

to the opposite side of the Monongahela river, shall consist of but one span, not less than seven hundred and fifty feet in length; and that part of the said bridge, running from the said central pier to the opposite side of the Allegheny river, or to Kilbuck island, shall consist of but two spans—the first of which, from said central pier, shall be not less than six hundred feet long; and from the termination of said second span, and over the low ground on the said opposite side of the Allegheny river, the said bridge shall be completed by such erection or causeway as will be suitable to connect it with the high ground on the bank of said river.

Height of  
bridge.

SECTION 7. That part of the said tripartite bridge which shall cross the steamboat channel of the Monongahela river, shall be erected at a height of at least seventy feet above a ten feet stage of water, according to the present ordinary mode of estimating the same; and that part of the said tripartite bridge which shall cross the steamboat channel of the Allegheny river, shall be erected at a height of at least fifty feet above a ten feet stage of water, according to the present ordinary mode of estimating the same.

Time of com-  
mencement and  
completion.

SECTION 8. The said company shall proceed to carry on the said tripartite bridge within five years after the passage of this act, and shall, within ten years from the passage thereof, complete the same, otherwise it shall and may be lawful for the legislature of this commonwealth, to resume all and singular the rights and privileges hereby granted to the said company.

Reservation.

SECTION 9. The legislature reserves the power to alter or repeal this charter whenever in their opinion it shall be necessary so to do: *Provided however*, That no injustice shall be done to the corporators.

FINDLEY PATTERSON,

*Speaker of the House of Representatives.*

DANIEL L. SHERWOOD,

*Speaker of the Senate.*

APPROVED—The eighth day of April, one thousand eight hundred and forty-six.

FRS. R. SHUNK.

No. 262.

## A N A C T

To incorporate the Pennsylvania railroad company.

Commissioners.

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 Thomas P. Cope, Robert Toland, William M. Meredith, A. S. Roberts, John K. Kane, John B. Myers, Henry Welsh, John M. Atwood, Henry D. Gilpin, John A. Brown, George Cadwallader, Thomas M. Pettit, George W. Toland, A. J. Lewis, A. G. Ralston, David S.

Brown, William C. Patterson, Henry White, James Magee, Hugh Campbell, Henry M. Watts, Gideon Scull, Charles S. Wood, J. Fisher Leaming, Thomas C. Rockhill, Thomas P. Hoopes, Robert Allen, Alexander Fullerton, John Welsh, junior, Alexander Osbourn, William Reynolds, William S. Charnley, B. M. Hinchman, Townsend Sharpless, C. G. Childs, Charles Humphreys, Thomas Tustin, Thomas Robbins, William Musser, Robert Steen, Edward Siter, Charles Mcalester, Joseph R. Evans, Edward Duff, Henry M. Phillips, Elhanan W. Keyser, Hyman Gratz, John White, John J. Ridgway, Walter R. Johnson, Elliot Cresson, Josiah Randall, J. Rhea Barton, John Swift, George Campbell, G. R. Childs, Hugh Catherwood, Horn R. Kneass, James Steel, James M. Davis, Joseph A. Clay, and William P. Smith, of the city of Philadelphia; Thomas Sparks, Thomas M'Cully, Isaac W. Norris, George M. Stroud, George N. Baker, James Martin, E. A. Penniman, Abraham Helfenstein, Philip M. Price, John J. M'Cahen, George W. Carpenter, John S. Littell, Samuel C. Ford, Benjamin Crispin, Nathan Trotter, Jacob Broom, Thomas D. Grover, John Naglee, Archibald Wright, Edward F. Gay, William S. Hallowell, William English, Joseph Lippencott, Robert Flinn, junior, Christopher Mason, John T. Smith, Charles Brown, John Miller, Michael D. Whartman, John S. Cash, Joseph Baker, Mitchell Borneisler, Samuel Jackson, Peter Rambo, John Robbins, George Shetsline, Samuel Ovenshine, James Enue, junior, Henry Manderfield, David F. Condie, Benjamin L. Berry, Joseph Diamond, William Laughlin, and Levi Strickland, of the county of Philadelphia; Samuel D. Ingham, of Bucks county; Joel K. Mann, J. Charles Kugler, of Montgomery county; H. Jones Brooke, of Delaware county; Thomas S. Bell, Francis James, Robert Parke of Chester county; Alexander L. Hays, Emanuel C. Reigart, John N. Lane, Reah Frazer, Benjamin G. Herr, Edward Davies, Reuben Mullison, Bernard Flinn, Samuel Shoch, John F. Huston, J. S. Clarkson, Frederick Hipple, and Reuben Hause, of Lancaster county; Henry Flannery, Henry W. Smith, J. Pringle Jones, Henry A. Muhlenburg, Michael K. Boyer, John S. Heister, William High, William Heidenreich, Charles Keely, J. Glancy Jones, of Berks county; Levi Kline, of Lebanon county; Valentine Hummell, sen., William Ayres, Jacob M. Haldeman, James M'Cormick, James Peacock, Henry Buehler, John C. Bucher, Simon Cameron, David R. Porter, of Dauphin county; Benjamin M'Intyre, Robert Elliott, James M'Farlane, George Stroop, Robert S. King, Findley McCown, Hugh R. Wilson, Henry Fetter, and Jacob Keiser, of Perry county; James Mathers, Andrew Parker, of Juniata county; Abraham S. Wilson, James Criswell, Reuben C. Hale, Francis W. Rawle, Moses Montgomery, Joseph Milliken, Joseph Ard, Joseph Kyle, David Zook, and William Reed, of Mifflin county; John G. Miles, John Kerr, A. P. Wilson, Edwin F. Shoenberger, Benjamin Leas, John M'Cahen, John Long, Brice Blair, Thomas E. Orbeson, Edward Bell, William Williams, and John Porter, of Huntingdon county; James Irvin, James T. Hale, W. W. Houston, James Potter, Abraham S. Valentine, Henry Brokerhoff, William F. Reynolds, and Daniel Ulman, of Centre county; A. K. Wright, A. B. Reed, and J. W. Smith, of Clearfield county; John Linton, W. A. Smith, John Mathew, John Fenlon, Peter Levergood, Edward Shoemaker, Stephen Lloyd, and Richard Lewis, of Cambria county; James Clarke, George Mulhollan, jun., David Ralston, Daniel Stanard, of Indiana county; John Hill, J. R. Logan, John M. Laird, Henry M'Bride, Joseph Harvey, Hugh Irwin, S. L. Carpenter, F. J. Cope, Richard Coulter, of Westmoreland county; Jesse Carothers, Joshua Hanna, Harmar Denny, Thomas Bakewell,

