

Perry co.
Buffaloe
township.

SECT. 63. *And be it further enacted by the authority aforesaid, That the general elections for the township of Buffaloe, in the county of Perry, shall hereafter be held at the house now occupied by William Montgomery, in said township.*

SAM'L. ANDERSON,

Speaker of the House of Representatives.

THO'S. RINGLAND,

Speaker of the Senate.

APPROVED—The ninth day of April, A. D. one thousand eight hundred and thirty-three.

GEO. WOLF.

No. 172.

AN ACT

Authorizing the Governor to incorporate a company to extend the West Chester rail road into and along the streets of the borough, and for other purposes.

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 William Everhart, Eber Worthington, Thomas S. Bell, Captain William Apple and James Tillum, of the borough of West Chester, are hereby appointed commissioners to perform the several matters herein provided for, to wit: they or any three of them shall procure suitable books in which shall be entered as follows: "We and each of us whose names are hereunto subscribed, promise to pay to the directors of the West Chester extended rail road company," the sum of twenty dollars for every share of stock set opposite our names and by us respectively subscribed, in such manner and proportions, and at such times and places as shall be fixed on by the directors of the aforesaid rail road company, and shall thereupon give due notice in at least two newspapers published in said borough, or in handbills at their discretion, of the time and places where the commissioners or a majority of them will attend to receive subscriptions; the books to be kept open from one till five o'clock, P. M. for three days unless five hundred and fifty shares shall be sooner subscribed, if however at the end of three days that number of shares shall not be subscribed, the commissioners may adjourn from time to time, until the same are subscribed, giving notice as afore-*

Certain persons appointed commissioners to open books for subscription of stock. Form of heading.

Shares \$20.

said, no subscription to be valid, unless the sum of five dollars on each share is paid at the time of subscribing, for the use of the company. \$5 to be paid down upon each share.

SECT. 2. *And be it further enacted by the authority aforesaid,* That if more shares shall be subscribed than are required, the commissioners may reduce the number to the requisite quantity, the books may be closed as soon as the required number shall have been subscribed. Case of excess of subscription provided for.

SECT. 3. *And be it further enacted by the authority aforesaid,* That when fifty shares shall have been subscribed and the subscription money paid, the commissioners or a majority of them may certify the same, to the Governor of the Commonwealth, who shall thereupon issue letters patent, in the usual form, creating the subscribers and if the subscription shall not be full, then also those who shall afterwards subscribe, into a corporate body, by the title of the "West Chester extended rail road company," by which title the said subscribers shall have perpetual succession, and all the privileges and rights of a corporation, may purchase and hold to them and their successors and assigns, lands and other species of property necessary for said road, and the same from time to time may pledge, mortgage or dispose of, and make dividends of the profits as they may deem proper; the said company may have a common seal and generally do all matters and things for the well being of the said corporation, and the due management of the affairs and business of the same: *Provided,* That nothing herein contained shall be construed to give any banking privileges to the said corporation, or any rights but such as may be necessary to carry the objects and provisions of this act into full effect. Charter may issue upon 50 shares having been subscribed. Corporate style. Privileges and liabilities. Proviso. Restrictions.

SECT. 4. *And be it further enacted by the authority aforesaid,* That five directors shall be annually elected by the stockholders, by ballot, to manage the concerns of the said corporation, the votes to be delivered in person or by proxy; the directors to choose one of their number president, they shall serve for one year, or until others are elected agreeably to this act, and shall have power to make all by-laws, orders and regulations, not inconsistent with the constitution and laws of the United States and Pennsylvania; none but stockholders shall be eligible as directors, and each share of stock held sixty days prior to an election shall be entitled to one vote, those having the highest number of votes to be declared duly elected. Of the election. Directors, president, &c.

