

the recovery of the same, or to diminish the liability of any retailers or officers under said act, now responsible for said duties, or the collection thereof.

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

WM. G. HAWKINS,  
*Speaker of the Senate.*

APPROVED—the seventh day of April, A. D. one thousand eight hundred and thirty.

GEO. WOLF.

## No. 194.

### AN ACT

To incorporate the Beaver Meadow rail road and coal 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 Jacob Holgate, John Purdon, Samuel Badger, and John Conard, of Philadelphia, William G. Scott, Joel Jones, and Owen Rice, from Northampton county, be and are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say, they or any two of them shall procure a sufficient number of books, and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president and directors of the Beaver Meadow rail-road and coal company, the sum of fifty dollars for every share by us subscribed, in such manner and proportions and at such times and places as shall be determined on by the said president and directors, in pursuance of an act, entitled "An act authorising the Governor to incorporate the Beaver Meadow rail-road and coal company." Witness our hands the        day of        Anno Domini one thousand eight hundred and       ," and shall give notice in at least one of the newspapers printed in the county of Northampton, and two of the daily newspapers printed in the city of Philadelphia, for at least three weeks, of the times when and places where some one or more of the aforementioned commissioners will attend, and receive

Commissioners to open books.

Form of subscription.  
\$50 per share.

Notice in Northampton and Philadelphia.

subscriptions from all persons of lawful age who shall offer to subscribe in said books, which shall be kept open for the purpose aforesaid at least six hours in every juridical day, for the space of six days, or until there shall have been subscribed in the said books five thousand shares; but no subscription shall be valid unless the person so subscribing, pay to the said commissioners at the time of making such subscription, the sum of five dollars on each share, and the said commissioners may adjourn from day to day, and from time to time, until the whole number of shares aforesaid shall have been subscribed.

5000 whole number.

\$5 to be paid at time on each share.

SECT. 2. *And be it further enacted by the authority aforesaid,* That whenever one thousand shares shall have been actually subscribed, and five dollars on each share shall have been paid to said commissioners the said commissioners shall certify the same under oath or affirmation, to the Governor of this commonwealth, and on receipt of such certificate the Governor shall by letters patent under his hand and the seal of the commonwealth, create and erect the subscribers, and if the subscription be not full at the time, then those also who shall thereafter subscribe, to the number of shares aforesaid, into a body corporate and politic in deed and in law, by the name, style and title of the "President and directors of the Beaver Meadow rail-road and coal company," and by the same name the subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, may make and establish a common seal, and the same alter, break, or renew, at pleasure, and shall be capable of taking and holding their capital stock, and the increase and profits thereof, and of purchasing and holding to them and their successors and assigns, in fee simple or for any lesser estate such real and personal estate as shall be necessary to them in the prosecution of their work, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may of right do: *Provided,* That the real estate which it shall be lawful for the said company to hold in their own right, or in trust, or otherwise, shall not exceed at any time two hundred acres of coal land, besides what shall be necessary for the rail road hereinafter mentioned, and coal yards and landing places as may be proper for the use of said company: *And provided also,* That nothing herein contained shall be so construed as to giving or granting to said company any banking, manufacturing, or trading privileges whatever, or any other privileges beyond what may be necessary to the perfect completion of the said rail-road, and carrying on the business of mining, transporting and vending coal, and receiving the tolls authorised by this act.

When 1000 shares are taken charter may issue.

Style.

Privileges, liabilities, &c.

Proviso.

Not to hold more than 200 acres coal land. 2d proviso.

No banking privileges, &c.

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 delivered in person or by proxy, which proxy shall have been obtained and bear date within three months previously to the election, and annually thereafter, in like manner, one president and ten managers, all of whom shall be residents of this commonwealth, and such other officers as shall be deemed necessary; that a majority of the managers shall be a quorum, who may appoint such officers or agents under them, and 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: *Provided,* That if the said election for directors shall not take place on any day on which the same ought to be held, it shall be lawful on any other day as soon as may be, to hold the same in such manner as may be regulated by the by-laws and ordinances of the said corporation.