John Bigler, William Wilkins, Wilson M'Candless, William M'Knight, William Eichbaum, C. McGee, William Larimer, James Marshall, John J. Wilson, William R. Van Kirk, Samuel Walker, E. Percival, Andrew Bayne, John Hay, H. G. Roland, Hiram Hultz, and Samuel W. Black, of Allegheny county; Michael Doudel, Samuel Wagner, Charles Weiser, Daniel Hartman, A. C. Ramsey, of York county; Jacob Mechling, John Bredin of Butler county; Robert H. Hammond, Jesse C. Horton, J. M. Pollock, John Forsyth, A. Jordan, C. W. Heggins, Samuel Hepburn, and E. Greenough, of Northumberland county; Ner Middleswarth, Robert Candor, Henry Snyder, John L. Watson, and Robert Hays, of the county of Union; David Leech, Philip Klingensmith, and Lewis Brenneman, of Armstrong county; Henry Allen, John P. M'Glahtery, David Norwood, Samuel Vanhorn, William M'Ginnis, James Stewart, James Culberson, Joseph Pollock, and Alva Leonard, of the county of Beaver; George Chambers, Frederick Smith, and William Baker, of the county of Franklin; Thomas H. Sill, Giles Sanford, John H. Walker, C. M. Reed, C. M'Sparren, George Selden, and John Galbraith, of Erie county; Joel B. Curtis, Samuel Goodwin, David Cortney, R. W. Coningham, and John Hoge, of Mercer county; Thomas Ringland, John Wishart, T. M. T. M'Kennan, A. W. Acheson, James Gordon, and John Grayson, of Washington county; Morrow B. Lowry, J. Porter Brawley, and Joseph Patton, of Crawford county; Abbot Green, William Cameron, Nathen Mitchell, Levi B. Christ, Joseph Casey, Henry C. Eyer, of Union county; William Donaldson, Joseph Paxton, of Columbia county; be and they are hereby appointed commissioners, to do and perform the several acts and things hereinafter mentioned: that is to say, they or such of them as shall act in the premises, not less than twelve, shall, before proceeding to the performance of their duties, be respectively sworn or affirmed before an officer competent to administer oaths, well and truly to perform the duties enjoined upon them by this act; and as soon as conveniently may be, and within three months next after the passage of this act, shall procure, and open suitable books, at such proper times and places as they may designate, in the cities of Philadelphia, Lancaster, and Pittsburg, and in the boroughs of Harrisburg, Lewistown, Huntingdon, Greensburg, Bloomfield, and Blairsville, and at such other places as they may deem expedient; of which times and places, at least thirty days' previous public notice shall be given, in not less than three daily newspapers published in Philadelphia, and in not less than two daily or weekly papers in the other places named, if so many are therein published; in which books, they shall enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president, directors, and company of the Pennsylvania railroad company, the sum of fifty dollars for each and every share of stock set opposite to our respective names, in such manner and proportions, and at such times, not exceeding five dollars per share, in any period of sixty days, as shall be determined by the president and directors of said company, in pursuance of an act, entitled 'An Act to incorporate the Pennsylvania railroad company.' Witness our hands and seals, the            day of            one thousand eight hundred and            ;" and at the times and places so designated and named in the public notices to be given as aforesaid, the said commissioners, by themselves, or by committees to be by them appointed, shall attend and furnish to all persons duly qualified, who shall offer to subscribe, an opportunity of so doing; and it shall be lawful for all such persons, and for all firms, co-partnerships and bodies politic and corporate, by themselves, or by persons duly authorized, to subscribe for shares in said stock; and the said books shall be kept open at least six

hours in every juridical day for the term of ten days, unless the whole number of one hundred and fifty thousand shares shall have been sooner subscribed; and if at the expiration of ten days the said books shall not have the whole number of shares aforesaid subscribed therein, the said commissioners may adjourn from time to time, and transfer the said books elsewhere, until the whole number of one hundred and fifty thousand shares shall have been subscribed, of which adjournments and transfers, the said commissioners shall give such public notice as in their opinion the occasion may require; and when the whole number of shares before mentioned shall have been subscribed, the books shall be closed: *Provided*, That no subscription for such stock shall be valid, unless the party or parties making the same shall, at the time of subscribing, pay to said commissioners five dollars on each and every share, for the use of the company: *And provided further*, That if more than one hundred and fifty thousand shares shall have been subscribed within ten days, and before the closing of the books, as aforesaid, the commissioners shall reduce the subscriptions *pro rata*, as near as practicable, in such manner as to them may appear equitable, until the number of shares do not exceed one hundred and fifty thousand; but no subscription for ten shares, or under, shall be so reduced.

