

## No. 74.

## AN ACT

To incorporate the Wyoming and Lehigh 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 George M. Hollenback, Andrew Beaumont,

Commissioners appointed to open subscription books.

Henry F. Lamb, William S. Ross, Charles Miner, Samuel Thomas, Henry Colt, Joseph P. Le Clerc, Elias Hoyt, Benjamin A. Bidlack, Eleazer Carey, Bateman Downing and Ziba Bennett, of Luzerne, Jedediah Irish, Thomas Craig, David D. Wagener, Azariah Prior, of Northampton, Daniel Parry, Lewis S. Coryell, Joseph D. Murray and John C. Parry, of Bucks, and Walter C. Livingston of Lehigh county, Benjamin W. Richards, Robert C. Martin, Joshua Lippincott and Lewis Ryan, of Philadelphia, 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 Wyoming and Lehigh rail road 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 authorizing the Governor to incorporate the Wyoming and Lehigh rail road company.' Witness our hands, the        day of        , Anno Domini, one thousand eight hundred and        ;"

Form of heading to subscription.

and shall give notice in at least one of the newspapers printed in Luzerne, Northampton and Lehigh, 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 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 three 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.

§5 to be paid upon each share at time of subscription.

SECT. 2. *And be it further enacted by the authority aforesaid,* That whenever one thousand or more shares shall have been actually subscribed, and five dollars on each share shall

have been paid to said commissioners, the said commissioners, or a majority of them, 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 Wyoming and Lehigh rail road 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, shall not exceed at any time so much as shall be necessary for the construction of a rail road and landings: *And provided*, That nothing herein contained shall be considered as in any way giving to the said corporation any banking or trading privileges whatever, or any other privileges but such as shall be necessary to the constructing of a rail road from the borough of Wilkesbarre, in the county of Luzerne, to a point on the river Lehigh, at or near the mouth of Wright's creek, with privilege to extend the same to Easton, or any other intermediate point.

When 1000 shares have been subscribed, Governor authorized to issue letters patent.

Privileges & liabilities.

*Proviso.*  
Real estate limited.  
2d proviso.

Company's operations confined expressly to road making.

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 three months previously to the election, and annually thereafter, in like manner, one president, ten managers, and one treasurer, 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

Of the organization of corporation.

Annual election of president, ten managers, treasurer, &c.

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.

SECT. 4. *And be it further enacted by the authority aforesaid*, That the said company shall have power, by themselves or agents, to enter in and upon 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 the damages shall be ascertained in the manner hereafter prescribed as to the compensation for lands over which said road shall have been laid.

SECT. 5. *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 and affirmations, to the said court, which report being confirmed by the 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,

Proviso.  
Omissions  
guarded  
against.

Right of  
entry upon  
lands to make  
road and take  
materials.

In case of  
disagreement  
with land  
owners, how  
damages are  
to be ascer-  
tained.

Appointment  
of viewers.

Confirmation  
of report.

Proviso.  
Right of ap-  
peal.

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 authorized 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.

Payment of award to vest rights.

2d proviso. Damages to be paid before breaking ground, unless by consent.

SECT. 6. *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 the special matter in evidence, and that the same was done in pursuance and by authority of this act.

Suits for penalties must be commenced within 10 months.

SECT. 7. *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.

Penalty upon wilful injury to property.

SECT. 8. *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 Lehigh Coal and 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

Rail-road not to obstruct works of Lehigh company, nor any public roads.

Construction of causeways.

Penalty on neglect.

by the supervisors of the township, 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.

Intersection with the Beaver Meadow rail-road.

SECT. 9. *And be it further enacted by the authority aforesaid,* That the said company shall be authorized to intersect the rail-road which may be made by the Beaver Meadow rail-road and coal company, at any place most convenient for their business, but this act shall not authorize any interference with the route which may be selected by that company.

Private causeways to be made by company.

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, whenever 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.

Penalty on neglect.

Proviso. But one to each owner.

None where public roads cross.

Rates of toll to be allowed to company.

SECT. 11. *And be it further enacted by the authority aforesaid,* That the said company shall be entitled to receive toll from all persons travelling on said road, that is to say: on each ton of coal, one and a half cents per mile; on each ton of salt, gypsum and lime, two cents per ton per mile; on brick, two cents per ton per mile; lumber, square and round, for every hundred feet solid, two cents; on boards, planks, and scantling, or other sawed stuff reduced to inch stuff, two cents for every thousand feet per mile; on shingles, per thousand, one and a half cents per mile; on staves and heading for pipes and hogsheds, per mile, two cents per thousand; and staves and heading for barrels, and other vessels of less size, one cent per mile per thousand; for all other

articles not enumerated, 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, an advance of ten per cent. on the rates as above stated.

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.

Process may be served upon any agent.

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 carried on and 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.

Road to be a highway upon the completion of 5 mile sections.

Intersection with other roads.

