SECTION 3. Any person who shall be elected commissioner as aforesaid, and shall neglect or refuse to serve, shall incur a fine of twenty dollars, to be collected as debts of similar amount are by law recoverable; and any person appointed pathmaster, who shall neglect or refuse to serve, shall incur a fine of five dollars, to be collected as aforesaid.

Penalty for refusal to serve.

SECTION 4. That from and after the passage of this act, it shall be the duty of the commissioners of the county of Tioga, to repair all bridges erected by the county, and to pay the expenses of such repairs out of the county treasury, in the usual manner.

Tioga county bridges.

JAMES ROSS SNOWDEN,
Speaker of the House of Representatives.
WILLIAM BIGLER,
Speaker of the Senate.

APPROVED—The fifth day of April, one thousand eight hundred and forty-four.

DAVID R. PORTER.

No. 137.

AN ACT

To authorize the governor to incorporate the Hollidaysburg and Bennington railroad and mining 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 Robert Toland and John Bingham, of the city of Philadelphia, John Cresswell and General A. P. Wilson, of the borough of Huntingdon, John Porter and John Gemmill, of the borough of Alexandria, John Storm and Joseph M'Donald, of the county of Cambria, Doctor Chas. O'Freil, Gilbert L. Lloyd, and Zachariah G. Brown, of the borough of Hollidaysburg, John Freeman and Doctor Samuel Smith, of the city of Pittsburg, or any three of them, be and they are hereby appointed commissioners to perform the several things hereinafter mentioned, that is to say: They shall procure books in which shall be entered as follows: We whose names are hereunto subscribed, do promise to pay to the president and directors of the Hollidaysburg and Bennington railroad and mining company, the sum of fifty dollars for every share of stock set opposite to our names, respectively, in such manner and proportions, and at such times and places, as shall be determined on by the president and directors of said company, in pursuance of an act of the general assembly of this commonwealth, entitled "An Act to authorize the governor to incorporate the Hollidaysburg and Bennington railroad and mining company." Witness our hands this day of , in the year of our Lord, one thousand eight hundred and .

Commissioners.

Form of subscription.

SECTION 2. It shall be the duty of said commissioners, or any two of them, to give notice in one paper printed in the city of Philadelphia, or

Subscriptions.

in the city of Pittsburg, and one in Hollidaysburg, for two weeks at least, of the time and places when and where said books shall be kept open to receive subscriptions for the stock of 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 for the said purpose, at least six hours in each juridical day, for the space of six days; and if the books aforesaid shall not have the number of shares aforesaid therein subscribed, the said commissioners may adjourn from time to time, and transfer the book or books from place to place, until the whole number of two 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.

Subscriptions.

SECTION 3. That when two hundred shares of stock, or more, of the said company shall be subscribed, and five dollars paid on each and every share, it shall be the duty of said commissioners, or any three of them, to certify to the governor a statement, 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 the seal of the commonwealth, create and erect the subscribers, and if the subscription shall not be full at the time, then those who shall thereafter subscribe to the number of shares aforesaid, into a body politic and corporate, in deed and in law, by the name, style and title of the Hollidaysburg and Bennington railroad and mining company, and by the said name the subscribers shall have perpetual succession, with all the privileges, franchises and immunities incident to a corporation, and be able to sue and be sued, to plead and be impleaded, in all courts of record and elsewhere; and shall be authorized to engage in and carry on the business of mining and transporting to market, and vending mineral coal, and do such other matters and things as may be necessary or convenient for that purpose; and may purchase and 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 and quality soever, with full power to dispose of the same as they may deem proper, and to make just dividends of the profits of the stock; and to make and have a common seal, and the same to alter and renew at pleasure; and also ordain, establish and put in execution, such by-laws, ordinances and regulations, and alter and repeal the same, as shall appear necessary and convenient for the government of said corporation, and not being contrary to the laws of the United States, or of this commonwealth: *Provided*, That nothing herein contained shall be considered giving to said company or corporation any banking privileges: *And provided further*, That the quantities of land that may be held by said company, shall not at any one time exceed three thousand acres: *And provided further*, That before any real or any personal property, other than money, shall be taken or received in payment of any portion of the capital stock of said company, the same shall be personally viewed and examined by three disinterested persons, to be appointed by the court of common pleas of the county in which such property may be situated, who shall value and appraise the same, and make return thereof, with a description of said property, under their hands and seals, to said court; and if the said return be approved by said court, the same shall be entered on the records thereof, in which case, and not otherwise, the said property

Letters patent.

Name.

Privileges and franchises.

By-laws.

Proviso.

may be received and taken at the said valuation or appraisement, and after being so taken, shall be considered as part of the capital stock of said company; the said persons authorized to examine and appraise said property, in manner as aforesaid, shall be appointed by the said court of common pleas, upon the application of any person interested in said company, and before entering on the duties of their appointment, shall be duly sworn or affirmed, well and truly to perform the trust committed to them, and to value and appraise said real or personal property, at its bona fide cash value: and the compensation of said persons, appointed to examine and appraise as aforesaid, and the other expenses attending said proceedings, shall be as usual in such cases.

SECTION 4. That the said persons or a majority of them shall, as soon as conveniently may be, after the 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, and to choose by a majority of votes of the subscribers, by ballot, to be given in person or by proxy, duly authorized, which proxy shall have been obtained, and bear date within one month previous to the election at which such proxy shall be presented, one president and nine directors, a treasurer and secretary, and such other officers as may be deemed necessary; and the president and directors aforesaid, shall conduct the business of said company until the second Tuesday of January then next, and until like officers shall be chosen. First election.

