

more branches without consent. hereafter have no authority to establish any additional offices of discount and deposit, without the permission of the legislature.

FRED'K SMITH, *Speaker*
of the *House of Representatives.*

DANIEL STURGEON,
Speaker of the Senate.

APPROVED—the thirteenth day of March, A. D. one thousand eight hundred and thirty.

GEO. WOLF.

No. 58.

AN ACT

To incorporate the Phillipsburg and Juniata Rail-road Company.

SECT. 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 Robert F. Griffith and Jonathan M. Wright, of the city of Philadelphia, Hardman Phillips, Thomas Burnside and William Bagshaw, of Phillipsburg, Centre county, and Robert Allison and William Orbison, of Huntingdon 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 fourth day of May next, procure three books; one of which shall be opened at the coffee-house in the city of Philadelphia, one at the house of William Alexander, in Centre county, and one at the house of John M'Connell, in Huntingdon county, in each of which they shall enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president and managers of the Phillipsburg and Juniata rail-road company, the sum of one hundred dollars, for every share of stock set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and managers of the said company, in pursuance of an act of the general assembly of this commonwealth, entitled "An act to incorporate the Phillipsburg and Juniata rail-road company." Witness our hands the day of in the year of our Lord one thousand eight hundred and thirty- ,” and shall thereupon give notice

Commissioners to open books, &c.

Places where

Form of subscription.

in one newspaper printed in the counties of Centre and Huntingdon, and city of Philadelphia, two 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 respective times and places one or more of the commissioners shall attend, and permit all persons of lawful age, who shall offer to subscribe in the said books, in their own names or the name of any other person who shall authorise the same, for shares in said stock, and the said books shall be kept open respectively for the said purpose, at least six hours in every juridical day, for the space of six days, or until there shall have been subscribed twelve hundred shares; and if at the expiration of six days, the books aforesaid shall not have the number of shares aforesaid therein subscribed, the said commissioners may adjourn from time to time, and transfer the book or books elsewhere, until the whole number of twelve hundred 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: *Provided*, That no person shall be permitted to subscribe for more than five shares on the first day, and not more than five shares on the second day, after which any person may subscribe for any number of shares until the whole of the stock is taken.

Notice to be given.

Who may subscribe.

Adjournment and transfer.

Proviso.

SECT. 2. *And be it further enacted by the authority aforesaid*, That when six hundred shares or more of the said stock shall be subscribed, and the sum of five dollars paid on each and every share, the commissioners or a majority of them may certify to the Governor, under their hands and seals, the names of the subscribers, and the number of shares subscribed by each, whereupon the Governor shall by letters patent under his hand and seal of the commonwealth, create and erect the subscribers, and if the subscription be not full at the time, then also those who shall thereafter subscribe, to the number of shares as aforesaid, into a body politic and corporate, in deed and in law, by the name, style and title of "The Phillipsburg and Juniata Rail-road 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, and the same from time to time to sell, mortgage, grant, alien or dispose of, and to make

When 600 shares are taken subscribers may be incorporated.

Style and Title.

dividends of such portions of the profits as they may deem proper, and also to make and have a common seal, and the same to alter or renew at pleasure, and also to ordain, establish and put in execution such by-laws, ordinances and regulations as shall appear necessary and convenient for the government of the 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 mining, trading or banking privileges whatsoever, or any other liberties, privileges or franchises but such as may be necessary or incident to the making of the said rail road: *Provided further*, That the said company shall at no time hold or possess any coal land, for the purpose of carrying on the coal trade.

Immunities,
&c.

Proviso.
Confined to
making road.

2d proviso.
Not to own
coal land, &c.

Organization

President &
six mana-
gers.

Annual elec-
tion.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the said named persons or a majority of them, shall as soon as conveniently may be after the said letters patent shall be obtained, give at least twenty days previous notice in the newspapers hereinbefore mentioned, of the time and place by them appointed for the subscribers to meet, in order to organize the said company, and to choose by a majority of votes of the said subscribers, by ballot to be given in person or by proxy, which proxy shall have been obtained and bear date within three months previously to the election at which such proxy shall be presented, duly authorised, one president and six managers, a majority of whom shall be residents of this commonwealth, a treasurer and secretary, and such other officers as shall be deemed necessary; that the president and managers aforesaid shall conduct the business of said company until the first Monday of December then next, and until like officers shall be 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, and that may be necessary for the well governing the affairs of the company.

