

A Supplement

To the act entitled, An act to provide for the education of children at the public expense, in the city and county of Philadelphia.

SECTION 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 from and after the passage of this act, it shall be the duty of the commissioners of Philadelphia county, and they are hereby required, in pursuance of the duties imposed upon them by the third section of an act entitled, "A supplement to an act entitled, An act to provide for the education of children at the public expense, within the city and county of Philadelphia," passed on the twenty-third day of January, one thousand eight hundred and twenty-one, to raise and pay in cash, to the county treasurer, on the first Monday in every month, one twelfth part of the sum which the controllers of the public schools for the city and county of Philadelphia shall annually report to be necessary to defray the expenses of the first school district for the current year; and the county treasurer shall forthwith, upon the receipt of the said monthly payment as aforesaid, pass the same to the credit of the controllers, and hold the same, subject to the sole and exclusive order of the said controllers, separate and apart from all other county funds.

JAMES THOMPSON,
Speaker of the House of Representatives.

JACOB KERN,
Speaker of the Senate.

APPROVED—The ninth day of February, one thousand eight hundred and thirty-five.

GEO: WOLF.



An Act

To incorporate the West Philadelphia Rail Road Company.

SECTION 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 John P. Wetherell, Joseph Worrel, Thomas D. Grover, Colonel John Thompson, Frederick Sorber, Lewis

Jones, Joseph Keen, Joseph Trasel, David Hoops, David George, Jesse George, Joseph B. Haines, John Elliot, Richard Harding, John Buckman, Henry Leech, Joseph George, Jacob Huffinan, Isaac Heston, Benjamin Sager, Samuel Rhoads, Thomas Mitchel, John R. Vodges, Doctor Isaac Anderson, Peter Frailey, Doctor James Anderson, Evan W. Thomas, junior, David Snyder, James Young, John M. Justis, Jacob Mayland, William Rheiner, Edmund George, Alexander W. Reed, Jacob J. Snyder, Andrew Hooten, James Enue, junior, Robert L. Loughead, Lemuel Paynter, junior, William G. Alexander, Charles Stout, James Twaddell, G. W. Jones, W. I. Smith, William F. Van Amringe, John L. Wolf, Morgan Ash, Henry Troth, E. Olmstead, Isaac Meyer, Daniel Bender, Miles N. Carpenter, William Neligh, John Hare Powell, Alexander Austin, Joseph Burden, Robert Tait, Henry Manderfield, Thomas M'Culley, Charles Strine, Henry Helmuth, Joseph Solms, B. T. Bioren, W. A. Martin, Robert O'Neill, John Savage, Montgomery Young, John Keefe, Richard Mackie, Thomas J. Petriken, Ignatius M'Donaugh, Henry Toland, Samuel Breck, William Wilson, James Boggs, Doctor A. P. Linn, John Parker, Thomas Stewart, William Essler, William Fressston, John Floyd, junior, George Hoffner, and Benjamin M. Evans, of the city and county of Philadelphia, and county of Montgomery, 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 procure a suitable 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 managers of the West Philadelphia rail-road company the sum of fifty 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 West Philadelphia rail-road company.' Witness our hands, this day of , in the year of our Lord one thousand eight hundred and ;" and shall thereupon give notice, in four newspapers printed in the city and county of Philadelphia, for twenty days 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 in the names of any other persons who shall authorize 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 each juridical day, for the space of three days, or until there shall have been subscribed four thousand shares; and if, at the expiration of three days, the books aforesaid shall not have the number

Commissioners

Form of subscription.

Notice of the times and places of receiving subscriptions to be given.

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 four thousand 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 ten shares on the first day, and not more than twenty shares on the second day, after which any person may subscribe for any number of shares until the whole stock is taken.

SECTION 2. When two thousand shares, or more, of the 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, and the sums paid thereon; whereupon, 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 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 West Philadelphia rail-road company," and by the same name the subscribers shall have perpetual succession, and be able to sue and be sued, plead 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 and 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 dividends of such portion 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 banking, manufacturing, or trading 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 land for any other purpose than the construction of the said rail-road, or for toll-houses, depots, weigh-houses, water stations, or other necessary works.

Whole No. of shares, 4000.

Proviso.

When 2000 shrs. of stock are taken, and \$5 paid on each, charter may issue.

Style of corporation.

Privileges & liabilities.

Proviso.

2d proviso.

