

meadow, in such way and manner as shall be concluded and agreed upon by the major part of those who are therein interested, & present at any legal meeting; the votes to be collected according to the interest of said proprietors.

March 8, 1792.

1791. — Chapter 57.

[January Session, ch. 43.]

AN ACT TO INCORPORATE *HENRY KNOX ESQR. & OTHERS* FOR THE PURPOSE OF OPENING A NAVIGABLE CANAL FROM SOME PART OF *CONNECTICUT RIVER* TO COMMUNICATE WITH THE TOWN OF *BOSTON*, BY THE NAME OF THE PROPRIETORS OF THE *MASSACHUSETTS CANAL*.

Whereas the establishment of a Navigable Canal through the interior parts of this Commonwealth to the Capital, must promote the essential Interests of this Commonwealth, by facilitating the means of transportation from one part of the Commonwealth to the other, & whereas the said Henry Knox & others have petitioned this Court to incorporate them with certain privileges for that purpose;

Preamble.

Be it enacted by the Senate & House of Representatives in General Court assembled & by the authority of the same, that Henry Knox, John Coffin Jones, David Cobb, Benjamin Hitchborn & Henry Jackson, Esquires with such other persons as have with them associated & all those who may hereafter become Proprietors in the said Canal, be & they hereby are constituted a Corporation & body politic for the purpose aforesaid, by the name of the proprietors of the Massachusetts Canal, & by that name may sue & be sued to final judgment & Execution & do & suffer all matters, acts & things, which bodies politic may or ought to do or suffer; & the said Corporation shall & may have & use a common Seal & the same may break & alter at pleasure.

Persons incorporated.

And be it further enacted by the Authority aforesaid, that the said Henry Knox, John Coffin Jones, David Cobb, Benjamin Hitchborn & Henry Jackson Esquires, or any two of them may by Advertisement in two of the Boston News papers, warn & call a meeting of the said Proprietors to be holden at any suitable time & place after thirty days from the first publication of the said Advertisement, & the Proprietors by a Vote of the Majority of those present, or represented at the said meeting

Authorized to hold meetings.

— to elect officers and make bye-laws.

(accounting & allowing one vote to a single share in all cases, *provided however* that no one proprietor shall be allowed more than twenty votes) shall choose a Clerk who shall be sworn to the faithful discharge of his Office; & the said Proprietors shall also agree on a method of calling future meetings, and at the same or any subsequent meetings may elect such Officers & make & establish such rules & bye-laws as to them shall seem necessary or convenient for the regulation & Government of the said Corporation, for carrying into effect the purpose aforesaid, & the same rules & bye-laws may cause to be executed & may annex penalties to the breach thereof not exceeding *four pounds*, *provided* the said rules & bye-laws are not repugnant to the Constitution or Laws of this Commonwealth: And all representations at any meetings of the said Corporation, shall be proved by writing signed by the Person to be represented, which shall be filed by the Clerk: And this Act, & all rules, bye-laws, regulations & proceedings of the said Corporation shall be fairly & truly recorded by the said Clerk in a Book or Books to be provided & kept for this purpose.

— empowered within a limited time to open a navigable Canal.

And be it further enacted by the Authority aforesaid, that the said proprietors be & they are hereby authorized & empowered exclusively within the term of fourteen years from the passing this Act to open & establish a Navigable Canal from any part of *Connecticut River* between the Town of *Springfield* & the northern limits of this Commonwealth, or from any other part of said River (provided they obtain permission from the State through which the same may pass), to communicate with the Town of *Boston* or the waters surrounding said Town & also to open & establish any branch or branches from said Canal to communicate with any other parts or places within this Commonwealth & for the purposes aforesaid to take, use, occupy & possess exclusively in fee simple or otherwise any Land or water which may be necessary to compleat said Canal & the appendages thereof, they paying therefor in manner as is herein after directed; *provided* the land so taken shall not exceed twenty five feet in width on each side & running the whole length of said Canal for the purposes of building & repairing said Canal, for towing, paths & other necessary uses, unless the parties interested shall otherways agree.

And whereas it may be necessary that said Proprietors,

make use of & appropriate the lands or other property of private persons,

Be it further enacted by the Authority aforesaid, that when the said Proprietors & the owner or owners of such lands, water, water courses, Streams, mills, mill dams or other property or Estate which may be necessary for the purposes aforesaid cannot agree upon the value of the same nor mutually agree upon some suitable person or persons to appraise the same, the Justices of the Supreme Judicial Court are hereby authorized & impowered at any Session within the County where such land, water or other Estate may lie, upon application of either party to appoint three disinterested Freeholders within such County whose appraisement under oath, made upon the same principles as private property is estimated when taken & appropriated for highways, being returned into said Court & by them accepted shall be final between the parties & vest the estate so appraised in the proprietors of said Canal, unless either party being dissatisfied with such appraisement shall at the next Session of said Court to be holden in such County after the acceptance of said appraisement, apply for a decision by a Jury; in which case the said Court is hereby empowered to hear & finally determine the same by a jury under oath to be summoned by the Sheriff or his Deputy for that purpose, or by a new Committee if both parties shall agree thereto; & if the Jury or Committee last mentioned, who are to be under oath, shall not return a verdict or report more favorable to the party applying than that of the first Committee, the party applying shall pay the Costs, otherwise, the party not applying shall pay the costs; in both cases judgment shall be made up agreeable to the verdict of the Jury, or report of the Committee last mentioned, so far as respects damage with or without a deduction of the cost therefrom, as the case shall require, & execution issue therefor; & the proprietors of the said Corporation in their Individual Capacity shall be and hereby are made liable to be taken in Execution on such Judgment, in the same manner as the Inhabitant of any Town in this Commonwealth are by law liable, in certain cases; and the estate thus estimated shall vest in the proprietors of the said Canal.