Proviso.

Proviso.

SECTION 2. That when fifty thousand shares or more of the said stock shall have been subscribed, and five dollars paid on each and every share as aforesaid, the said commissioners, acting in the premises as aforesaid, or a majority of them, shall certify to the governor, which certificate shall be verified by the oath or affirmation of at least two of said commissioners, the names of the subscribers, and the number of shares subscribed by each, and that five dollars on each have been paid; whereupon, the governor shall, by letters patent, under his hand and seal of the commonwealth, create and constitute the subscribers, and if the subscription be not full at the time, those who shall thereafter subscribe to the number of shares aforesaid, their successors and assigns, into a body politic and corporate, in deed and in law, by the name, style, and title of "the Pennsylvania railroad company;" and by the said name, style and title, the said subscribers shall have perpetual succession, with all the privileges, franchises and immunities, incident to a corporation, 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, use and enjoy, to them and their successors, lands, tenements and hereditaments, engines, locomotives, cars, goods, chattels and estate, real and personal, of what kind or quality soever, and the same from time to time to sell, exchange, mortgage, grant, alien, or otherwise 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 and renew at pleasure; and also to ordain, establish and put in execution, such by-laws, ordinances and regulations, as shall appear necessary or convenient for the government of 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 said corporation, and the due ordering and management of the affairs thereof: *Provided*, That nothing herein contained shall be so construed as in any way giving to said corporation any banking privileges whatever, or any other liberties, privileges or franchises, but such as may be necessary or convenient to the procuring, owning, making, maintaining, regulating and using said railroad, the locomotives, machinery, cars and other appendages thereof, and the conveyance of passengers, the transportation of

Letters patent.

Name.

Privileges.

Seal.

By-laws.

Proviso.

the mail, and of goods, merchandize, commodities and things thereon: *And provided further*, That said company shall not purchase or hold any real estate, except such as may be necessary or convenient for the making and constructing of said railroad, or for the furnishing of materials therefor, and for the accommodation of depots, offices, warehouses, machine shops, toll houses, engine and water stations, and other appropriate appurtenances, and for the persons and things employed or used in or about the same: *Provided*, That the whole amount of debts or other liabilities of said company, including loans, shall not at any time exceed one-half of the amount of capital actually paid in: *And provided further*, That no part of the capital stock, or other funds of the company, shall be at any time directly or indirectly loaned to any director, officer or agent of said company.

**Organization.** SECTION 3. The said commissioners, or a majority of them, acting in the premises as aforesaid, shall, as soon and conveniently may be after the said letters patent shall have been obtained, appoint a time and place for the subscribers to meet, in order to organize the said company, and shall give at least twenty days' previous notice thereof, in the various papers before mentioned; and the said subscribers, when met, shall, by ballot, elect by a majority of the votes present, to be given in person or by proxy, thirteen directors, all of whom shall be citizens and residents of this commonwealth, and shall be owners, respectively, of at least twenty shares in the stock of said company; the said directors, and those thereafter to be chosen in pursuance of the provisions of this act, at their first meeting, shall choose by ballot, one of their own number as president of said company; and the said president and directors shall conduct and manage the affairs and business of said company, until the first Monday of June then next ensuing, and until others are chosen; and may make, ordain and establish such by-laws, rules, orders and regulations, and do and perform such other matters and things as are by this act authorized.

**Annual meeting.** SECTION 4. That the stockholders shall meet on the first Monday of December in every year, at such place in this commonwealth, as may be designated by the by-laws of the company, of which at least twenty days' previous notice shall be given in three or more daily newspapers, published in the city of Philadelphia and elsewhere, as the board shall direct, and choose by a majority of votes, thirteen directors qualified as provided in the preceding section for the year ensuing, who shall continue in office until the next annual election, and until others are chosen; at which annual meeting the said stockholders shall have full power and authority to make, alter or repeal, by a majority of the votes given, any or all such by-laws, rules, orders and regulations as aforesaid, and do and perform every other corporate act authorized by their charter: the stockholders may meet at such other times and places, as they may be summoned by the president and directors in such manner and form, and giving such notice as may be prescribed by the by-laws; and the president, on the request, in writing of any number of stockholders, representing not less than one-tenth in number and interest, shall call a special meeting, giving the like notice, and stating specifically the objects of such meeting; and the objects stated in such notice, and no other, shall be acted upon at such meeting; nor shall any business be transacted at any such special meeting, unless a majority of the stock shall be there represented; but the meeting may adjourn from day to day, or until such times as a majority in interest shall be present.

**Election, how conducted.** SECTION 5. That the elections for directors, provided for in this act, shall be conducted in the following manner, that is to say: At the first election, the commissioners shall appoint three stockholders, not being