SECT. 4. *And be it further enacted by the authority aforesaid*, That the stockholders shall meet on the first Monday of December in every year, at such place as may be fixed upon by the by-laws, of which notice shall be given at least twenty days by the secretary, in the newspapers before mentioned, and choose by a majority of votes present their officers for the ensuing year, as mentioned in the third section of this act, who shall continue in

office for one year, and until others are chosen, and at such other times as they may be summoned by the managers, in such manner and form as shall be prescribed by the by-laws, at which annual or special meeting they shall have full power and authority to make, alter or repeal by a majority of the votes in manner aforesaid, 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, that is to say, for each share not exceeding two shares two votes; for every two shares above two and not exceeding ten shares, one vote; for every four shares above ten and not exceeding thirty, one vote; for every ten shares above thirty and not exceeding one hundred, one vote; but no share or number of shares above one hundred as aforesaid, shall confer any additional right of voting, and no share shall confer a right of suffrage which shall not have been holden three calendar months prior to the day of election, nor 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 or 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 shares held by transfer shall be entitled to vote, unless the same shall have been transferred at least three months before the election; and all votes by proxy shall be on such terms and conditions as are prescribed by the act passed on the twenty-eighth day of March, in the year of our Lord one thousand eight hundred and twenty, entitled "An act to regulate proxies."

Ratio of
votes.

Proviso.
Transfers
and proxies.

SECT. 5. *And be it further enacted by the authority aforesaid*, That the election of officers provided for in the fourth section of this act, shall be conducted in the following manner, that is to say, the managers for the time being shall appoint two of the stockholders not being managers, to be judges of the said election, and to conduct the same, after having severally taken and subscribed 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 the 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 president, managers, treasurer, secretary or other officer shall

Conduct of
election.

not be made, the corporation shall not for that cause be deemed to be dissolved, but it shall be lawful to hold and make such election of president, managers, treasurer, secretary or other officer, on the same day or any other day thereafter, by giving at least ten days notice, signed by the president or secretary, in the newspapers before mentioned, of the time and place of holding said election, and the president, managers, treasurer, secretary and other officers of the preceding year shall in that case continue to act, and be invested with all the powers belonging to their respective situations, until an election shall take place; in the case of death, resignation or removal from the state of any president, manager, treasurer, secretary or other officer, his place shall be filled by the board of managers until the next annual election.

Vacancies.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the said president and managers, shall meet at such times and places as shall be found most convenient for the transacting of their business, and when met five shall be a quorum, who in the absence of the president may choose a chairman, and shall keep minutes of their transactions, fairly entered in a book, and a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents, and other artists and officers, as they shall deem necessary to carry on the intended work, and to fix their salaries and wages, to ascertain the times, manner and proportions in which the said stockholders shall pay the monies due on their respective shares, to draw orders on the treasurer for monies, which shall be signed by the president, or in his absence, by a majority of the managers present, and countersigned by the secretary, and generally to do all such other acts, matters and things as by this act and by the by-laws and regulations of the company they are authorised to do.

Duties of managers.

SECT. 7. *And be it further enacted by the authority aforesaid,* That the president and managers first chosen shall procure certificates or evidence of stock, for all the shares of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him subscribed and held, which certificate or evidence of stock shall be transferable at his pleasure, in person or by attorney duly authorised, in the presence of the president or treasurer, each of whom shall keep a book for that purpose, subject however to all payments due or to become due thereon, and the assignee holding any certificate having first caused the assignment to be entered in a book of the company, to be kept for the transfer of

Certificates of stock.

Mode of transfer.

stock, shall be a member of the said corporation, and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock, of all the estates and emoluments of the company incident to one share, and to vote as aforesaid at the meetings thereof, and subject to all the penalties and forfeitures, and of being sued for all the balance and penalty due or to become due on each share, as the original subscriber would have been.

SECT. 8. *And be it further enacted by the authority aforesaid,* That if after thirty days notice in the public papers aforesaid, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay such proportion or instalment at the place appointed, for the space of thirty days after the time so appointed, every such stockholder or his assignee, shall, in addition to the instalment so called for, pay at the rate of two per centum per month for the delay of such payment, and if the same and additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sums before paid in part and on account of such shares, the same shall be forfeited to the said company, and may be sold to any person or persons willing to purchase, for such price as can be obtained for the same, or in default of payment by any stockholder of any such instalment as aforesaid, the president and managers may at their election, cause suits to be brought before an alderman or justice of the peace, or in any court having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid: *Provided,* That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election or at any general or special meeting of the said company, on whose share or shares any instalment or arrearages may be due and payable more than thirty days previously to the said election or meeting.