Referees appointed by S. J. Court in case of dispute between the parties.

Allowed on appeal to Jury.

Judgment made by the verdict of the Jury.

Proprietors may be taken in execution.

And be it further enacted, that when the land or other property or estate belonging to Infants, Females Covert or

Guardians of incapacitated persons author-

ized to act in
their behalf.

persons *non compos mentis* shall be taken & appropriated for the use & purposes of said Canal as aforesaid, the husbands of such *Femes Covert* & the Guardians of such infants or persons *non compos mentis*, respectively, may execute any Deeds, enter into any contracts or do any other matter or thing respecting such lands or other estate to be taken and appropriated as aforesaid, as they might do if the same were by them holden in their own rights respectively.

Justices of S. J.
Court empow-
ered to deter-
mine respecting
bridges across
the Canal &c.

And be it further enacted by the authority aforesaid, that the Justices of the Supreme Judicial Court upon the application of the Selectmen of any Town or the proprietors of any land through which said Canal may pass, be and hereby are authorized & empowered at any Session within the County where such lands lie, to appoint three disinterested freeholders in such County, who shall, after hearing the parties on oath, determine what Bridge or Bridges shall be erected across said Canal for the accommodation of the public where said Canal may pass through the Highway, or for the accommodation of Individuals whose lands may be intersected by the said Canal, & also to determine upon the Amount of damage which may be done to the land or estate of any person or persons by overflowing the same or otherwise; & in case such bridge or bridges shall not be erected within such time or in such manner as shall be directed by such Freeholders, provided their reports be accepted by said Court, the said Corporation may be sued & prosecuted by the public or such person or persons as may be injured thereby.

Shares may be
transferred.

And be it further enacted by the Authority aforesaid, that any proprietor's share or shares in said Canal may be transferred by Deed acknowledged & recorded by the Clerk of said Corporation in a Book to be kept for that purpose; & when any share or shares of said Canal shall be attached as the property of any of said Proprietors on *mesne process*, an attested copy of such process shall be left with the said Proprietor's Clerk at the time of such attachment, otherwise, the same shall be void.

Toll
established.

— rates of.

And be it further enacted by the Authority aforesaid, that a toll be & hereby is granted for the sole benefit of said proprietors according to the rates following, *viz*, for every ton in weight or by measure in feet not more than *six pence* per mile, for each mile according to the course of the Canal, and in the same proportion for a larger

quantity, & also for a smaller quantity not less than one quarter of a ton, exclusive of toll for passing the locks which may be in the said Canal & which may be hereafter regulated & established by the General Court, & for every article less than one quarter of a ton, such toll as shall be established by the proprietors aforesaid.

And be it further enacted by the authority aforesaid, that said proprietors shall receive said toll and possess & enjoy the emoluments of said Canal, together with the waters streams and rivers which they shall make use of for the said Canal, so far as it shall be necessary for the same, forever; *provided,* that the General Court shall at all times after the expiration of seventy years from the completion of said Canal, alter, regulate & determine the toll thereof, & [and] the said Commonwealth shall be entitled to & receive one quarter part of the net proceeds thereof forever.

Canal, etc. to be the property of the Proprietors forever.

Proviso.

And be it further enacted by the authority aforesaid, that when & so often as the said proprietors shall have finished a proportion of said Canal equal to ten miles in length, according to the course of said Canal, they shall be entitled to receive a toll thereon in the manner and at the rates herein before provided.

Toll to commence when a certain part is completed.

Provided and be it further enacted, that from and after the expiration of five years from the time of passing this Act, if the Corporation hereby created shall not have completed ten miles at least of the said Canal, the Legislature of this Commonwealth may upon the application of any other company for the privileges hereby granted, incorporate such other company for the purpose of completing the said Canal.

Proviso.

March 8, 1792.*

1791. — Chapter 58.

[January Session, ch. 33.†]

AN ACT PROVIDING FOR THE DUE OBSERVATION OF THE LORD'S DAY AND REPEALING THE SEVERAL LAWS HERETOFORE MADE FOR THAT PURPOSE.

Whereas the observance of the Lord's day, is highly promotive of the welfare of a Community, by affording necessary seasons for relaxation from labour & the cares of business; for moral reflections & conversation on the duties of life, & the frequent errors of human conduct; for public

Preamble.

* Approved March 10, 1792.

† Wrongly numbered in session pamphlet; should be ch. 36.