candidates, to be judges of the said election, and to hold the same: and at every succeeding election, the directors for the time being, shall appoint three stockholders, who shall not be directors nor candidates, for the like purpose; and the persons so appointed by said commissioners and directors, shall respectively take and subscribe an oath or affirmation, before an alderman or justice of the peace, well and truly according to law, to conduct such election to the best of their knowledge and ability; and the said judges shall decide upon the qualifications of voters, and when the election is closed, shall count the votes, and declare who have been elected; and if it shall at any time happen that an election of directors shall not be made at the time specified, the corporation shall not for that reason be dissolved; but it shall be lawful to hold and make such election of directors, on any day within three months thereafter, by giving at least ten days' previous notice of the time and place of holding said election, in the newspapers aforesaid; and the directors of the preceding year shall in that case continue in office, and be invested with all powers belonging to them as such, until others are elected in their stead: in case of the death, resignation or removal from this state of a director, or a failure to elect in case of a tie vote, or in case any one of them ceases to be qualified to act as a director, in the manner hereinbefore provided, the vacancy may be filled by the board of directors: at all general meetings or elections by the stockholders, each share of stock shall entitle the holder thereof to one vote, and each ballot shall have endorsed thereon the number of shares thereby represented; but no share or shares transferred within sixty days next preceding any election, or general meeting of the stockholders, shall entitle the holder or holders thereof, to vote at any such election or general meeting; nor shall any person or party, females excepted, residing within ten miles of the place appointed for any such election or general meeting, be entitled to vote by proxy: no person shall represent by proxy more than three absent stockholders, nor shall any proxy be received or entitle the holder thereof to vote, unless the same shall bear date, and have been duly executed and acknowledged before some person legally authorized, at the place of executing the same, to take such acknowledgments within the three months next preceding such election or general meeting; and every such proxy received and voted upon as aforesaid, shall be retained and filed amongst the papers of the company, until after the next annual election or general meeting, subject to the inspection or examination of any stockholder who may desire it.

Votes.

SECTION 6. That the president and directors, for the time being, are hereby authorized and empowered to exercise all the powers granted to the corporation; they shall meet at such times and places as shall be by them deemed most convenient for the transaction of their business, and when met seven shall be a quorum: the president, if present, shall preside at all meetings of the board, and when absent, the board shall appoint a president *pro tem.*; they shall keep minutes of their proceedings, fairly entered in a suitable book to be kept for that purpose; they shall choose a secretary and treasurer, and may appoint or employ all such officers, engineers, agents, superintendents, artisans, workmen or other persons, as in their opinions may be necessary or proper in the conducting and management of the affairs and business of said corporation, at such times, in such manner, and under such regulations as they may from time to time determine; they may require security, in such amounts as they may deem necessary, of each or any of said officers, or other persons by them appointed or employed, and generally to do all other such acts, matters and things, as by this act, and the by-laws and regulations of the said company, they may be

Duties of the board.

Quorum.

authorized to do; the treasurer of said company shall enter into one or more sureties, satisfactory to the president and directors, in a sum not less than thirty thousand dollars, conditioned for the faithful discharge of all the duties of his office while he shall continue to hold the same, and for faithfully accounting for and paying over according to law, and the by-laws of the company, all moneys that may come into his hands as treasurer aforesaid, and for the payment to his successor in office, or other person authorized by the president and directors to receive the same, the balance of all such moneys; and in like manner, for the delivery to said successor, or other person authorized as aforesaid, all books, papers, documents, accounts and property, that he may have or hold, by virtue of his office; and the bond or bonds of the treasurer shall be renewed at least once in every two years.

Salaries to be fixed.

SECTION 7. The president and directors shall fix the amount of salaries and wages of the several officers, engineers and agents, employed by them; but no director shall be allowed any compensation but the president, whose salary shall be fixed by the vote of a majority of all the directors.

Certificates of stock.

SECTION 8. That the president and directors first chosen, shall procure certificates or evidences of stock for all the shares of the said company, and shall deliver one or more certificates or evidences, signed by the president, countersigned by the treasurer, and sealed with the common seal of the corporation, to each person or party entitled to receive the same, according to the number of shares by him, her or them, respectively subscribed or held; which certificates or evidences of stock shall be transferable at the pleasure of the holder, in a suitable book or books, to be kept by the company for that purpose, in person, or by attorney duly authorized, in the presence of the president or treasurer, subject however, to all payments due or to become due thereon; and the assignee, or party to whom the same shall have been so transferred, shall be a member of said corporation, and have and enjoy all the immunities, privileges and franchises, and be subject to all the liabilities, conditions and penalties incident thereto, in the same manner as the original subscriber would have been: *Provided*, That no certificate shall be transferred, so long as the holder thereof is indebted to said company, unless the board of directors shall consent thereto.

Transferable.

Proviso.

Capital stock, how paid in.

SECTION 9. The capital stock of the company shall be called in, and paid at such times and places, and in such proportions and instalments, not however exceeding five dollars per share, in any period of sixty days, as the directors shall require, of which public notice shall be given, for at least three successive weeks next preceding the time or times appointed for that purpose, in the newspapers last above mentioned; and if any stockholder shall neglect to pay such proportion or instalment so called for, at the time and place appointed, he, she, or they, shall be liable to pay, in addition to the proportion or instalment so called for, at the rate of one per cent. per month for the delay of such payment; and if the same and the additional penalty, or any part thereof, shall remain unpaid for the period of six months, he, she or they, shall, at the discretion of the directors, forfeit to the use of the company, all right, title and interest in, and to every and all share or shares, on account of which such default in payment may be made as aforesaid; or the directors may, at their option, cause suit to be brought before any competent tribunal, for the recovery of the amount due on such shares, together with the penalty of one per cent. per month as aforesaid; and in the event of a forfeiture, the share or shares, so forfeited, may be disposed of at the discretion of the president and directors, under such rules and regulations as may be prescribed by the by-

Additional penalty on negligent stockholders.

laws; no stockholder shall be entitled to vote at any election, nor at any general or special meeting of the company, on whose share or shares any instalment or arrearages may be due, more than thirty days next preceding said election or meeting.