Penalty on delay in paying instalments.

How recovered.

Proviso. Delinquents not to vote.

SECT. 9. *And be it further enacted by the authority aforesaid,* That the president and managers of the said company shall demand and require of and from the treasurer, and all and every other the officers and other persons by them employed, bond in sufficient penalties and with such securities as they shall by their rules, orders and regulations require, for the faithful discharge of the several duties and trusts to them or any of them respectively committed.

Officers to give bond with securities.

SECT. 10. *And be it further enacted by the authority aforesaid,* That dividends of so much of the profits of the institution as shall appear advisable to the directors, shall be

Semi-annual
declaration,
&c. of divi-
dends.

declared at least twice a year in every year, and paid to the stockholders on demand, at any time after the expiration of ten days therefrom, but they shall in no case exceed the amount of the nett profits actually acquired by the company, so that the capital stock shall never be thereby impaired; if the said directors shall make any dividend which shall impair the capital stock of said institution, the directors consenting thereto shall be liable in their individual capacities, to said company, for the amount of the stock so divided, and each director present when such dividend shall be declared shall be adjudged to be consenting thereto, unless he forthwith enter his protest on the minutes of the board, and give public notice to the stockholders at the declaring of such dividend: *Provided*, No dividend shall exceed fifteen per centum per annum.

Proviso.
Not to ex-
ceed 15 per
cent.

After 3 years
annual ab-
stract to be
furnished
under oath.

SECT. 11. *And be it further enacted by the authority aforesaid*, That at the end of the third year after the date of this incorporation, and at the end of every year thereafter, there shall be furnished to the legislature an abstract of the account of the company, showing the whole amount of their capital actually paid into the funds of the company, and the amount of dividend declared in each year, or the losses sustained as the case may be, which abstract shall be verified by the oath or affirmation of the president of the company for the time being.

Location of
road.

SECT. 12. *And be it further enacted by the authority aforesaid*, That the president, directors and company of the said rail-road company shall have power to survey, lay down, ascertain, mark and fix such route as they shall deem expedient, for a single or double rail-road, beginning at the Pennsylvania canal, at or near the mouth of the Little Juniata, below Alexandria, in Huntingdon county, thence up the Little Juniata and Little Bald Eagle creeks and through Emigh's Gap, to the coal mines in the neighborhood of Phillipsburg, in Centre county, having due regard to the situation and nature of the ground, and of the buildings thereon, the public convenience and the interest of the stockholders, and so as to do the least damage to private property; and the said road shall not be more than five rods wide, and shall not pass through any burying ground nor place of public worship, nor any dwelling house, without the consent of the owner thereof, nor shall it pass through any out buildings of the value of three hundred dollars without such consent: *Provided*, That the said rail-road shall be made single or double, so as to accommodate the trade ascending as well as descending the same.

Proviso.

SECT. 13. *And be it further enacted by the authority aforesaid*, That it shall be lawful for the president, directors and

company of the said rail-road company, and their agents, and all persons employed by or under them, for the purpose contemplated in this act; to enter upon any land which they shall deem necessary for laying out said road, and also for the purpose of searching for stone and gravel or wood for constructing said roads, but no stone, sand, gravel, or wood shall be taken away from any seated land without the consent of the owner thereof; until the rate of compensation for the same be ascertained and paid, which rate of compensation, if the parties cannot agree thereon, shall be ascertained in the manner hereinafter prescribed as to the compensation for lands over which said road may be laid.

Right to enter upon lands, to locate and for materials &c.

SECT. 14. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the company hereby incorporated, to make, erect and establish a single or double rail-road as aforesaid, to be constructed so that the said rail-road in its progress shall in no part of it rise above one inch to a foot; except at the inclined plane or planes intended to be constructed on the east side of the Allegheny mountain, and said company are also hereby empowered to erect, make and establish all works, edifices and devices to such rail-road as may by the said company be deemed expedient for the purposes of carrying into effect the objects of their incorporation, and also to contract and agree with the owner or owners, for the purchase of any lands or tenements which may be necessary for the purpose of erecting the said rail-road.

Scale, &c.