SECT. 5. *And be it further enacted by the authority aforesaid,* That to entitle a stockholder to vote, the stock must be held by him absolutely, in his own right or that of his wife, or as executor, administrator, trustee or guardian, or for the use of some co-partnership, corporation or society of which the voter may be a member, no share or shares shall be entitled to a vote at any election or meeting of the company, Of the voting privileges of stockholders.

when any instalment or arrearages may have been unpaid for twenty days; all votes by proxy shall be on the terms prescribed by the act of twenty-eighth of March, one thousand eight hundred and twenty, to regulate proxies; all proxies shall be dated and given within thirty days of an election.

Organization of company, and annual election.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the commissioners named in this act, or a majority of them, shall as soon as convenient after letters patent have been obtained, give ten days public notice to the stockholders, of the time and place to be fixed by them within the borough, to meet and elect five directors as provided for by this act. and annually thereafter the stockholders shall meet on the first Monday in March to elect directors as aforesaid, upon notice being given by the president, or other officer of the said company, in the manner before mentioned; if, however, from any cause the election shall not be held on the day specified, it may be held on a subsequent day within the year upon like notice, and in the mean time the directors of the preceding year shall continue to act, with all the powers vested in them by this act, nor shall the charter be avoided by reason of such non-election; in case of vacancy by death, resignation, removal or other cause, of any director, his place shall be supplied until the next election by the remaining directors.

Neglect and vacancies provided for.

General powers of the directors.

SECT. 7. *And be it further enacted by the authority aforesaid,* That the said directors shall meet when and as often as may be necessary, a majority shall constitute a quorum, to transact business, and, in the absence of the president, may choose a president pro. tem.; they are authorized to appoint such officers and engineers as may be found necessary, to fix their compensation and take security for the faithful performance of their duties and trusts; they shall have power to fix the time, manner and proportions in which stockholders shall pay their instalments, and to forfeit, for the benefit of the company, the share or shares of any person neglecting to comply with their requisitions, to regulate tolls and make such contracts and agreements with others, as the execution and management of the works and the convenience and interest of the company may appear to require, and in general to superintend and direct the receipts, disbursements and all other affairs and proceedings of the company, necessary to the full and effectual execution of the designs of this act.

Issue, &c. of certificates of stock provided for.

SECT. 8. *And be it further enacted by the authority aforesaid,* That the directors aforesaid shall issue certificates of stock to the subscribers or share holders in said company, from time to time as may be found useful and proper, signed by the president, with the seal of the corporation, if they have one, subject however to all payments due or to grow thereon, which stock may be transferred in person or by attorney, or

by executors, administrators, trustees, guardians, other authorized persons, under such regulations as may be established by the by-laws.

SECT. 9. *And be it further enacted by the authority aforesaid,* That at each annual meeting of the stockholders, the directors of the preceding year shall exhibit a full statement of the affairs, proceedings and condition of the company, while they were directors; special meetings of the stockholders may be called by the directors, or at the request of or by the stockholders holding one-fourth of the amount of capital stock, on the same notice required for elections, which notice shall, however, state the objects of the meeting, but no business shall be transacted unless a majority in value of the stockholders shall be present in person or by proxy.

Annual statement of affairs to stockholders.

Special meetings.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the said company are hereby authorized as soon as convenient after obtaining a charter, to locate and construct a rail road of a single track with the sideings or turn outs, if deemed necessary, from the present termination of the West Chester rail road in said borough, into and along such street or streets and by such route or routes as may be deemed most advisable and beneficial by said company, and to construct such ware houses, toll houses, carriages, carts and other vehicles, and all such other works and appendages as may be necessary for the convenience and use of the said company, for the full enjoyment and occupancy of the said rail road: *Provided,* The same shall not pass upon or interfere with Gay and High streets of said borough, except by crossing the same.

Route, &c. of rail road.

Proviso.]