First elec-  
tion and or-  
ganization:

President,  
10 managers,  
&c.

Majority a  
quorum.

Proviso.

Election day  
may be  
changed.

Power to  
make road.  
Route.

Crossing  
Lehigh.  
Bridges not  
to injure  
navigation,  
&c.

Company  
may extend.

Proviso.  
Not to in-  
jure Little  
Schuylkill  
co.

SECT. 4. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the said company to construct and make a single or double rail-road from the Beaver Meadow coal mines, in the county of Northampton, to a convenient point on the river Lehigh, at any place above Mauch Chunk, and if it shall be necessary or convenient that the said rail-road should cross the river Lehigh at one or more places, to erect a bridge or bridges for that purpose, provided that the said bridge, bridges, or rail-road, throughout its whole extent, shall be so constructed as in no case to injure the navigation of the said river, nor in any wise to interfere with the Lehigh coal and navigation company improvements, or the future extension of an ascending and descending navigation in or along the river Lehigh, and also if it shall be deemed expedient to make and construct a rail-road from the said Beaver Meadow coal mines to the Little Schuylkill, at such point as may be necessary to unite the same with any rail-road which may be made or constructed up the valley of said stream: *Provided,* That said rail-road be so constructed as not to interfere with the interests of the company incorporated for the purpose of making a rail-road up the East Branch of Schuylkill, called Little Schuylkill.

SECT. 5. *And be it further enacted by the authority aforesaid,* That the said company shall have power by themselves

or agents, to enter into such lands as may be necessary to make the rail-road aforesaid, and also to have liberty of taking from any land in the neighborhood, gravel, stone, wood, or other materials necessary for the construction of said rail-road, paying, if the owner of the said land and said company can agree, the damages they shall do to said lands, or if they cannot agree thereon, then the damages shall be ascertained in the manner hereafter prescribed, as to the compensation for lands over which said road shall have been laid.

Right to enter upon contiguous lands for materials.

Damages as hereafter prescribed.

SECT. 6. *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 said land shall refuse to permit such entry and occupation, and the parties cannot agree upon the compensation to be made for any injury or supposed injury that may be done to said land, by such entry and occupation, then it shall be 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 award a venire directed to the sheriff of the county, requiring him to summon a jury of disinterested men, 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 said court, judgment shall be entered thereon, and the said sheriff and jurors shall be entitled to the like fees for their services as are allowed by law in other cases of special juries, to be paid by said company and it shall be the duty of the appraisers, or jury as the case may be, in estimating such injury or damage, to take into consideration the advantage that will be derived to the owner or owners of said lands from said rail-road: *Provided,* That either party may appeal to the court within thirty days after such report shall have been filed in the prothonotary's office of the proper county, in the same manner as appeals are allowed in other cases, and upon the coming in of such report or inquisition 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 acquit-

Settlement of damages.

Sheriff to summon jury.

Report to court and confirmation.

Fees.

Proviso.

Right of appeal within 30 days.

Right of company to hold lands on payment of award.

Proviso.

Not to break ground before payment of damages without consent.

ted 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 purpose of surveying and laying out said road, unless the consent of the owner of such land be first obtained.

Suits to commence within ten months.

SECT. 7. *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 any penalties incurred under this act, unless such suit or action shall be commenced within ten months next after the offence shall have been committed, or the cause of action shall have accrued, and the defendant or defendants in such suit or action may plead the general issue, and give this act and special matter in evidence, and that the same was done in pursuance and by authority of this act.

Penalty on wilfully injuring property of company.

SECT. 8. *And be it further enacted by the authority aforesaid*, That if any person or persons shall wilfully and knowingly break, injure, or 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 said company, three times the actual damages so sustained, 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.

Not to interfere with works of Lehigh co. or public roads.