SECTION 10. That dividends of so much of the profits of said company, as shall appear advisable to the directors, shall be declared in the months of May and November, in each and every year, and be paid to the stockholders, or their legal representatives, on application at the office of said company, at any time after the expiration of ten days from the time of declaring the same; but the said dividends shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock shall never be impaired thereby; and if the said directors shall make any dividend, which shall impair the capital stock of the company, the directors consenting thereto shall be liable, in their individual capacities, to the said company, for the amount of capital stock so divided, recoverable by action of debt, as in other cases; and each director present, when such dividend shall be declared, shall be considered as consenting thereto, unless he forthwith enter his protest on the minutes of the board, and give public notice to the stockholders of the declaring of such dividend: *Provided however,* Dividends. That after *bona fide* contracts shall have been made for the immediate construction of fifteen miles of road, at each end thereof, a sum equal to five per centum per annum, on all capital stock of said company actually paid in, shall be estimated and credited to the several holders thereof, on account of the amounts payable by them, respectively, for stock subscribed; and shall so continue to be estimated and credited, until one hundred miles of said railroad, that is to say: fifty miles thereof, commencing at the city of Pittsburg and extending eastward, and fifty miles thereof, commencing at the easternmost terminus of said road, and extending westward, shall be completed and in use, which said estimates and credits shall be estimated and considered as part of the cost of construction: *And provided further,* That no dividends of profits shall be made, until one hundred miles of said railroad shall be completed, and in use, as is specified in the foregoing proviso; and if any loan of any part of the money received on the subscription to the stock be made to any officer, stockholder, or agent of the said company, or to any other person or corporation, it shall be deemed and taken as a violation and forfeiture of the charter authorized by this act, to be ascertained and declared, as provided in the twenty-fourth section of this act. Proviso.

SECTION 11. That the president and directors of said company shall have power and authority by themselves, their engineers, superintendents, agents, artisans, and workmen, to survey, ascertain, locate, fix, mark and determine such route for a railroad as they may deem expedient, not however, passing through any burying ground, or place of public worship, or any dwelling house, without the consent of the owner or owners thereof; and not except in the neighborhood of deep cuttings or high embankments, or places selected for sidings, turn-outs, depots, engine or water stations, to exceed four rods in width; and thereon to lay down, erect, construct and establish a railroad, with one or more tracks, with such branches or lateral roads as are hereinafter mentioned; and with such bridges, viaducts, turn-outs, sidings or other devices, as they may deem necessary or useful, beginning at, and uniting with the western terminus of the Harrisburg, Portsmouth, Mount Joy and Lancaster railroad, in the borough of Harrisburg: *Provided,* Said Harrisburg, Portsmouth, Mount Joy and Lancaster railroad company shall be subject to, and consent to the same rate of tax on tonnage, for Power to locate route. Location.



the use of the state, as is provided to be paid in this act, by the Pennsylvania railroad company; and in case the said Harrisburg, Portsmouth, Mount Joy and Lancaster railroad company should not agree to comply with these conditions, within three months after the distance of fifteen miles from Harrisburg, westward, shall *bona fide* be put under contract, the said Pennsylvania railroad company are authorized to connect their road with the Columbia railroad, at or near the borough of Columbia, in Lancaster county; and thence, by such direct practicable route, with moderate gradients, as will, in the opinion of the said president and directors, most conduce to the public interest and the interests of said company, having due regard to economy in the construction, maintenance and management thereof, and terminating at such point or points, in, at or near the city of Pittsburg, or other place in the county of Allegheny, with authority to extend said road, or a branch thereof, to the town or harbor of Erie, in the county of Erie, as to the said president and directors may seem most advantageous or expedient; and in like manner by themselves, or other persons by them appointed or employed, as afore-

Enter upon lands  
and take material.

said, to enter into and upon, and occupy all land on which the said railroad or depots, warehouses, offices, toll houses, engine and water stations, or other buildings or appurtenances hereinbefore mentioned, may be located, or which may be necessary or convenient for the erection of the same, or for any other purpose necessary or useful in the construction, maintenance or repairs of said railroad; and therein and thereon to dig, excavate and embank, make, grade, lay down, and construct the same; and it shall, in like manner, be lawful for the said company, their officers, agents, engineers, contractors or workmen, with their implements, and beasts of draft or burden, to enter upon any lands adjoining, or in the neighborhood of the said railroad so to be constructed, and to quarry, dig, cut, take and carry away therefrom, any stone, gravel, clay, sand, earth, wood, or other suitable material necessary or proper for the construction, maintenance or repairing of said railroad, or for the construction of any bridges, viaducts, or other buildings which may be required for the use, maintenance or repairs of said railroad: *Provided*, That such compensation shall be made, secured or tendered to the owner or owners of any such lands or materials, as shall be agreed upon between the parties, or in such manner as is hereafter mentioned: *Provided further*, That the timber used in the construction or repair of said railroad, shall be obtained from the owners thereof only by agreement or purchase.

Proviso.

Proviso.

Proceedings to ob-  
tain damages.