SECT. 11. *And be it further enacted by the authority aforesaid,* That the company created in pursuance of this act, are hereby empowered to connect the West Chester extended rail road with the present West Chester rail road, so as to form a continuous track from the last mentioned road into and along the streets of the borough, in the manner mentioned in the preceding section, and the said company are hereby authorized to pass on, to and along the said West Chester rail road with their cars, carriages and other vehicles, and from the same unto the road authorized by this act, without molestation, hindrance or obstruction of any kind, the said company paying to the said West Chester rail road company the same rate of toll per mile for the use of the said rail road that is required from others using and travelling the said road.

Connexion with the West Chester rail road provided for.

Same tolls, &c.

SECT. 12. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the said company, their officers, engineers and agents to enter upon any lands or lots, or any of the streets of the said borough, for the purpose of surveying and locating the route of the said rail road, and when the said route shall be determined by the said compa-

Right of entry to survey and locate.

ny, to enter upon and take possession and use such land or lots by themselves, their officers or agents, subject however, if it shall be found necessary to take any such lands or lots, to such compensation as may be agreed upon between the owner or owners and the said company, or shall be ascertained in the manner hereafter directed.

Arrangement
for the assess-
ment of
damages.

Appointment
of five
viewers.

Viewers'
oaths, and
general du-
ties.

SECT. 13. *And be it further enacted by the authority aforesaid,* That if the said company, in constructing the said rail road, shall find it necessary to use any land or lots as aforesaid, and cannot agree with the owner for the price thereof, or for the damages, if any sustained by such owner, or where by legal incapacity, absence or other cause of said owner, no agreement or purchase can be made, the court of Common Pleas of Chester county, or in vacation, one of the judges of the said court, on application by either party, shall appoint five intelligent and disinterested persons of said county, not resident in the borough, to ascertain and assess the damages, if any, alledged to be sustained by the owner in consequence of said rail road passing through his land, and the persons or viewers so appointed, shall at a time to be fixed by the foreman, or agreed upon by the parties, and of which at least ten days notice shall be given by the party making application to the said persons or owners, and to the adverse party assembled on the ground, and having been first duly qualified "faithfully, justly and impartially to value the land occupied or required for the said rail road or other works, and all damages which the owner has sustained or may sustain in consequence thereof, taking into consideration the advantages as well as disadvantages of the same to the said owner, to the best of their skill and judgment," and having heard the statements and evidence of the respective parties, they or a majority of them shall, within five days after having agreed, make their report to the prothonotary of the county, who shall file the same of record, and if it shall happen that all the persons directed to be appointed as aforesaid, shall not attend, but three of them shall be present, the parties shall agree upon others to supply the place of the absentees, or if they cannot agree, they shall be appointed by the viewers or persons aforesaid who do attend, or they may, at their discretion, adjourn to another day, and the persons so selected shall in all respects be considered as having been originally appointed by the court or a judge thereof; if the said rail road passes through contiguous lots held by different owners, and one only shall apply for viewers, the company may apply so far as regards the others, and said viewers appointed by the court or a judge thereof, shall view and a majority decide upon the damages for all such lots used or required for the rail road, and if the amount in damages, found by the said viewers as aforesaid, shall be less than the amount offered by the company, or if they shall find that no damage has accrued, the

costs attending the proceeding shall be paid by the owner or owners of such lots, otherwise to be paid by the company.

SECT. 14. *And be it further enacted by the authority aforesaid,* That either party may take exceptions to the report of the viewers aforesaid, within twenty days after the same has been filed in the prothonotary's office; and the court of Common Pleas, at its next session after said exceptions have been filed, shall hear and determine upon the same, and may either confirm or set aside said report, as shall be lawful and right; if no exceptions be filed as aforesaid, or the report be confirmed, the same shall stand as a judgment against the party against whom it is made, and proceedings had thereon as in other cases of judgments; but if the report be set aside by the court the same proceedings shall be again had that are already provided for; and if upon such subsequent proceedings the party excepting shall not obtain a report more favorable than the report set aside, such party shall pay all costs consequent thereon, and the like proceeding shall be had as often as the same are set aside, not, however, to exceed a third report, nor the second report, if the viewers give the same, or less damages than the first viewers.

