

and shall annually elect directors as herein prescribed, so far as the same is applicable, and shall be subject to all the duties and liabilities herein contained, and conduct the affairs of said corporation in pursuance of the provisions of this act.

Borough of
Honesdale may
become the
owner of the
water works in a
certain contin-
gency.

SECTION 15. In case of a sale of said works and franchises of said company, the borough of Honesdale may at any time thereafter, by paying the owner of said property and franchises the amount for which the same may have been sold, together with the costs of maintaining or completing said works, with ten per cent. interest thereon, deducting therefrom any dividends may become the owner of said property and franchises, and invested therewith; and the town council of said borough shall be ex-officio managers of said company, and the business shall be conducted in the corporate name of said company, subject in every respect to the provisions of this act.

Annual state-
ment.

SECTION 16. That the treasurer of said company shall annually make a statement of the financial affairs of said company, showing the receipts and expenditures, and such other information as he may deem necessary.

Commencement
and completion
of works.

SECTION 17. That if the said company shall not proceed to carry on the said works within four years after the passage of this act, or shall not, within five years thereafter, complete the same so far as to have conveyed the same within the limits of said borough, in either of these cases, all and singular the rights, liberties and franchises hereby granted to the said company, shall revert to the commonwealth.

Reservation.

SECTION 18. The legislature reserves the right to repeal or annul the privileges hereby granted, if at any time they shall prove injurious to the citizens of this commonwealth: *Provided however*, That no injustice be done to the corporators.

J. S. M'CALMONT,
Speaker of the House of Representatives.
V. BEST,
Speaker of the Senate.

APPROVED—The fourteenth day of March, one thousand eight hundred and fifty.

WM. F. JOHNSTON.

No. 325.

AN ACT

To incorporate the Trevorton, Malenoy and Susquehanna railroad company.

Corporators.

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* Felix Lerch, William Deppen, Jacob Reaker, Daniel Montgomery Boyd, Alexander Jordan, Joseph W. Cake, Robert M. Ludlow, John P. Hobart, Henry Donnel, Bertram H. Howell, Charles W. Hegins,

Simon Cameron, William L. Helfenstein, Kimber Cleaver, and those persons who shall hereafter subscribe for the stock of the company hereby created, be and are hereby created and erected into a body politic and corporate, in deed and in law, by the name, style and title of "The Trevorton, Mahonoy and Susquehanna railroad company," and by the said name 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 and enjoy to them and their successors, lands, tenements and hereditaments, goods, chattels, and all real estate, personal or mixed, 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 portions of the profits as they may deem proper; and also to make and have a common seal, and also to ordain, establish and put in execution such by-laws, ordinances and regulations as shall appear necessary and convenient for the government of 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 shall lawfully appertain to do for the well being of the said corporation, and the due management and ordering of the affairs of the same: *Provided*, That nothing herein contained shall be considered as in any way giving to the said corporation any banking privileges whatsoever, or any other liberties, privileges or franchises, but such as may be necessary or incident to the making and maintaining of the said railroad, and the conveyance of passengers and the transportation of the mail and of coal, minerals, goods, merchandize and commodities thereon: *And provided further*, That the company hereby created shall not purchase or hold any real estate, except such as may be necessary for the making and construction of said railroad, and for depots, engine and water stations.

Privileges.

Provide.

SECTION 2. That the said named persons, or a majority of them, shall, after having given at least twenty days' previous notice in one newspaper published in the county of Northumberland, of the time and place by them appointed, meet together with such persons as may subscribe to the stock of the said company in order to organize the same, and choose by a majority of the votes of the subscribers, by ballot, one president and four managers, who shall be residents of this commonwealth, a treasurer, secretary, and such other officers as shall be deemed necessary; and the president and managers so elected shall conduct the business of said company until the second Monday in January then next, and until like officers shall be chosen, and may make such by-laws, rules, orders and regulations as are not inconsistent with the laws of the United States or of this commonwealth, and that may be necessary for the well governing of the affairs of the said company: *Provided*, That no person but a stockholder holding at least ten shares in the stock of the said company, shall be eligible to the office of president or manager of the said company.