SECT. 15. *And be it further enacted by the authority aforesaid;* That whenever it shall be necessary for the president, directors and company of the said rail-road company to enter in and upon and occupy, for the purpose of making said rail-road, any land upon which the same may be located, if the owner or owners of the said land shall refuse to permit such entry and occupation, and the parties cannot agree upon the compensation to be made for an injury or supposed injury that may be done to said land, by such entry and occupation, it shall and may be lawful for the parties to appoint six suitable and disinterested persons to estimate such damages, who shall be under oath or affirmation, fairly and impartially to estimate the same, and shall reside within the proper county where the land lies, and the expenses incurred by the said appraisers shall be defrayed by the said rail-road company; but if the parties cannot agree upon such persons, or if the person so chosen shall not decide upon the matter, or if the owner of such land shall refuse or neglect to join in such appointment within twenty days after requisition for that purpose upon him, or if such owner shall be a feme covert, under age, non compos mentis, out of the state, or unknown, then it shall be

Arrangement for the appraisalment, settlement, &c. of damages.

Viewers' fees.

Proviso.

Right of appeal.

2d proviso.

When damages to be paid.

Not to obstruct public roads.

Erection of causeways.

lawful for the court of common pleas of the county in which the land lies, on application of either party, and at the cost and charges of said corporation, to appoint six disinterested persons, men of said county, to view, examine and survey the said lands, tenements or hereditaments, and estimate the injury or damage, if any, that in their apprehension will be sustained as aforesaid, by reason of said rail road, and report the same under their oaths or affirmations to the said court, which report being confirmed by the said court, judgment shall be entered thereon, and the viewers shall be entitled to the like fees for their services as are allowed by law to reviewers of public roads and highways, to be paid by said company; and it shall be the duty of the said appraisers, in estimating such injury or damage, to take into consideration the advantages that will be derived to the owner or owners of the said lands from the said railroad: *Provided*, That either party may appeal to the court within thirty days after such report may have been filed in the prothonotary's office of the proper county, in the same manner as appeals are allowed by the provisions of the arbitration act of one thousand eight hundred and ten, and upon the coming in of such report, and the confirmation thereof, or upon final judgment on appeal therefrom, and the said company paying to such owner the sum in such report or judgment specified, in full compensation for said lands, or for the injury sustained as aforesaid, the said company shall become seized of the same estate in the said lands which the owner held in the same, and they and all who act under them shall be acquitted and freed from all responsibility for and on account of such injury: *Provided*, That the payment of damages aforesaid for land through which the said road may be laid, shall be made before the said company or any person under their direction, or in their employ, shall be authorised to enter upon and break ground in the premises, except for the purposes of surveying and laying out said road, unless the consent of the owner of such land be first obtained.

SECT. 16. *And be it further enacted by the authority aforesaid*, That the said rail-road shall be so constructed by the said company, as not to obstruct or impede the free use and passage of any public road or public roads, which may cross or enter at the same, being now laid out or hereafter to be laid out, and in all places where the said rail-road may cross or in any way interfere with any public road, it shall be the duty of the said company to make or cause to be made a good and sufficient causeway or causeways, to enable all persons passing or travelling such public road, to cross and pass over or under the said railway, which causeway or causeways shall be

made and maintained by the said company; and if the said company shall refuse or neglect to make such causeway or causeways, or when made, to keep the same in good repair, they shall be liable to pay a penalty of ten dollars for every day the same shall be neglected or refused to be made or repaired, to be recovered by the supervisor of the township, with costs, for the use of the township, as debts of like amount are by law recoverable, and shall moreover be liable to an action or actions at the suit of any person who may be aggrieved thereby, and the service of process upon any officer or agent of said company, shall be as good and as available in law as if served upon the president thereof.

Penalty on neglect.

Serving process.

SECT. 17. *And be it further enacted by the authority aforesaid,* That for the accommodation of all persons owning or possessing land through which the said rail-road may or shall pass, and to prevent inconveniencies to such persons in crossing or passing the same, it shall be the duty of the said company, when required, to make or cause to be made a good and sufficient causeway or causeways, wherever the same may be necessary, to enable the occupant or occupants of said lands to cross or pass over or under the same, with wagons, carts and implements of husbandry, as occasion may require: *Provided,* That the said company shall in no case be required to make or cause to be made, more than one such causeway through each plantation or lot of land for the accommodation of any one person owning or possessing land through which the said rail-road may or shall pass, and where any public road shall cross said rail-road, the person owning or possessing land through which the said road shall pass, shall not be entitled to make such requisition on said company, and the said causeway or causeways, when so made, shall be maintained and kept in repair by said company; and if said company shall refuse or neglect to make such causeway or causeways, or when made, to keep the same in good repair, the said company shall be liable to pay any person aggrieved thereby, all damages sustained by such person, in consequence of such refusal or neglect, to be sued for and recovered before any magistrate or any court having cognizance thereof, and the service of process upon any officer or agent of said company shall be as good and as available in law, as if served upon the president thereof.

