the owner or owners of the lands or materials, shall report what sum, if any, shall be paid by the said company, for such land or materials and damages aforesaid; which report shall be made in writing under the hands and seals of the said commissioners, or any two of them, and filed within ten days thereafter, together with the aforesaid description of the land or materials, and the appointment and oaths or affirmations aforesaid, in the clerk's office of the county in which the land or materials are situate, to remain of record therein, which report, or a copy thereof certified by the clerk of said county, shall, at all times, be considered as plenary evidence of the right of said company to have, hold, use, occupy, possess, and enjoy the said land or materials, or of the said owner or owners to recover the amount of said valuation, with interest and cost, in an action of debt, in any court of competent jurisdiction, in a suit to be instituted against the company, if they shall neglect or refuse to pay the same for twenty days after demand made of their treasurer, and shall from time to time constitute a lien upon the property of the company, in the nature of a mortgage; and the said justice of the Supreme Court shall, on application of either party, and on reasonable notice to the others, tax, and allow such costs, fees, and expenses to the justice of the Supreme Court, commissioners, clerks, and other persons performing any of the duties prescribed in this section of this act, as they or he shall think equitable and right, and to order and direct by whom the same shall be paid, under the circumstances of the case.

Appeal in case
of damages for
land.

SEC. 14. *And be it enacted,* That in case the said company, or the owner or owners of the said land or materials shall be dissatisfied with the report of the commissioners named in the preceding section, and shall apply to the justices of the Supreme Court, at the

next term after the filing of the said report, the court shall have the power, upon good cause shewn, to set the same aside, and thereupon to direct a proper issue for the trial of the said controversy to be formed between the said parties, and to order a jury to be struck, and a view of the premises and materials to be had, and the said issue to be tried at the next Circuit Court to be holden in the said county, upon the like notice, and in the same manner as other issues in the said court are tried; and it shall be the duty of the said jury to assess the value of the said land or materials and damages sustained, having regard to the benefits aforesaid, and if they shall find a greater sum than the said commissioners shall have awarded in favor of the said owner or owners, then judgment thereon, with costs, shall be entered against the said company, and execution awarded therefor; but if the said jury shall be applied for by the said owner or owners, and shall find the same or a less sum than the company shall have offered, or the said commissioners awarded, then the said costs to be paid by said applicant or applicants, and either deducted out of the said sum found by the said jury, or execution awarded therefor, as the court shall direct: *Provided*, that such application shall not prevent the company from taking the said land or materials upon the filing of the aforesaid report.

SEC. 15. *And be it enacted*, That it shall be lawful for the said company, their officers, superintendants, engineers, workmen, laborers, and other person or persons by them employed, with carts, wagons, and other carriages, and, with their beasts of burthen and draught, and all necessary materials, tools, and implements, to enter upon all lands contiguous or near to the route or track of the canal and feeder, doing as little damage thereto as possible, repairing any breaches they make in the enclosures thereof, and to take and carry away any stone, gravel, clay, sand, earth, or other materials there; being most conveniently situated, and being most suitable for making or repairing said canal or feeder, or the locks and other devices before mentioned thereto belonging, the said owners or occupants being entitled to a fair compensation or remuneration for their materials taken, and damage done, if claimed within twelve months from the time of such damage sustained, or materials taken away; and in case of disagreement as to the amount of such damage sustained, or the value of such materials taken away, then it shall be lawful for the said company to apply to one of the justices of the Supreme Court, not being a stockholder, or interested in any way, and in case he shall be a stockholder, or interested, then to one of the judges of the Court of Common Pleas, not being a stockholder, nor in any way interested, whose duty it shall be, upon such application, to appoint three judicious and disinterested freeholders of the state, not resident in the county where such lands lie; and thereupon the said appraisers having given at least fifteen days' notice in the manner aforesaid, of the time and place of their meeting to the owner or owners, occupant or occupants, or person or persons, having charge of such lands, to meet at such time and place, and, having taken an oath or affirmation fairly and impartially to inquire into and report the value of the said materials, and the amount of the said damages, which may be submitted to their judgment, shall proceed to view and examine the premises, and make a valuation and appraisement under their hands and seals, and deliver the same into the office of the secretary of the state of New-Jersey; which said valuation and appraisement shall be conclusive evidence of the value of the said materials, and the amount of damages sustained by such owner or owners of such lands, in any suit to be brought therefor; and every such owner or owners of the said land, having first made demand of

Company may
enter on adja-
cent lands, &c.

making compen-
sation.