SECTION 3. The said named commissioners, 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 herein before 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 authorized, one president and twelve managers, all 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 second Monday of May then next ensuing, 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.

Organization of company.

Election of officers.

SECTION 4. The stockholders shall meet on the second Monday of May then next as aforesaid, 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; and on the same day in each and every year thereafter a like election shall take place, when the necessary officers shall be elected, to continue in office for one year or until others are chosen. And the stockholders shall also meet 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 meetings they shall have full power and authority to make, alter or repeal, by a majority of votes in manner aforesaid, all such by-laws, rules, orders and regulations as aforesaid, to do and perform every other corporate act; and the number of votes to which each stockholder shall be entitled to at all elections, 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 five shares, five votes; for every two shares above five and not exceeding ten, one vote; for every ten shares above ten and not exceeding forty, one vote; for every twenty shares above forty 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

Annual election of officers

Power to make by-laws

Ratio of votes to shares.

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 person shall be permitted to vote at the first election of said company, unless he or she has fully paid five dollars on each share of stock by him or her subscribed as directed by the second section of this act; and at all subsequent elections of said company, no persons shall be permitted to vote unless he or she shall have fully paid all the instalments called for, and then due on the shares by him or her subscribed: *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."

Proviso.

2d proviso.

Election of officers, how conducted.

Notice to be given.

Proviso.

SECTION 5. 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 the stockholders having the highest number of votes shall be declared duly elected; and if it shall at any time happen that an election of president, managers, treasurer, secretary 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, secretary or other officers, 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 they are hereby required so to do at least once in every twenty days, till the requisite officers are chosen; 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 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: *Provided*, That none but stockholders shall be eligible to be elected directors.

SECTION 6. The president and managers shall meet at such times and places as shall be found most convenient for the tran-

sacting of their business, and when met, seven 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 time, manner and proportions in which the said stockholders shall pay the moneys due on their respective shares; to draw orders on the treasurer for moneys, which orders 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.

Duties of the president and managers.

SECTION 7. 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 such share or shares by him subscribed and held; which certificate or evidence 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 a share or shares, as is therein mentioned, of the capital stock, of all the estates and emoluments of the company incident to such share or shares, 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.

How transferred.

SECTION 8. 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;

Penalty on delay in paying instalments

May amount to forfeiture.

or, in default of payment by any stockholder of any such instalment aforesaid, the president and managers may, at their election, cause suit 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.

Proviso.

Security of
Treasurer
and other
officers.

SECTION 9. 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 penalty, 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.

Semi-annual
declaration of
dividends.

SECTION 10. Dividends of so much of the profits of the institution as shall appear advisable to the managers, shall be 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 net profits actually acquired by the company, so that the capital stock shall never be thereby impaired; and if the said managers shall make any dividend which shall impair the capital stock of said institution, the managers consenting thereto, shall be liable in their individual capacities to said company, for the amount of stock so divided; and each manager present, when such dividend is 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 at the declaring of such dividend: *Provided*, No dividend shall exceed twelve per cent. per annum.

Not to impair
capital.

Liability of
managers.

Proviso.

An'l abstract
to be furnish-
ed to Legisla-
ture.

SECTION 11. When actual operations shall have been commenced, 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, the sums expended, the tolls and other profits accruing within the year, and the amount of dividend declared within each year, or the losses sustained, as the case may be, which abstract shall be verified by the oath or affirmation of the president for the time being.

Location and
route of rail
road.

SECTION 12. The president, managers and company of the said rail-road company, shall have power to survey, lay down, ascertain, mark and fix, such routes as they shall deem expedient for said rail-road, with one or more tracks, beginning at the most eligible point on the Pennsylvania rail-road, between the inclined plane and the Philadelphia and Lancaster turnpike road, and to extend from thence to the most northerly practicable point, not more than four hundred feet south of the Perma-

ment bridge at Market street, having due regard to the situation and nature of the ground and of the buildings thereon, the public convenience and the interests of the stockholders, and so as to do the least damage to private property, and to be so constructed as not to impede or obstruct the transit on the Pennsylvania rail-road; and the said rail-road shall not be more than four rods wide, except in deep cuttings and fillings, or at places suitable for water stations, depots, weigh scales, toll houses, and shall not pass through any burying ground nor place of public worship, or any dwelling house, without the consent of the owner thereof, nor shall it pass through any out-buildings of the value of five hundred dollars, without such consent; and the said president, directors and company shall, within six months after ascertaining the route of the said rail-road, cause an accurate survey of the lines of the said road to be made, a map or plot of which survey they shall cause to be filed in the secretary's office of this State, which map or plot, or a certified copy thereof, shall be sufficient evidence of the course of the said road, which may then be opened, and all the expenses incurred thereby shall be defrayed by said company: *Provided*, That the said rail-road shall be constructed in such a manner that the vehicles, cars, wagons and conveyances, that are or may be adopted for the use of the Pennsylvania rail-road, can and may be used on the said rail-road.