Private causeways.

Proviso.
Not more than one to each farm.

Penalty on neglect to keep in repair.

How recovered.

SECT. 18. *And be it further enacted by the authority aforesaid,* That no suit or action shall be brought or prosecuted by any person or persons for penalties incurred under this act, unless said suit or action shall be commenced within six months next after the offence shall have been committed, or the cause of action shall have accrued, and the defendant or the defendants in such suit or action

Suits must commence within six months.

may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by authority of this act.

Right of owners of adjacent land to make lateral rail-roads

SECT. 19. *And be it further enacted by the authority aforesaid,* That the company shall not prevent any person or persons, being the owner or owners of land bordering on the said rail-road, or adjacent thereto, from making such lateral rail-roads, and to connect them with said rail-road from their said lands, as the said person or persons may conceive necessary for the purpose of transporting their coal or produce down the said rail-road.

Rate of toll.

SECT. 20. *And be it further enacted by the authority aforesaid,* That on the completion of the said rail road, the same shall be esteemed a public highway, free for the transportation of all commodities, and the said company may charge and receive tolls and for freights on and for the transportation of goods, wares and merchandize, at the following rates, that is to say, on each ton of coal two cents per mile, on each ton of charcoal four cents per mile, on each ton of iron ore, salt, gypsum and lime, two cents per mile, on brick per thousand, on lumber squared and round per one hundred feet solid two cents per mile, on boards, planks, scantling or other sawed stuff, reduced to inch stuff, two cents per one thousand feet per mile, on shingles per thousand one cent per mile, on staves and heading for pipes and hogsheads per mile two cents per thousand, and staves and heading for barrels and other vessels of less size, one cent per mile per thousand, on each ton of pig metal three cents per mile, on all other articles not enumerated, four cents per ton per mile, on all single and detached articles weighing less than a ton, it shall be lawful to charge and receive on the transports thereof an advance of twenty per centum on the rates as above established: *Provided,* That whenever the aforesaid tolls shall exceed fifteen per centum on the capital expended, they shall be reduced so as not to exceed that amount: *Provided also,* That every person or persons using the said road shall only use those carriages and wagons and conveyances which shall be adapted thereto, which said carriages, wagons and conveyances to be used thereon for the transportation of persons or commodities shall be prescribed by the said company.

Proviso, When toll to be reduced:

2d proviso. Kind of wagons used to be prescribed by the company.

Penalty on wilfully injuring works of company.

SECT. 21. *And be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully and knowingly break, injure and destroy the rail-road or any part thereof, or any work, edifice or device, or any part thereof to be erected by the said company, in pursuance of this act, he, she or they shall forfeit and pay to the said company three times the actual damages so sustain-

ed, to be sued for and recovered with costs of suit in any court having cognizance thereof, by action of debt, in the name and for the use of the said company.

SECT. 22. *And be it further enacted by the authority aforesaid,* That if the president, managers and company shall not proceed to carry on said work, within two years from the passage of this act, and shall not complete the same as aforesaid in five years, according to the true intent and meaning of this act, or if after the completion of the said road, the said corporation shall suffer the same to go to decay and be impassable for the term of two years, then this charter shall become null and void, except so far as compels said company to make reparation for damages.

Time of commencement, completion, &c.

SECT. 23. *And be it further enacted by the authority aforesaid,* That if any increase of the capital stock be deemed necessary by the stockholders, to complete the said railroad, it may be lawful for the said president, managers and company, at a stated or special meeting convened for the purpose, to increase the number of shares, so that the capital of said company shall not exceed two hundred thousand dollars, and to receive and demand the moneys for shares so subscribed, in like manner and under like penalties as are hereinbefore provided for the original subscription, or as shall be provided for by their by-laws.

Mode of increasing stock.

Extent.

SECT. 24. *And be it further enacted by the authority aforesaid,* That the legislature reserves the right, in the event of the company's violating any of the provisions of this act, to revoke, alter or annul the charter hereby granted at any time they may think proper.

Reservation of right to repeal.

FRED'K SMITH, *Speaker*
of the House of Representatives.

DANIEL STURGEON,
Speaker of the Senate.

APPROVED—the sixteenth day of March, A. D. one thousand eight hundred and thirty.

GEO. WOLF.