

[No. 214.]

A N A C T

To incorporate the Bradford Rail Road and Coal 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 James S. Spencer, A. G. Waterman, James S. Pringle, Thomas Bell, N. Smith, G. W. Conaroe, Isaac W. Potts, Sansom W. Trotter, Sydney V. Smith, John Richardson, John N. Weston, Gordon F. Mason, and their associates, successors and assigns, be and they are hereby constituted a body politic and corporate, by the name, style and title of the Bradford Rail Road and Coal company, for the Name and pose of constructing a rail road as hereinafter is provided, and title. also for the purpose of mining coal and for transacting the usual business of companies engaged in mining, transporting Privileges and and selling coal, and the other products of coal lands, and the franchises. said corporation by the said name is hereby declared and made capable in law, to sue and be sued, to plead and be impleaded, Seal. to have a common seal, and the same to alter and renew at pleasure, to make rules and by-laws for the regulation and By-laws. management of the said corporation, consistent with the laws of the United States, and of this commonwealth, and generally to do and execute for the well being of said company, whatever shall lawfully pertain to such bodies politic: *Provided,* That Provide. each stockholder shall be liable in his individual capacity for the debts and performance of all contracts entered into by the said company, to the amount of the balance unpaid on the Liability of stockholders. stock by them subscribed respectively.

SECTION 2. The said company shall have the right to hold, Company to either by purchase or lease, not exceeding three thousand hold 3000 acres at any one time in not more than two tracts, the whole acres of lands. to be within the county of Bradford, in the commonwealth of Pennsylvania, and the same or any part thereof to sell or otherwise dispose of as the interest of the company may require: *Provided,* That the said company may hold as above Provide. such lot or lots of land, not exceeding five acres in any one place as may be found convenient, as places of deposit in the transportation and sale of the products of their mines.

SECTION 3. The capital stock of said company shall be and consist of three hundred thousand dollars, and shall be divi- Capital stock No. of shares ded into six thousand shares of fifty dollars each, which ca- how stock to

be employed. pital stock shall only be employed in constructing rail roads, in the holding and purchasing the lands aforesaid, with the improvements if any thereon, and in constructing such other improvements, building, cars, boats, engines and machinery as may be necessary or useful for constructing said rail road, and for the mining, transportation and sale of coal, and in the payment of such salaries, wages and other expenditures as shall be requisite for the purposes aforesaid of the company, and said stock shall be assignable and transferable according to such rules as the board of directors shall establish.

SECTION 4. When the above named G. W. Conaroe, Isaac W. Potts, Sansom W. Trotter, Sydney V. Smith, John Richardson, James S. Spencer, A. G. Waterman, James S. Pringle, Thomas Bell, N. Smith, John N. Weston, Gordon F. Mason, and their associates, shall have subscribed the whole number of shares aforesaid, and actually paid and expended not less than fifteen per cent. of the capital aforesaid in purchasing lands, and in such other investments as are authorized by this act for the use of said company, the Governor on due evidence thereof, shall, by letters patent, under his hand and the seal of the state, create and erect the said James S. Spencer, A. G. Waterman, James S. Pringle, Thomas Bell, N. Smith, G. W. Conaroe, Isaac W. Potts, Sansom W. Trotter, Sydney V. Smith, John Richardson, John N. Weston, Gordon F. Mason, and their associates, successors and assigns, into one body corporate, by the name, style and title of the Bradford Rail Road and Coal company.

SECTION 5. The affairs of the said company shall be managed by seven directors, to be chosen annually from the stockholders; the first election shall be held in the city of Philadelphia within sixty days after letters patent aforesaid shall have issued: of which election, public notice shall be given by four or more of the corporators named in the first section of this act, at least two weeks prior thereto, in one newspaper printed in the county of Bradford, and two or more newspapers printed in the city of Philadelphia, and the subsequent elections shall be held annually at such convenient time and place as the directors shall determine, of which thirty days previous notice shall in like manner be given by the president of said company, or by any five of the directors: *Provided*, That in the event of a failure to hold such election, the former directors may continue in office for a period not exceeding six months, or until such election shall be held.

SECTION 6. The election for directors shall be held by ballot, and each stockholder shall be entitled to vote according to the number of shares held by said stockholder, in the proportion following: that is to say, for each share not exceeding four 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; for every twenty shares above one hundred, one vote. No share shall confer a right of voting which shall not have been transferred at least three calendar months prior to the day of election, nor unless it be bona fide held or owned by the person in whose name it appears, 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 of, and for the use and benefit of some co-partnership, society, or corporation, of which he or she may be a member; and all votes by proxy shall be on such terms and conditions as are prescribed by the then existing laws regulating proxies. Proxies.