Appeal to
court of Com-
mon Pleas.

When appel-
lant may be
liable for
costs.

SECT. 15. *And be it further enacted by the authority aforesaid,* That the said company be authorized to grade any street or streets of the said borough, if the same shall be found necessary for locating and laying down the said rail road, in such manner however as not unnecessarily to injure the said streets, or the travelling thereon, and may for this purpose raise such part of the pavement where the streets are paved and filled up, excavate and level any street or streets, to lay the track of said rail road on, and generally shall have all the powers required to accomplish the construction and completion of said rail road, according to the intention of this act; the said company shall so construct and locate the said rail road, that when fully completed, the same shall not unnecessarily obstruct the general travelling and passage along the streets of the said borough.

Authority to
company to
grade bor-
ough streets.

SECT. 16. *And be it further enacted by the authority aforesaid,* That on the completion of the said rail road, the same shall be considered a public highway, for the conveyance of passengers and transportation of merchandize and commodities, under such regulations as shall be prescribed by the directors, and the said company shall keep the said road in good order and repair, and shall have the same powers for this purpose that are given for the original construction of the road; it shall be lawful for the said company to arrange and fix upon the tolls for travelling on and using said rail road, in such manner as they shall deem most advisable, and to demand and receive such sum or sums of money for tolls of persons and property, as they shall from time to time think reasonable; but the company shall so arrange and regulate the tolls

Road, on com-
pletion, to be
a highway.

Tolls to be fixed so that dividends will not exceed 15 per cent.

thus to be demanded and received, as near as may be, that the dividends arising from the same shall not exceed fifteen per cent. per annum on the capital stock paid in, after first deducting all the annual expenses attending said road.

Penalty on passing toll houses without paying.

SECT. 17. *And be it further enacted by the authority aforesaid,* That if any owner or driver of any car, carriage, or other vehicle upon said rail road shall pass by any place appointed for the receiving of toll without making payment, and with intent to escape from the payment of such toll, or to defraud the company thereof, every such person shall forfeit and pay to the said company, for every such offence, the sum of twenty dollars, to be sued for and recovered before any authorized magistrate or justice of the peace, by action of debt in the same manner as debts of equal amount are now or hereafter shall be recoverable by law.

Annual declaration of dividends.

SECT. 18. *And be it further enacted by the authority aforesaid,* That dividends of so much of the profits of the company stock as shall appear advisable to the directors, shall be declared once a year or oftener if thought useful, and paid to the stockholders or their legal representatives on demand at the end of ten days therefrom, but they shall in no case exceed the amount of net profits actually acquired by the company, so that the capital stock shall remain undiminished, and if the directors shall make any dividend which shall impair the capital stock the directors assenting thereto, shall be liable in their individual capacities to the company for the amount of stock so divided, to be sued for and recovered in the corporate name of said company, each director present when such dividend shall be made, shall be adjudged to be assenting thereto, unless he forthwith enter his protest on the records of the board and give immediate public notice thereof to the stockholders, nor shall the contingent fund of said company at any time exceed one fourth of the capital stock.

Liability of directors for improper declaration.

Suits for penalties must commence within one year.

SECT. 19. *And be it further enacted by the authority aforesaid,* That no suit or action shall be brought for any penalties incurred under this act, after the expiration of one year from the time the offence was committed, or the cause of action accrued, and the defendants may plead the general issue to any such suit, and give this act and the special matter in evidence, and that the same was done in pursuance and under the authority of this act.

Penalty on willful injury to works, obstructing road, &c.

SECT. 20. *And be it further enacted by the authority aforesaid,* That if any person or persons shall knowingly or willfully break, deface, injure or destroy the said rail road, or any part or appendage thereof, or any work, edifice or device, or any part thereof, connected with the said road, or any car, carriage or other vehicle, used upon the said rail road, or shall in any manner whatever obstruct, or cause to

be obstructed, the free and safe passage along the said road, or shall do any act by which the passage along the same shall be at all impeded or rendered perilous, the person or persons so offending shall forfeit and pay on conviction thereof before any justice of the peace a sum not exceeding twenty dollars for the use of the said company, and shall moreover pay to the said company the amount of actual damage sustained by the same to be sued for and recovered before the proper authority having jurisdiction of the amount and in all cases where recoveries or convictions shall be had by the company, against any offender under the provisions of this act, he shall pay all legal costs consequent thereon.