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 of the newspapers in the aforesaid county, and at all general meetings, as well as elections for directors, the number of votes each stockholder shall be entitled to, shall be according to the following scale, viz: every share not exceeding twenty, shall have one vote; for every other five shares, two votes, to be given in person or by proxy, constituted in writing.

General meetings of stockholders.

Ratio of votes to shares.

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 thirty 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 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

Semi-annual declaration of dividends.

Dividends not to impair capital.

Liability of directors.

public notice to the stockholders of the declaring such dividend.

SECT. 16. *And be it further enacted by the authority aforesaid,* That the said company shall establish and maintain, in the county of Luzerne, 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 Luzerne; 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.

Agency to be established in Luzerne co.

Of the increase of the capital stock.

Proviso. Limited to \$600,000.

Annual election of officers.

General powers of stockholders.

Ratio of votes to shares.

SECT. 17. *And be it further enacted by the authority aforesaid,* That if it shall appear to the said company that the amount of capital authorized by this act is insufficient to complete the said rail road, and to accomplish the several objects of this charter, it shall be lawful for the said stockholders, assembled at any annual or special meeting, to increase the said capital to the necessary amount, by increasing the number of shares, and directing an additional subscription: *Provided,* That the said capital shall in no case be increased so as to exceed six hundred thousand dollars.

SECT. 18. *And be it further enacted by the authority aforesaid,* That the stockholders shall meet on the first 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 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 elec-  
tion, 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 which shall not be bona fide, held or owned as  
aforesaid: *Provided*, That no shares held by transfer, shall  
be entitled to vote, unless the same shall have been transfer-  
red at least three months before the election, and all votes  
by proxy, shall be on such terms and conditions, as are pre-  
scribed 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.”

Of votes on transferred shares.

Proviso. Of proxies.

SECT. 19. *And be it further enacted by the authority afore-*  
*said*, That the election of officers provided for in the third  
section of this act, shall be conducted in the following man-  
ner, 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 de-  
clare who has been elected; and if it shall at any time hap-  
pen, that an election of president, managers, treasurer, or  
other officers, 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, mana-  
gers, 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 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.

Manner of conducting elections.

Neglect to elect not to dissolve corporation.

Vacancies, how filled.

SECT. 20. *And be it further enacted by the authority afore-*  
*said*, 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 keep minutes of their transac-  
tions, fairly entered in a book, and a quorum being formed,

General duties and powers of the president and managers.

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 authorized to do.

Certificates  
of stock.

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 authorized 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.

Mode of  
transfer.

Reservation  
of right to  
repeal, and of  
right to pur-  
chase after 30  
years, &c.

SECT. 22. *And be it further enacted by the authority aforesaid,* That if the said corporation shall misuse or abuse the privileges hereby granted, the legislature reserves the right to revoke or annul the charter hereby granted, at any time they may think proper; the legislature also reserves the right to purchase the right of said company, and the rail road with its appurtenances, at any time after thirty years from the passage of this act, at a reasonable price and valuation, and also the right to alter the charter, and to regulate and further limit the tolls, whenever they think proper.

Annual state-  
ment to Aud.  
General.

SECT. 23. *And be it further enacted by the authority aforesaid,* That the president or secretary of the said company shall, annually on the first Monday of December, transmit to the Auditor General, a full statement, under oath or affirmation, of the affairs of said company; and when the

dividends of the said company shall exceed twelve per cent. per annum, one half of the excess shall be paid into the state treasury, in aid of the education fund.

50 per cent. of dividends over 12 to go to education fund.

SAM'L. ANDERSON,

*Speaker of the House of Representatives.*

JESSE R. BURDEN,

*Speaker of the Senate.*

APPROVED—The fourth day of April, Anno Domini, eighteen hundred and thirty-three.

GEO. WOLF.

No. 75.

AN ACT

To change the name of Marquis William Twitchell, to that of Marquis William Wilmot, and to confer upon the illegitimate children of John Eichelberger, the rights of children born in lawful wedlock, and to legitimate the children of James Normand.

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 Marquis William Twitchell be and he is hereby authorized to change his name from Marquis William Twitchell to that of Marquis William Wilmot, and he shall henceforth be called and known by the name of Marquis William Wilmot, and by the same name shall be able and capable in law to sue and be sued, grant and receive, and do all other legal acts, as effectually, to all intents and purposes, as he could have done by his former name, if no change had been made therein.

SECT. 2. *And be it further enacted by the authority aforesaid.* That from and after the passage of this act, John Eichelberger, junior, and John Alexander Eichelberger, illegitimate children of John Eichelberger, of the township of Carroll, in the county of York, be and they are hereby made able and capable in law to inherit and hold real and personal estate, in as full and ample a manner as children born in lawful wedlock.

WHEREAS, James Normand, of the city of Pittsburg, and county of Allegheny, hath represented to the Legisla-

Preamble to 3d section.