- the said company for the amount so valued or appraised, may sue for and recover the same by action of debt, with costs of suit.
- SEC. 16. *And be it enacted,*** That it shall be the duty of the company to construct and keep in repair good and sufficient bridges or passages over the said canal and feeder, where any public or other roads shall cross the same, so that the passage of carriages, horses, and cattle on said roads shall not be prevented thereby, and also where the said canal or feeder shall intersect the farm or lands of any individual, to provide and keep in repair a suitable bridge or bridges as aforesaid, so that the owner or owners & others may pass the same.
- SEC. 17. *And be it enacted,*** That the said company are hereby authorised to demand and receive such sum or sums of money, for tolls and the transportation of persons and every species of property, whatsoever, on said canal and feeder, as they shall from time to time think reasonable and proper: *Provided,* that they shall not charge more than at the rate of four cents per ton per mile, toll, for the transportation of every species of property, nor more than five cents per mile, toll, the carrying of each passenger, on the canal, and not more than half that rate of toll on the feeder; and that the said canal and feeder, and their appendages, and the land over which the same shall pass, and all the works and improvements, and all other property whatever belonging to the company, are hereby vested in the said company incorporated by this act, and their successors, for and during the continuance of this charter; and the shares of the capital stock shall be deemed and considered personal estate: *Provided always,* that in case the said company shall not complete the canal and feeder within the time herein after limited, or, if after the same is completed, shall abandon the said canal and feeder, or cease to use and keep the same in repair, at any time, for three successive years that then and in that case this charter shall be annulled, and the title to the lands over which the said canal and feeder shall pass, shall be re-vested in the person or persons from whom the lands were taken by concession or by inquisition as aforesaid, their heirs or assigns: *Provided always,* if the state of New-Jersey shall take possession of said canal and feeder, then the said canal and feeder, and the title to the said lands shall be, and hereby are vested in the state of New-Jersey, to be used or disposed of as the legislature may deem proper.
- SEC. 18. *And be it enacted,*** That the president and directors of said company shall, as soon as the affairs of the company will admit, declare and make such dividend as they may deem prudent and proper, of the net profits thereof, and shall semi-annually declare such dividend, and pay the same to the stockholders of the said company, in proportion to the amount of shares held by them respectively, or in case they fail so to do, assign their reasons to the stockholders, in writing, for not doing so.
- SEC. 19. *And be it enacted,*** That, under the powers, restrictions, and conditions stipulated and prescribed in the foregoing enactments, it shall be lawful for the company aforesaid to alter any part or parts of the route of the canal or feeder, if in constructing the same they meet with any insurmountable obstructions arising from rocks or other physical causes, making compensation to owners, as herein before directed; and that it shall not be lawful for any person or persons, body corporate or politic, whatsoever, to construct any canal within five miles of any point of the said canal or feeder, without the consent of the said company, expressed in writing under their common seal, saving to any person or persons, body politic or corporate, any of their just and legal rights already vested, to the contrary of this prohibition: and it shall be the duty of the chancellor of this state, upon an application made therefor by bill in due form of law
- To make bridges for crossing Canal.
- Tolls.
- Limitation.
- Land and canal vested in the co.
- Stock personal estate.
- Canal to be kept in repair.
- Proviso.
- Dividend to be made.
- Company may alter route.
- No Canal within 5 miles.

by the said company to issue his injunction to stay and prevent the erection and construction of any such canal.

SEC. 20. *And be it enacted,* That the said canal and feeder, and the works to be erected thereon; in virtue of this act, for the transportation of passengers and freight as aforesaid, when so far completed as to be used, shall be esteemed a public highway, free for the transportation of passengers, or any goods, commodities or produce whatever, on payment of the established tolls. Canal a public highway.

SEC. 21. *And be it enacted,* That if any person or persons shall, in any manner, wilfully or maliciously destroy, injure, or obstruct said canal or feeder, or any of their parts or works therewith connected, or unnecessarily and maliciously open any gates thereon, he, she, or they shall forfeit and pay to the said company any sum not exceeding one hundred dollars, to be by them recovered in any court of competent jurisdiction, in an action of debt; and also be liable to pay double the amount of damages sustained thereby. Injuries to the Canal, how punished.