Recovery with damages

SECT. 21. *And be it further enacted by the authority aforesaid,* That the said company are hereby authorized at any time they shall think proper to dispose of and transfer to the West Chester rail-road company, all the rights, powers, privileges and immunities, granted by this act upon such terms and conditions as may be agreed on by the said companies, and the same when so transferred shall be vested in the said West Chester rail road company, as fully and effectually as if originally granted by this act; *Provided however,* That one of the conditions on which said transfer shall be made, shall be to construct a rail road to run into and along such street or streets of the borough as provided for by this act, and the said company is further authorized at any time while the rail-road and other works connected therewith are in progress, or after the same are finally completed, to dispose and transfer the same or any part thereof to the said West Chester rail road company, upon terms and conditions to be agreed upon by the two companies and in like manner as is before provided for the transfer of the rights, powers, privileges and immunities of said company, and the said West Chester rail road company upon such transfer being made as aforesaid, may if they think proper add the capital stock of this company or any part thereof to the stock of their own company and which shall thenceforward be considered a part of the same.

Authority to sell to West Chester rail road co.

Proviso. Conditions of transfer.

SECT 22. *And be it further enacted by the authority aforesaid,* That upon any transfer being made by the company to the West Chester rail road company, agreeably to this act all prosecutions, suits and actions may be commenced and sustained by either of them in its respective corporate name, or if already commenced, may be prosecuted to conviction or final judgment in the manner and name in which it was originally commenced.

Transfer not to impede progress of suits.

SECT. 23. *And be it further enacted by the authority aforesaid,* That if the said company or their assignees shall not commence the said rail road within three years, and carry into effect the objects of the charter within six years from the passage of this act, or if after the completion of the said rail road, the same shall be suffered to go to decay, and be im-

Time allowed to commence and complete work.

passable for the period of two years, then the charter shall be null and void except so far as not to exonerate the owners of said road, from the payment of any damages that may have accrued to individuals.

Citizens of borough may remove certain limitations.

SECT. 24. *And be it further enacted by the authority aforesaid,* That the limitations contained in the preceding sections for the commencement and completion of the aforesaid rail road, shall not extend to the construction and continuation of rail roads along other streets of the borough, after the periods therein mentioned, when hereafter in the opinion of the company and two thirds of the taxable inhabitants of the borough, the public interest may seem to require it.

Reservation of right to repeal.

SECT. 25. *And be it further enacted by the authority aforesaid,* That if at any time, any of the privileges hereby granted, shall be wilfully and unlawfully abused, the Legislature may resume all the rights and privileges conferred by this act.

Of the elections, &c. of the Lackawana and Susquehanna rail road co.

SECT. 26. *And be it further enacted by the authority aforesaid,* That the secretary of the Lackawana and Susquehanna rail road company, be and he is hereby authorized to fix the place of holding the annual and special elections and meetings of the said company, when the by-laws shall not have determined the same, and the judges of the elections shall be chosen by a majority of the stockholders present, either in person or by proxy, and so much of any law as is hereby altered or supplied, be, and the same is hereby repealed.

SAM'L. ANDERSON,

Speaker of the House of Representatives.

THO'S. RINGLAND,

Speaker of the Senate.

APPROVED—The ninth day of April, A. D. one thousand eight hundred and thirty-three.

GEO. WOLF.

No. 178.

AN ACT

Authorizing the laying out of a state road from McClean's mill, in Beaver county, to some point at or near Porrysville, in Allegheny county, and for other purposes.

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 William M'Calister and Robert Reno, of Beaver