SECT. 9. *And be it further enacted by the authority aforesaid*, That the said rail-road shall be so constructed as not to obstruct or impede the works of the aforesaid Lehigh coal or navigation company, the free use and passage of any public road or roads which may cross or enter the same, now laid out or hereafter to be laid out, in all places where the said rail-road may cross, or in any way interfere with any public road, the said company shall 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 said rail-road, and if the company shall neglect or refuse to make such causeway or causeways, or when made to keep the same in good repair, they shall be liable to a penalty of ten dollars for every day the same shall be so 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 all actions at the suit of any person who may be aggrieved thereby.

Erection and repair of causeways.

Penalty.

SECT. 10. *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 pass, it shall be the duty of the said company 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 the same, with wagons, carts, and implements of husbandry, as occasion may require; and the said causeway and causeways so made shall be maintained and kept in repair by said company; and if the said company shall neglect or refuse, on request, 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 neglect and refusal, to be sued for and recovered before any justice of the peace or court having cognizance thereof: *Provided,* That said company shall in no case be required to make or cause to be made, more than one causeway through each plantation or lot of land for the accommodation of any one person owning or possessing land through which said rail-road may pass; and where any public road shall cross said rail-road, the person owning or possessing land through which said public road shall pass, shall not be entitled to require the company to erect any causeway for the accommodation of the occupant of such land: *And provided also,* That the owners of land through which the said rail-road may pass, shall not be prevented from making such road or causeways across the rail-road as they may conceive necessary, on their own lands at their own expense, doing no damage to the said rail-road, nor interfering with the transportation of any articles upon the same.

Private causeways.

In case of neglect company liable for damages.

Proviso.

One for each owner, except where public road crosses.

2d proviso.

Owners may make causeways at their own expense.

SECT. 11. *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 at the following rates, that is to say: on each ton of coal, one and an half cents per mile; on each ton of salt, gypsum, and lime, one and an half cents per mile; on brick, and lumber squared and round, per hundred feet solid, two cents per mile; on boards, plank, scantling, or other sawed stuff, reduced to inch stuff, one and an half cent per thousand feet per mile; on shingles per thousand one and an half cent per mile; on staves and heading for pipes and hogsheads two cents per mile per thousand; and staves and heading for barrels and other vessels of less size, one cent per mile per thousand; on all articles not enumerated,

Road a public highway.

Rates of toll.

three 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 tolls as above established: *Provided*, That whenever the aforesaid tolls shall exceed twelve per centum, on the capital expended, they shall be reduced so as not to exceed that amount: *And 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, the dimensions of which said carriages, wagons and conveyances to be used for the transportation of persons and commodities, shall be prescribed by said company.

Proviso.  
Not to produce more than 12 per cent.  
2d proviso.  
Cars to be prescribed.

SECT. 12. *And be it further enacted by the authority aforesaid*, That in all suits or actions which may be brought against the said company, the service of process upon any manager, toll gatherer or other officer of the company shall be as good and available in law, as if made on the president thereof.

Service of process on company.

SECT. 13. *And be it further enacted by the authority aforesaid*, That the said road shall be a public highway on the completion of a section of five miles or more of the rail road; all transportation on the same, of whatsoever nature or kind, or by whomsoever, shall be conducted under the superintendence and direction of said company, and it shall be lawful for any company that may be hereafter incorporated by any law of this commonwealth, or any individual or individuals to intersect the said rail-road or rail-roads, at any place where it may be deemed expedient, so that the same may be done in such manner as not to injure the same.

Completion by 5 mile sections.

Other roads may intersect.

SECT. 14. *And be it further enacted by the authority aforesaid*, That the board of directors or any number of stockholders, being together the proprietors of not less than one-third of the whole stock, shall have the power for all the purposes relative to the corporation, to call a general meeting of the stockholders, giving at least thirty days notice in at least one newspaper printed in the county of Luzerne, one in the county of Northampton, and two daily papers printed in the city or county of Philadelphia, and at all general meetings as well as elections, the number of votes each stockholder shall be entitled to shall be as is hereinafter mentioned.