SEC. 22. *And be it enacted,* That if it shall be necessary to carry into full effect the objects of this act, the stockholders shall have the power to increase the capital stock of the said company, any sum not exceeding five hundred thousand dollars, by increasing the number of shares for that purpose. Capital Stock may be increased.

SEC. 23. *And be it enacted,* That the legislature of this state shall have the right of subscribing for one-fourth of the capital stock of the company created by this act, and in case the state shall so subscribe, it shall have the appointment of two of the directors of the said company, or if the state shall subscribe for a less number of shares, then the state shall have the appointment of one director, which director or directors shall be appointed in such manner as the legislature shall by law direct: *Provided always,* that if the legislature shall omit or refuse to authorize such subscription as aforesaid, for the space of two years after the said company shall have fixed upon and agreed to the size, dimensions, and routes or location of the said canal and feeder, then the said right to subscribe shall cease:— *And provided also,* that if the state shall subscribe for any portion of said stock, not less than one eighth part thereof, the company shall not thereafter alter or change the size, dimensions, or location thereof, without the consent of the legislature. State may subscribe within 2 years, &c.

SEC. 24. *And be it enacted,* That if the canal and feeder shall not be commenced within two years after the passing of this act, or shall not be completed within eight years, this act shall be void. Canal to be begun & finish'd.

SEC. 25. *And be it enacted,* That at the expiration of thirty years from the completion of the canal and feeder, the legislature of this state may cause an appraisement of the said canal and feeder, and the appendages thereof to be made by six persons, three of whom shall be appointed by the Governor, or person administering the government of this state, the remaining three by the company, who, or a majority of them, shall report the value thereof to the legislature, within one year from the time of their appointment, or if they cannot agree, they shall choose a seventh, who, with the aforesaid six, shall report as aforesaid, which value shall in no case exceed the first costs of the said canal and feeder, with the lands and appendages thereof, and thereupon the state shall have the privilege for ten years, of taking said canal and feeder upon the payment to the company of the amount of the said report within one year after electing, to take said canal and feeder, which report shall be filed in the office of the secretary of this state, and the whole property and interest of the canal and feeder, and the appendages thereof, shall be vested in the state of New-Jersey, upon payment of the amount so reported to the said company; and that it shall be the duty of the Canal may be taken by State thirty years after completion.

President of the company, to lay before the legislature, under oath or affirmation, whenever the legislature shall so request, a full and fair statement of the costs of the said canal and feeder, with their appendages, and of the receipts and disbursements of said company: *Provided*, that if the said company shall, for the space of two months after the appointment of appraisers made by the state, refuse or neglect to appoint the requisite number of appraisers on their part, that then and in that case, the governor, or person administering the government of this state, shall have the power to appoint two appraisers, who, with those appointed by the governor, or person administering the government, shall make the valuation aforesaid, and the said company shall be bound thereby: *And provided also*, that if the appraisers appointed by the governor or person administering the government, and the company respectively to be equally divided, and the appraisers on the part of the company, shall refuse or neglect for two weeks, to appoint a seventh person, or cannot agree on the appointment of such seventh person, within said period, as heretofore provided, that then and in that case the governor, or person administering the government, shall appoint the said seventh person: *And provided also*, that if any of the said appraisers so appointed on the part of the state, shall refuse or neglect to perform the duties required, that the governor, or person administering the government, shall have power to appoint other appraisers in the place of those who do so refuse or neglect to perform the duty aforesaid.

Treasurer of
Co. to make
quarterly re-
turns of toll, &
pay State, &c.

SEC. 26. *And be it enacted*, That from and after the completion of the said canal and feeder, it shall be the duty of the treasurer of said company, under oath or affirmation, to make quarterly returns of the number of passengers, and the number of tons of merchandize, and other articles, transported thereon across the state, to the treasurer of this state, for the time being, and thereupon to pay the said treasurer of the state the sum of eight cents for each and every passenger, and the sum of eight cents for each and every ton of merchandize so transported thereon, excepting the articles of coal, lumber, lime, wood, ashes and similar low priced articles, for which two cents per ton shall be paid as aforesaid; and that no other tax or impost shall be levied or assessed upon the said company.

A Public Act

SEC. 27. *And be it enacted*, That this act shall be deemed and taken as a public act, and as such taken notice of by all courts of justice in this state, without the necessity of pleading the same.

Feb. 4, 1830