SECTION 7. The directors shall, as soon as convenient after their election, choose one of their number as president, to serve for one year. They shall also have power to appoint, as occasion may require, all other officers and agents of the company, and to supply vacancies in the board arising from death, resignation, or otherwise, until the next annual election; at all meetings of the board, four directors shall form a quorum to transact business. President. Officers and agents.

SECTION 8. The directors may, from time to time, call in, on thirty days notice thereof, in at least one newspaper printed in the county of Bradford, and two daily papers printed in the city of Philadelphia, such instalments on the stock of said company as they may judge best, not exceeding twenty per cent. thereof, at any one time and place appointed; and if any instalment on the stock, so called in, shall remain unpaid for the space of thirty days from the time so appointed, every such stockholder, or his or her 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 remain unpaid for such length of time as that the accumulated penalty shall become equal to the sums before paid in part, and on account of such shares, the same shall be forfeited to the said company, and may be sold to any person or persons willing to purchase for such price as can be obtained for the same, or in default of payment by any stockholder of any such instalment, as aforesaid, the president and directors 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 an 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 said election or meeting. Instalments. Penalty for neglect of payment. Proviso.

SECTION 9. Dividends of so much of the profits of the company as shall appear to the directors advisable shall be de- Dividends.

- clared twice a year, and paid to the stockholders or their legal representatives on demand, at any time after the expiration of ten days after having been declared, but said dividend shall in no case exceed the amount of the nett profit actually acquired by the company, so that the capital stock shall never be thereby impaired, and if any dividend shall be declared which shall impair the capital stock of said company, the directors consenting thereto shall be liable in their individual capacities to said company for the amount of stock so divided, and each director present when such dividend shall be declared, shall be adjudged consenting thereto, unless he shall forthwith give public notice to the stockholders of the declaring of such dividend: *Provided*, That whenever the dividends shall exceed six per cent. per annum, the said company shall pay a tax of eight per cent. on all such dividends into the treasury of the state, for the purposes of education, and the president or secretary of said company shall annually, in the month of January, transmit to the legislature under oath or affirmation, a statement of the receipts and expenditures thereof, and of any dividend which may have been declared during the preceding year.
- Liability of directors.**
- Proviso.**
- Tax on dividends.**
- Route.**
- Double or single track.**
- Power to extend.**
- Map to be filed in secretary's office.**
- Authority to enter upon lands.**
- SECTION 10.** The company hereby incorporated shall have power to survey, lay down, and ascertain such route as they shall deem expedient for a rail road, with double or single track, beginning at a convenient point on the Pennsylvania canal, at the borough of Towanda, in Bradford county, and to extend the same to the coal land in Franklin and Monroe townships, in said county, and shall have the right of extending said road or of constructing lateral rail roads thereupon, to such coal mines in said townships or their vicinity, as from time to time may be found expedient, with the right also to extend the same so as to form a junction with the Williamsport and Elmira rail road, at such part thereof as they may find practicable, and the said rail road shall not pass through any burial ground, place of public worship or dwelling house, without the consent of the owner, and the said company shall, with six months after ascertaining the route of said rail road, cause an accurate survey of the lines of said road to be made, a map or plot of which survey they shall cause to be filed in the office of the Secretary of State, which map or plot or certified copy thereof, shall be sufficient evidence of the route of said road which may then be opened, and all the expenses thereof shall be defrayed by said company.
- SECTION 11.** 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 have liberty of taking from any land in the neighborhood, gravel, stone, wood, or other materials necessary for the construction of said rail road, upon paying the owner or owners thereof

for the same before removal, and for damages done by enter-
 ing on such lands, if the owner of said land, and said com-
 pany can agree on the value of such materials and amount of
 damages sustained, and in case they cannot agree, either party
 may apply to a justice of the peace residing in the township
 in which the lands are situate, who shall notify the parties or
 their agents to meet at his office, at some suitable time, not
 less than five nor more than eight days thereafter, to choose
 three judicious and disinterested persons to value such mate-
 rials and damages, and if the parties when met cannot mutu-
 ally agree on three men, each party shall nominate one per-
 son and the justice one person, and the persons so chosen
 shall, after being duly sworn or affirmed to perform their duty
 with impartiality, proceed to value the said materials and da-
 mages, and make a report of their proceedings to said jus-
 tice, who shall enter the same on his docket, and upon pay-
 ing the amount of such valuation to the owners of the lands,
 or giving adequate security therefor, in case of a refusal to
 receive such amount, the said corporation may remove such
 materials for said premises.