SECTION 12. That when the said company cannot agree with the owner or owners of any lands or materials, for the compensation proper for the damage done, or likely to be done to or sustained by any such owner or owners of such lands or materials, which said company may enter upon, use, or take away in pursuance of the authority hereinbefore given; or by reason of the absence or legal incapacity of any such owner or owners, no such compensation can be agreed upon, the court of quarter sessions of the proper county, on application thereto by petition, either by said company or owner or owners, or any one in behalf of either, shall issue their precept to the sheriff of the county, commanding said sheriff to summon twenty discreet and disinterested persons, freeholders of said county, to act as jurors, and to meet at such convenient place near the premises, as in the said precept, or by the said sheriff may be designated, in not less than ten, nor more than twenty days, giving such reasonable notice as the court may direct to both parties, by publication or otherwise, whose duty it shall be to ascertain and report to said court, whether any, and if any, what damages have been, or may be sustained by the owner or owners of said land or ma-

materials by reason of the construction of said railroad, or by reason of the materials used or taken away, in manner aforesaid; and if twelve or *more of the said jurors attend, they shall be empannelled, and if twelve do not attend, the sheriff shall forthwith, or as soon thereafter as practicable, summon others to attend on a day by him fixed for that purpose; and the said twelve jurors being so empannelled, and having been first sworn or affirmed, by said sheriff, or his deputy, faithfully, justly and impartially to decide, and true report to make concerning all the matters and things to be submitted to them, and in relation to which they are authorized to inquire, in pursuance of the provisions of this act; and having viewed the premises, they shall estimate and determine the quantity, quality and value of said lands so taken or occupied, or to be so taken or occupied, or the materials so used or taken away, or to be so used or taken away, as the case may be, and having a due regard to, and making just allowance for the advantages which may have resulted, or which may seem likely to result to the owner or owners of said land or materials, in consequence of the opening or making of said railroad; and after having made a fair and just comparison of said advantages and disadvantages, they shall estimate and determine whether any, and if any, what amount of damages have been or may be sustained, and to whom payable, and make report thereof to the court; and if any damages be awarded, and the report be confirmed by said court, judgment shall be entered thereon, and if the amount thereof be not paid, execution may issue thereon, as in other cases of debt for the sum so awarded; and the cost and expenses incurred shall be defrayed by said railroad company: *Provided, That if said report be not confirmed, as aforesaid, and justice may seem to require it, a new inquisition may be ordered by said court: And provided further, That any owner or owners, or other party applying for a review, shall be liable for the costs of the proceedings prayed for, in case a report more favorable be not obtained upon such review: And provided further, nevertheless, That nothing herein contained shall authorize the said company to enter upon any lands, or take any property, without making compensation to the owners of said property, or give adequate security therefor: And be it further provided, That in all cases where the parties cannot agree on the amount of damages claimed either for land or materials, the company shall tender a bond, with sufficient security to the party claiming the damages; the condition of which shall be, that the company will pay, or cause to be paid, such amount of damages as the party shall be entitled to receive, after the same shall have been agreed upon by the parties, or assessed by the provisions of this act: And provided further, That in case the party or parties claiming damages, refuse to accept the bond as tendered by the company, the company shall, in every such case, present their bond to the court of common pleas of the proper county; and if the court approve of the security, shall direct the same to be filed for the benefit of those to whom it is given, which bonds shall be answerable as all other debts for the amount of the damages assessed, if the same be not paid in a reasonable time after such assessment.**

SECTION 13. That whenever in the construction of said road or roads, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the president and directors of said company, to construct the said road across such established road or way, as not to impede the passage or transportation of persons or property along the same; or when it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual,

proper wagon-ways across said road or roads, from one part of his lands to the other.

Service of process.

SECTION 14. That in all suits or actions against the said company, the service of process on the president, secretary, treasurer, engineer, agent, or any director of said company, shall be good and available in law; but no suit or action shall be prosecuted by any person or persons, for any penalties incurred under this act, unless such suit or action shall be commenced within twelve months next after the offence committed, or cause of action accrued; and the defendants in such suit or action, may be 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.

Penalty for injury to works.

SECTION 15. That if any person or persons, shall wilfully and knowingly break, injure, or destroy the railroad hereby authorized, or any part thereof, or any edifice, device, property or work, or any part thereof, or any machinery, engine, car, implement or utensil, erected, owned or used by the said company, in pursuance of this act, he, she or they, so offending, shall forfeit and pay to the said company, three times the actual damage so sustained, to be sued for and recovered with full costs, before any tribunal having cognizance thereof, by action, in the name and for the use of said company.

Penalty for destroying any of the constructions of the company.

SECTION 16. That if any person or persons shall wilfully and maliciously, remove or destroy any of the company's constructions, or place designedly, and with evil intent, any obstruction on the line of said railroad, so as to jeopard the safety, or endanger the lives of persons traveling on or over the same, such person or persons so offending, shall be deemed guilty of a misdemeanor, and shall, on conviction, be imprisoned in the penitentiary for a term not less than three months, nor more than three years: *Provided*, That nothing herein contained shall prevent the company from pursuing any other appropriate remedy at law in such cases.

Lateral roads.

SECTION 17. That the said company shall not prevent any person or persons, being the owner or owners of land bordering on or adjacent to said railroad, from making lateral railroads, and connecting the same with the railroad of the company, for the purpose of transporting thereon their produce, or other material, being the products of said land; the said connections being made at the expense of the person or persons wishing the same, and according to the directions and subject to the approval of the directors of said company, or their authorized agent; and it shall be lawful for the said company, in the manner, and subject to the conditions and provisions hereinbefore provided, in relation to the main line of their railroad by this act authorized to be made, to make such lateral railroads or branches, leading from the main line of their said railroad, to such convenient place or points, in either of the counties, into or through which the said main line of their road may pass, as the president and directors may deem advantageous, and suited to promote the convenience of the inhabitants thereof, and the interests of said company.

Relative to carrying troops and munitions of war.

SECTION 18. That in times of war, invasion, or domestic insurrection, the said company shall carry and transport, or permit to be carried and transported on said railroad, any troops, called into service by any competent authority, their ordnance, munitions and military stores, at one-half the usual charge, for the time being, for carrying and transporting other passengers and freight.

Annual statement.