Map to be
filed in Sec'y's
office.

Provido.

SECTION 13. It shall be lawful for the said president, directors and 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 rail-road, and also for the purpose of searching for stone, gravel or other materials, except wood for constructing said road; but no stone, sand, gravel or wood shall be taken away from any 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 the said road may be laid.

Authority to
enter enclous-
ures, &c. to
locate, and for
materials.

SECTION 14. It shall and may be lawful for the company hereby incorporated, to make, erect and establish a rail-road on the route laid out as aforesaid, and they 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 purpose of carrying into effect the objects of their incorporation; and also to contract or 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, water stations, weigh scales, toll houses, depots and warehouses, or other necessary appendages.

May erect
works,
edifices, &c.

SECTION 15. Whenever it shall be necessary for the said president, directors and company to enter in and occupy, for the

Arrangement
for assessment
of damages.

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 any 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 five suitable and disinterested persons of the counties of Philadelphia or Montgomery, 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 persons 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 the requisition for that purpose upon him, or if such owner shall be feme covert, under age, non compos mentis, out of the State, or unknown, 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 appoint five disinterested men of said county, to view, examine and survey the said lands, tenements and 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 viewers 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 rail-road: *Provided*, That either party may appeal to the court, within twenty 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 the year eighteen 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*, Upon payment or tender of payment by the said company of the sum specified in the report of said viewers or appraisers, to the owner of said land, the said president and managers of said company, their agents or contractors for making or repairing the said

Appointment
of viewers.

Proviso.

2d proviso.

road, may immediately take and use the same, without awaiting the issue of proceedings as hereinbefore prescribed.

SECTION 16. 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 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 now laid out, 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 rail-way, 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, after having been duly notified thereof, to be recovered by the supervisor of the township, with costs, for the use of the township, as debts of a 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 available in law as if served upon the president thereof.

Company to erect public causeways.

Penalty on neglect.

SECTION 17. For the accommodation of all persons owning or possessing land through which the said rail-road may or shall pass; and to prevent inconveniences to such persons in crossing or passing the same, it shall be the duty of 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 the 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 the 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, when duly notified thereof, the said company shall be liable to pay, to any person aggrieved thereby, all damages sustained by such person, in consequence of such refusal or neglect, to be sued

Erection of private causeways.

Proviso.

But one to each owner.

Penalty on neglect.

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: *Provided*, That the owner or owners of land through which said rail-road passes, shall not be prevented from constructing crossing places over or under such rail-road, but the same to be such as are usually made by the company.

2d proviso.

When suits for penalties may be commenced.

SECTION 18. 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 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.

Privilege to make lateral rail roads granted.

SECTION 19. The said company shall not prevent any person or persons being the owner or owners of land bordering on said rail-road, or adjacent thereto, from making such lateral rail-roads, and to connect them with the said rail-road from their said lands, as the said person or persons may conceive necessary: *Provided*, That the Commonwealth, or any incorporated rail-road company of this State, shall have the right to connect with said road.

Proviso.

20 yrs. duration vested in president and directors.

Common'th may purchase after 20 yrs.

SECTION 20. When a good and sufficient rail-road shall be completed, agreeably to the provisions of this act, the property of the said road shall be vested in the said president, directors and company, and their successors, for and during the term of twenty years, to commence from the time when the said road shall be completed, and until such time as the Commonwealth shall purchase the said road; and after the expiration of twenty years as aforesaid, it shall be lawful for the Commonwealth to purchase the said rail-road, and the company shall be obliged to take such sum of money therefor as shall have been expended by them in the construction of the said road and its appurtenances, or in the payment of damages for and on account of such construction, together with interest on the said sum, at six per cent. per annum, if the nett proceeds of the tolls on the said road shall not amount to such interest; and if such nett proceeds shall not amount to six per cent. on such sum, then, in addition to the same, so much as will make the same equal to six per cent.