Power to call meeting of stockholders

SECT. 15. *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 declared at least twice in every year, and paid to the stockholders on demand at any time after the expiration of twenty days therefrom, but they shall in no case ex-

Semi-annual dividends.

ceed the amount of the nett profits actually acquired by the company, so that the capital stock shall never thereby be impaired; and 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 the said company for the amount of the stock so divided, and each director present when such dividend shall be made, 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 of the declaring such dividend.

Directors consenting to declare higher than nett profits individually liable.

To enter protest, &c.

SECT. 16. *And be it further enacted by the authority aforesaid,* That the total amount of debts which said company may at any time owe, shall not exceed one half the amount of capital stock actually paid in, and in case of excess, the directors under whose administration it shall happen, shall be jointly and severally liable for the same in their individual capacities, but the said company shall nevertheless be also liable as a body corporate for such excess.

Debts not to exceed half of capital.

Directors liable individually for excess.

SECT. 17. *And be it further enacted by the authority aforesaid,* That the said company shall establish and maintain in the county of Northampton, an office in the charge of an agent or manager, to be appointed by the said president and directors of said company, which agent or manager shall under direction of said president and directors, and in pursuance of such rules and regulations as they or a majority of them shall from time to time establish, superintend the affairs of said company, in said county of Northampton, and any legal process served on said agent or manager, is hereby declared to be to all intents and purposes as legal and valid as the same would have been if served on the said president and directors.

Establishment of an agent in Northampton co.

SECT. 18. *And be it further enacted by the authority aforesaid,* That the stockholders shall meet on the second Monday of January in every year, at such place as may be fixed upon by the by-laws, of which due notice shall be given, 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

Annual election.

Special meetings of stockholders

Their powers.

Ratio of  
votes to  
shares.

hold, in the proportions following, that is to say, for each share not exceeding two shares, one vote; 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 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, society or corporation of which he or she may be a member, and not in trust for or 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 one thousand eight hundred and twenty, entitled "An act to regulate proxies."

Proviso.  
Transfers  
three months  
prior to elec-  
tion.  
Proxies.

Manner of  
conducting  
elections.

SECT. 19. *And be it further enacted by the authority aforesaid*; That the election of officers provided for in the third 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; 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 or other officer shall 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, or other officers on the same day or any other day thereafter, by giving at least twenty days notice, signed by the president, or secretary, in the newspapers, of the time and place of holding said election, and the president, managers, treasurer 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

Neglect to  
elect not to  
dissolve.

Officers of  
preceding  
year to act  
in such case.

or removal from the state of any president, manager, treasurer or other officer, his place shall be filled by the board of managers until the next annual election.

Board to fill vacancies.

SECT. 20. *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 officers and artists as they shall deem necessary to carry on the intended work, and to fix their salaries and wages, to ascertain the times, manner and proportion in which the said stockholders shall pay the moneys due on their respective shares, to draw orders on the treasurer for the same, 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 president & managers.  
5 a quorum.

Orders on treasurer.

SECT. 21. *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 said corporation, to each person for every share by him subscribed and held, which certificate 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 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, and 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 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.

Certificates of stock.

Mode of transfer.

SECT. 22. *And be it further enacted by the authority aforesaid,*

That if the president and directors of the Beaver Meadow rail-road and coal company, shall not commence the construction of said rail-road within two years from

To commence within 2 years and

complete in  
four.

the passage of this act, and shall not complete the same within four years, according to the true intent and meaning of this act, then this charter shall become null and void.

Right to re-  
peal.

SECT. 23. *And be it further enacted by the authority aforesaid,* That the legislature reserves the right to revoke, alter or annul the charter hereby granted, at any time the said company shall misuse or abuse any of the privileges hereby granted.

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

WM. G. HAWKINS,  
*Speaker of the Senate.*

APPROVED—the seventh day of April, Anno Domini  
one thousand eight hundred and thirty.

GEO. WOLF.