SECTION 19. That at each annual meeting of the stockholders of said company, the president and directors, for the year preceding, shall lay before them a full and complete statement of the affairs of the company,

for the year ending on the last day of October, immediately preceding, exhibiting, under the various appropriate heads, the amount of money received, and from what sources, the amount disbursed, and for what purpose, the balance remaining with the company; which statement shall be accompanied with a report of the acts and proceedings of the company for the same period, with such further information, as may be requisite to convey to the stockholders a full knowledge of the affairs and condition of said company; the said statement and report shall be published, as soon as conveniently may be, in pamphlet form, and in such newspapers as the stockholders or president and directors may designate, and a copy thereof shall be transmitted to the governor, and to each branch of the legislature, at its next annual meeting.

SECTION 20. That if any increase of the capital stock shall be deemed necessary, in order to complete or improve the said railroad or appur- Increase of capi-  
tal stock author-  
ized.  
tenances, it shall be lawful for the stockholders of said company, at any annual meeting, or at any special meeting convened for that purpose, in manner as aforesaid, to increase and dispose of any additional number of shares, not exceeding fifty thousand, so that the whole amount of said capital stock shall not exceed ten millions of dollars, and receive and demand the moneys for the said additional shares, in like manner, and subject to the same conditions hereinbefore provided for the original subscriptions, or as shall be provided for in the by-laws of said company.

SECTION 21. That upon the completion of said railroad, or any part thereof, the same shall be esteemed a public highway, for the convey- Public highway.  
ance of passengers and the transportation of freight, subject to such rules and regulations in relation to the same, and to the size and construction of wheels, cars and carriages, the weight of loads, and all other matters and things connected with the use of said railroad, as the president and directors may prescribe and direct: *Provided*, That the said company shall have the exclusive control of the motive power, and may from time to time establish, demand and receive, such rates of toll or other compensation, for the use of the said road, and of said Proviso.  
motive power, and for the conveyance of passengers, the transportation of merchandize and commodities, and the cars or other vehicles containing the same, or otherwise, passing over or on said railroad, as to the president and directors shall seem reasonable: *Provided however*, Proviso.  
*nevertheless*, That said rates of toll and motive power charges, so to be established, demanded or received, when the cars used for such conveyance or transportation are owned or furnished by others, shall not exceed two and a half cents per mile for each passenger; three cents Tolls.  
per mile for each ton of two thousand pounds for freight; three cents per mile for each passenger or baggage car, and two cents per mile for each burden or freight car, every four wheels being computed a car; and in the transportation of passengers, no charge shall be made to exceed three cents per mile for through passengers, and three and a half cents per mile for way passengers.

SECTION 22. That all tonnage, of whatsoever kind or description, except the ordinary baggage of passengers, loaded or received at Har- Tonnage subject  
to a tax.  
risburg or Pittsburg, or at any intermediate point, and carried or conveyed on or over said railroad, more than twenty miles, between the tenth day of March and first day of December, in each and every year, shall be subject to a toll or duty, for the use of the commonwealth, at the rate of five mills per mile for each ton of two thousand pounds; and it shall be the duty of said company, between the twentieth and thirtieth days of July, and between the first and tenth days of December, in each and every year, after thirty miles or more of said railroad

shall have been completed, and in use, to cause to be made out, and filed with the auditor general, a true and correct statement, exhibiting the amount of such tonnage so loaded or received, and the distance so carried or conveyed, during the respective periods intervening between the said tenth day of March and the twentieth day of July, and between the said twentieth day of July and the first day of December, in each and every year; which said statement shall be verified by the oath or affirmation of the receiving or forwarding agent or agents, or other proper officer or officers of said company, having knowledge of the premises; and at the time of filing said statement, or on or before the said thirtieth day of July and the tenth day of December, in each and every year, the said company shall pay to the state treasurer the amount of said toll or duty so accruing, for the use of the commonwealth, during the respective intervening periods before mentioned: *Provided*, That if it shall hereafter be deemed necessary or expedient, the governor may appoint one or more state agents, not exceeding three, who shall have the right at all times to travel free of charge on or over said railroad, between Harrisburg and Pittsburg, in the cars or other vehicles of the company, used for the conveyance of passengers; and at all times during the usual hours of business, shall have free access to, and liberty to inspect and examine all such books, accounts, way-bills, bills of freight, manifests and other papers of the company, as may be necessary and proper, to enable the said agent or agents to ascertain, and keep a true and correct account of all such tonnage so loaded, received, carried or transported on or over said railroad, during the periods aforesaid; and the legislature hereby reserves the right to adopt such additional measures, to secure a faithful compliance with the conditions of this proviso, as may hereafter be deemed right and proper.

Proviso.

Governor may  
appoint agents.

Resumption by  
the state.

SECTION 23. That if the legislature of this state shall, at the expiration of twenty years from the completion of said railroad, make provisions by law, for the repayment to the said company, of the amount expended by them in the construction of said railroad, and in the construction of permanent fixtures, and all other appurtenances for the use of the same, together with all moneys expended by said company, for repairs, attendance and otherwise, for the purposes of said railroad, with interest on such sums, at the rate of eight per cent. per annum, after deducting the amount of tolls and other revenue received by said company, for the use of the same, then said railroad, with all its fixtures and appurtenances, shall vest in, and become the property of the people of this state; but if the legislature shall not, at the expiration of the said period of twenty years, claim the said railroad, and so forth, as aforesaid, then the said company, with all its said rights and privileges, shall continue for another period of twenty years, subject to the claim of the legislature, as aforesaid, at the expiration thereof, on the same terms and conditions, as aforesaid, and so on, from twenty years to twenty years.

Books, &c. lia-  
ble to inspection.