Rates of toll, rules and regulations.

SECTION 21. On the completion of the said rail-road, the same shall be esteemed a public highway for the conveyance of passengers and transportation of merchandise and commodities; and the said company may charge and receive the same rates of tolls per mile for the transportation of passengers and all kinds of produce and commodities, and all transit or travelling on the said rail-road shall be subject to the same rules and

regulations, as are or shall be established by law for the Philadelphia and Columbia rail-road: *Provided*, The said tolls do not reduce the nett revenue and profits of the said company below six per cent. per annum on the capital expended. Proviso.

SECTION 22. If any owner or driver of any car, carriage, or conveyance whatsoever, upon the said rail-road, shall pass by any place appointed for receiving tolls without making payment, with intent to defraud the said company, he, she or they so offending, shall forfeit and pay for the use of the said company, the sum of twenty dollars, to be sued for and recovered by action of debt, before any justice of the peace, in like manner and subject to the same rules and regulations as debts under one hundred dollars may be sued for and recovered, together with costs of suit. \$20 fine for passing toll house with intent to defraud.

SECTION 23. 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 the said company three times the actual damages so sustained, to be sued for and recovered, with cost of suit, in any court having cognizance thereof, by action of debt, in the name and for the use of said company, and shall also be subject to indictment in the Court of Quarter Sessions of the proper county, and upon conviction of such offence, shall be punished by fine and imprisonment at the discretion of the court. Punishment for doing wilful injury to work of co.

SECTION 24. If the president, managers and company shall not proceed to carry on said work within three years from the passage of this act, and shall not complete the same as aforesaid in five years thereafter, according to the true intent and meaning of this act, or if after the completion of the said rail-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. Co. must commence work in 3 years, complete in 5, and keep road in repair, or forfeit charter

SECTION 25. If any increase of the capital stock be deemed necessary by the stockholders to complete the said rail-road, 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 they shall not exceed the whole six thousand, and to receive and demand the moneys for shares so subscribed in like manner and under like penalties as is hereinbefore provided for the original subscription, or as shall be provided for by their by-laws. Capital stock may be increased to 6000 shares..

SECTION 26. That whenever the nett profits of the company incorporated by this act shall exceed ten per cent. upon the capital actually paid in, then one-half of said surplus shall be paid into the State Treasury, to be added to the common school fund; and further, the said company shall not at any time reduce the When nett profits exceed 10 per cent. half of surplus to go to common school fund.

rate of toll below that charged on the Philadelphia and Columbia rail-road.

JAMES THOMPSON,
Speaker of the House of Representatives.

JACOB KERN,
Speaker of the Senate.

APPROVED—The sixteenth day of February, one thousand eight hundred and thirty-five.

GEO: WOLF.

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No. 26.

An Act

Authorizing the trustees of the Second Presbyterian church, in the city of Philadelphia, and the trustees of the Methodist Episcopal church of Wyoming circuit, and Wilkesbarre station, to sell and convey certain real estate, and for other purposes.

SECTION 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 it shall and may be lawful for the trustees of the Second Presbyterian church of the city of Philadelphia, with the consent and approbation of the congregation, at a congregational meeting duly convened for the purpose, to grant, bargain and sell, the real estate of the church, situate at the corner of Mulberry and Third streets, in the city of Philadelphia, with the lots on Third-street immediately adjoining the said church, or such part or parts thereof as they may find expedient, by public or private sale, to make, execute, deliver and acknowledge a good and sufficient deed or deeds of conveyance for the same, to the purchaser or purchasers thereof, his, her or their heirs and assigns forever, in fee simple, and to use and employ the money arising from such sale or sales, in the purchase of other ground, and the erection of another house of worship for the said congregation.

Authority to
sell real estate

Application
of money
arising from
sales.

Trustees au-
thorized to
sell parsonage
house and lots
of ground.

SECTION 2. Jacob Rice, Reuben Holgate, Darius Williams, Sharp D. Lewis, and Oliver Lewis, trustees of the Methodist Episcopal church of the Wyoming circuit, and John Carey, Ziba Bennett, Lord Butler, Joseph Slocum, James C. Helme, Robert Miner and Edmund Taylor, now trustees of the Wilkesbarre station of the said Methodist Episcopal church, in Luzerne county, or a majority of said trustees, are hereby authorized to sell and convey a certain parsonage house and two contiguous lots of ground, situate on Franklin-street, east of Market