SECTION 12. That whenever it shall be necessary for the
 said company to enter in and upon and occupy, for the pur-
 pose of making of 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 par-
 ties 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 damages, if any,
 that in their opinion 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 said jury, in estimating such injury or damage, to take
 into consideration the advantage that will be derived to the
 owner or owners of such lands for 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 filing of such report
 or inquisition and the confirmation thereof, or upon final judg-

Compensation for land,
and materials;

Mode of ascer-
taining dama-
ges.

Proviso.

Right of ap-
peal &c.

ment and appeal therefrom, and the said company paying to such owner the amount in said 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 or on account of such injury: *Provided*, That the payment of damages aforesaid for the lands 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 or break ground in the premises, except for the purpose of surveying and laying out said road, unless the consent of the owner or owners be first obtained.

2d Proviso.

Damages to be paid before entry upon land.

Public roads not to be impeded.

Causeways to be made.

Penalty.

SECTION 13. That the said rail road shall be so constructed as not to impede or obstruct the free use or passage of any public road or roads which may cross or enter the same, and in all cases where the said rail road may cross, or in any manner interfere with any existing 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 said public roads to cross and pass under or over said rail road, and if the said company shall neglect or refuse to keep such way or causeways in good repair, they shall be liable to a penalty of ten dollars for every day the same shall be so neglected or refuse to be repaired, to be recovered by the supervisors of the township with costs, for the use of the township, as debts of the 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.

Private causeways to be made.

To be kept in repair.

Proviso.

SECTION 14. That for the accommodation of all persons owning or possessing land through which the said rail road may pass, it shall be the duty of the said company to make or cause to be made a good and sufficient causeway or causeways, wherever the same may be necessary, to enable the occupant or occupants of said lands to cross or pass over the same with wagons, carts and implements of husbandry, as occasion may require, and the said causeway or causeways when so made, shall be maintained and kept in good 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 order, the said company shall be liable to pay any person aggrieved thereby all damages sustained by such person, in consequence of such neglect or refusal, to be paid for and recovered before any magistrate or court having cognizance thereof: *Provided*, That the 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 when 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 or keep in repair any causeway or bridges for the accommodation of the occupant of said land : *Provided further,* ^{2d Proviso.} That in the event of any private bridge or causeway being converted to private use, so as to be made to accommodate a public road laid out subsequent to the passage of this act, then and in such case the company shall be forever thereafter exonerated from the duty of keeping the said bridge or causeway in repair.

SECTION 15. 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 when to be commenced.}

SECTION 16. If any person or persons shall wilfully and knowingly break, injure, or destroy the railroad, 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 costs of suit in any court having cognizance thereof, by action of debt, in the name and for the use of said company. ^{Penalty for injuring work}

SECTION 17. The said company shall be entitled to receive Tolls. 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 mile ; on brick two cents per ton per mile ; lumber, square and round, for every hundred feet solid, two cents ; on boards, planks, 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 ; staves and headings 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 thereof, an advance of ten per cent. on the rates, as above stated.

SECTION 18. That in all suits or actions which may be brought against said company, the service of process upon any manager, toll-gatherer, or other officer of the company, ^{Actions against company.}

shall be as good and available in law as if made on the president thereof.

SECTION 19. That the said road shall be a public highway on the completion of a section of five miles or more of the railroad; all transportation on the same, of whatever nature or kind, shall be carried on and conducted under the superintendence and direction of said company, who shall make rules for the regulation of all travelling and transportation on the same, and alter the same as they may deem expedient; and it shall be lawful for any company that may hereafter be incorporated by any law of this commonwealth, or any individual or individuals, to intersect said railroad or railroads, at any place where it may be deemed expedient, so that the same may be in such manner as not to injure the same.

SECTION 20. If the said corporation shall not commence the construction of the said railroad within the term of five years, and complete the same as far as the coal lands in Franklin township, within ten years from the passage of this act, then this charter shall be null and void.

SECTION 21. If any increase of capital stock be deemed necessary by the stockholders to complete the said railroad, or to extend the same, it may be lawful for the said company, at a stated or special meeting to be convened for the purpose, to increase the number of shares, so that in the whole they shall not exceed ten thousand shares, and to receive and demand, for shares so subscribed, the moneys 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.

SECTION 22. That if the said company shall, at any time, misuse or abuse any of the privileges hereby granted, the legislature may resume all and singular the rights and privileges hereby granted to the said corporation; and the legislature reserves the right to purchase the said road at any time after twenty years from the passage of this act, by paying to the said company a sum of money which, together with the toll received, shall equal the cost and expenses of said railroad, with an interest of eight per cent. per annum thereon.

WM. HOPKINS,

Speaker of the House of Representatives.

EB. KINGSBURY, Jr.

Speaker of the Senate.

APPROVED—The twenty-eighth day of May, one thousand eight hundred and forty.

DAVID R. PORTER.