SECTION 5. That the stockholders shall meet on the second Tuesday of January annually, after the organization of said company, at such place as may be fixed by their by-laws; and after having chosen two stockholders, who shall not be directors for the time being, and who shall take and subscribe an oath or affirmation before some qualified officer, to act as judges and conduct said election fairly and impartially, to the best of their judgment, choose by a majority of votes present, their officers for the ensuing year, as mentioned in the fourth section of this act; *Provided*, That if the stockholders should at any time neglect to meet as aforesaid, the president and directors shall have power to order an election at any time, by giving ten days' notice in the newspapers before mentioned: *Provided further*, 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 every share not exceeding ten shares, one vote; for every two shares above ten and not exceeding twenty shares, one vote; and for every five shares above twenty, one vote; but no share shall confer a right of suffrage which shall have been transferred within three months prior to the day of election, or upon which any instalments or arrearages shall have been due and payable for more than thirty days previous to said election. Annual meeting and election. Proviso. Votes.

SECTION 6. That the president and directors of said company shall have full power to employ competent engineers to survey, mark out, lay down, and fix the route for said railroad, with as many tracks as they may deem necessary, beginning at the Bennington coal mines in Sugar Gap, Allegheny township, Huntingdon county, and terminating at the most convenient point of the Allegheny Portage railroad, or some other point most convenient and practicable near the borough of Hollidaysburg: *Provided*, The said road shall not exceed four rods in breadth. Location of road. Proviso.

SECTION 7. That the president and directors, by and with their superintendents, engineers, artists and laborers, with their wagons, carts, tools, or any other necessary instruments used or occupied in the con-

Procure materials

struction of said road, together with all beasts of burden, may enter on and occupy any lands near the railroad, and from thence to take and carry off for the use of said road, any timber, stone, gravel, or any other materials necessary in the construction of said road, doing as little injury to the land as possible, and repairing any fences or enclosures they may have occasion to open, and making amends for all damages done thereto; also said company shall have privilege to occupy all lands on which said road or depots, ware houses, engines, water stations, weigh scales, may be located, which may be necessary or useful in the construction and repairs of said; also to dig, make embankments, and construct the same in the most permanent manner; and the said company shall pay or satisfy the owner or owners of the ground aforesaid, occupied by said road; and if the parties cannot agree upon the compensation to be made to such owner or owners, it may be lawful, and it is hereby authorized for the parties to choose five disinterested persons, residing in the counties of Cambria or Huntingdon, who shall take oath or affirmation to assess the damages fairly, according to their knowledge and belief; and if the parties cannot agree on the men thus named, then either after giving twenty days' notice to the other party, may apply to one of the judges of the court of common pleas for the county in which said road is located, who shall issue a venire directed to the sheriff, to summon a jury of five judicious and disinterested men, to assess the damages and make report to the court, after first taking an oath or affirmation, and going on to the ground and fairly assessing the advantages and disadvantages to the owner or owners of said land, by reason of the construction of said railroad, which report being confirmed by the court, judgment shall be entered thereon, and execution may issue in case of non-payment, for the sum awarded, together with costs, as in other cases; and the said jury shall receive the same pay for their services as is awarded to other jurors.

Damages assessed and paid.

Certificates.

SECTION 8. That the said president and directors shall procure certificates or evidences of stock for all the shares of said company, and shall deliver one or more certificates, signed by the president and countersigned by the treasurer, and sealed with a common seal of the said corporation, to each person, for the number of shares by him or her subscribed or held, which certificates or evidence of stock shall be transferable at his or her pleasure, in person or by attorney duly authorized, in the presence of the president or treasurer, who shall keep a book for that purpose; 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 said corporation; and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock of all the estates and emoluments of the company incident to one share, and to vote as aforesaid, at the meetings thereof, subject to all penalties and forfeitures, and to be sued for all the balance and penalties due or to become due on each share.

Transferable.

Penalty for neglect to pay instalments.

SECTION 9. That 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 who 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 one per centum per month, for the delay of such payment; and if the same and additional penalty shall remain unpaid for such a 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, 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 a penalty, as aforesaid.

SECTION 10. That it shall be lawful for the president and managers from time to time, to ordain and establish rules and regulations for the due ordering of travelling and transportation on the said road, and for its preservation, with power to alter, amend or enlarge the said rules and regulations; and they shall have full power to prescribe the descriptions of cars, carriages or wagons to be used on said road, and to regulate the speed on which they shall travel: *Provided*, That the toll on any species of property shall not exceed an average of four cents per ton per mile; upon mineral coal, not exceeding an average of three cents per ton per mile; and upon passengers, more than an average of two cents per mile. By-laws. Tolls.

SECTION 11. That the president and directors of said company shall elect a treasurer, who shall give a bond with approved security for the faithful performance of the duties of said office; and that at each annual meeting of the stockholders, or as often as required by a majority of stockholders, the president, treasurer and directors shall exhibit to them a full, minute and fair statement of all the accounts and affairs of said company, under the oath or affirmation of the president and treasurer. Treasurer.

SECTION 12. That the capital stock of said company shall not exceed one hundred thousand dollars; and that the dividends of so much of said stock, as appears advisable to the president and directors, shall be made at the end of six months, in each and every year to each stockholder, in proportion to the number of shares held: *Provided*, That the company shall annually pay into the treasury of the commonwealth, a tax of eight per centum, on all dividends which may exceed ten per centum on the stock actually paid in. Capital stock. Proviso.

JAMES ROSS SNOWDEN,
Speaker of the House of Representatives.
WILLIAM BIGLER,
Speaker of the Senate.

APPROVED—The fifth day of April, one thousand eight hundred and forty-four.

DAVID R. PORTER.