SECTION 24. That it shall at all times be lawful for a committee of the legislature, appointed for that purpose, to inspect the books and examine into the proceedings of the corporation hereby created, and to report whether the provisions of this charter have been by the same abused or violated; and if the officers of said corporation shall refuse to be sworn or affirmed, or give evidence, or refuse to produce any of their books or papers, that may be demanded, before any such committee, then the legislature may, by law, declare the said charter void, and repeal the same; and whenever any committee as aforesaid, shall find and report, or the governor shall have reason to believe that the charter has been violated, it may be lawful for the legislature to direct, or the gov-

Proceedings to  
forfeit the charter.

error to order, a *scire facias*, to be sued out of the supreme court of Pennsylvania, in the name of the commonwealth of Pennsylvania, which shall be served by the sheriff of any county in this commonwealth, on the president, treasurer or secretary, at the office of the corporation, for the time being, at least ten days before the commencement of the term of court, calling on the said corporation to shew cause why the charter hereby granted, should not be declared forfeited; and it shall be lawful for the said court, upon the return of the *scire facias*, to examine into the truth of the alleged violations; and if such violations be made to appear, then to adjudge that the said charter is forfeited, and thereupon, and in case the legislature shall have power to declare the said charter void, and to repeal the same for the cause aforesaid, the railroad aforesaid, with its appurtenances, and all estate, real and personal, of the said corporation, shall revert to and be vested in the commonwealth, upon the payment by the commonwealth, to the stockholders, the par value of their stock; and until the commonwealth shall have made such payment to the president and directors of said company, to be by them distributed among the stockholders, the rights, privileges and franchises of said corporation, shall remain as though said judgment and forfeiture had not been pronounced or declared: *Provided however*, That every Proviso. issue of fact, which may be joined between the commonwealth and the corporation, in said proceedings, shall be tried by a jury, summoned by an officer, to be named by the court from the body of the state; and it shall be lawful for the court aforesaid, to require and compel the production of such of the books and papers of the corporation, on such trial, as it may deem necessary for the ascertainment of the controverted facts; and the final judgment of the court shall be subject to all the usages of law, as in other cases: the first twenty of the commissioners Powers of com- appointed in the first section of this act, or any five of them, shall have missioners. authority to convene the commissioners at such suitable time and place, as they may designate for that purpose, giving sufficient notice thereof, as the occasion may seem to require; and all reasonable expenses incurred by the commissioners, in the performance of the duties by this act imposed, shall be allowed and paid by the corporation, out of the first instalment, or payment to be received by the commissioners at the time of subscribing, as hereinbefore provided.

SECTION 25. That if the said company shall not commence the construction of said railroad within two years, and complete and open the same for use, with one or more tracks, within the term of ten years; and completion. or if, after the completion, the said railroad shall be suffered to go into decay, and be impassable for the term of two years, then this charter shall be null and void, except so far as relates to the payment of damages.

SECTION 26. That if any person or persons, traveling on the road of the said company, or that of any other company in this commonwealth, shall be wounded by reason of any imperfection, or defect in such road, Damages sus- tained by travel- ers on the road, how recoverable. or in the machinery or cars employed on the same, or by the negligence of such company or their agents, no action brought by such person or persons against such company, to recover damages therefor, shall abate by the death of the plaintiff or plaintiffs, but the same shall survive to his or her executors or administrators.

SECTION 27. The legislature reserves the right to authorize any company hereafter chartered, to connect any railroad not running parallel with the same, to be constructed by such company, with the railroad of the said Pennsylvania railroad company, at such point or points on said railroad, as the legislature may direct: *Provided*, That no higher rates of toll or of transportation, shall be charged by said company, for persons or things having passed, or destined to pass over such connecting Reservation. Proviso.

## LAWS OF PENNSYLVANIA,

road, than may be at the same time charged upon persons and things passing over the main line, to and from Philadelphia and Pittsburg.

FINDLEY PATTERSON,

*Speaker of the House of Representatives.*

DANIEL L. SHERWOOD,

*Speaker of the Senate.*

APPROVED—The thirteenth day of April, one thousand eight hundred and forty-six.

FRS. R. SHUNK.

No. 263.

## A N A C T

Supplementary to an act to incorporate the Pennsylvania railroad company, passed April, eighteen hundred and forty-six.

Construction of  
act, to which this  
is a supplement.

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 nothing in the act to which this is a supplement, shall be so construed as in anywise to impair the right of the legislature to pass such additional laws as may be deemed expedient in furtherance of the objects contemplated by said act, and for the better enforcement of the provisions thereof; and in case the charter of said company shall be forfeited in the manner therein provided, it shall be competent for the legislature by law, to vest the said railroad and appurtenances, and all the estate, real and personal, of the said company, in the commonwealth, or in another company to be incorporated for that purpose, upon the payment to said Pennsylvania railroad company, for distribution amongst the stockholders, according to their several interests, the actual value of their said railroad, appurtenances and other property, to be ascertained and appraised by twelve disinterested persons, acting under oath or affirmation, to be appointed and governed in their proceedings in relation thereto, in such manner as the legislature shall by law direct: *Provided,* That in case the said company shall at any time fail to pay the toll or charge on tonnage, which may accrue or become due to the commonwealth, under the provisions of said act, the same shall be and remain a lien on the property of the said company, and shall have precedence over all other liens or incumbrances thereon, until paid.

FINDLEY PATTERSON,

*Speaker of the House of Representatives.*

DANIEL L. SHERWOOD,

*Speaker of the Senate.*

APPROVED—The thirteenth day of April, one thousand eight hundred and forty-six.

FRS. R. SHUNK.