Organization.

SECTION 3. That the stockholders shall meet on the second Monday of January in every year, at such place as may be fixed upon by the by-laws, of which notice shall be given at least twenty days previous, by the secretary in the newspaper before mentioned, and shall choose by a majority of the voters present, officers for the ensuing year, as mentioned in the second section of this act, who shall continue in office one year and until others are chosen; and the stockholders shall meet at such other times as they may be summoned by the managers, in such manner and form as shall be prescribed by the by-laws, at which an-

Annual meeting
of stockholders.

nual or special meeting they shall have full power and authority to make, alter or repeal, by a majority of the votes in the manner aforesaid, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform every other corporate act; and each stockholder shall be entitled to one vote for every share of stock he or she shall hold.

Manner of conducting election of officers.

SECTION 4. That the election of officers provided for in the third section of this act, shall be conducted in the following manner; that is to say, the managers for the time being shall appoint two of the stockholders not being managers, to be judges of the said election and to conduct the same, after having severally taken and subscribed an oath or affirmation before an alderman or justice of the peace, well and truly and according to law, to conduct such election to the best of their knowledge and abilities; and the said judges shall decide upon the qualifications of voters, and when the election is closed shall count the votes and declare who has been elected; and if it shall at any time happen that an election of president, managers, treasurer, secretary or other officers shall not be made, the corporation shall not for that cause be dissolved, but it shall be lawful to hold and make such election of president, managers, secretary, treasurer or other officers, on any day thereafter, by giving at least ten days' notice, signed by the president or secretary in the newspapers before mentioned, of the time and place of holding said election; and the president, managers, treasurer, secretary and other officers of the preceding year, shall in that case continue to act and be invested with all the powers belonging to their respective stations, until an election shall take place; in the case of death or resignation of the president, managers, treasurer or secretary, his place may be filled by the board of managers until the next annual meeting.

Meeting of president and managers.

SECTION 5. That the said president and managers shall meet at such times and places as shall be found most convenient for the transaction of their business, and when met three shall be a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of their transactions fairly entered in a book; and a quorum being formed they shall be empowered and have authority to appoint all such surveyors, engineers, superintendents and other artists, officers and workmen as they shall deem necessary to carry on the intended work, and to fix their salaries and wages, draw orders on the treasurer for money, which shall be signed by the president, or in his absence by a majority of the managers present, and countersigned by the secretary, and generally to do all such other acts, matters and things as by this act and by the by-laws and regulations of the company they are hereby authorized to do.

Capital stock.

SECTION 6. That the capital stock of the said company shall consist of forty thousand shares, of twenty dollars each; and the said president and managers first chosen shall procure certificates, or evidences of stock, for all the shares of the said company, and shall deliver one or more certificates, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person according to the number of shares by him or her subscribed or held, which certificates or evidences 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, one of whom 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 the said corporation, and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock and of all the estates and

emoluments of the company incident to one share, and to vote as aforesaid at the meetings thereof.

SECTION 7. That the president and managers of the said company Officers to give shall demand and require of and from the treasurer, and may demand bond. and require of and from all and every other of the officers and other persons by them employed, a bond with such security as the said company shall, by their rules, orders and regulations require, for the faithful discharge of the several duties and trusts to them respectively committed.

SECTION 8: That dividends of so much of the profits of the com- Dividends. pany as shall appear advisable to the managers, shall be declared at least twice in every year, and paid to the stockholders on demand at any time after the expiration of ten days therefrom; but they shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock shall never be impaired thereby; and if the said managers shall make any dividend which shall impair the capital stock of said company, the managers consenting thereto shall be liable, in their individual capacities, to the said company for the amount of the stock so divided, recoverable by action of debt as in other cases; and each manager present, when such dividend shall be declared, shall be adjudged to be consenting thereto, unless he forthwith enter his protest upon the minutes of the board, and give public notice to the stockholders of the declaring of such dividend: *Provided*, When such dividend shall exceed fifteen per centum per annum, the excess shall be paid into the state treasury for the use of the commonwealth.

SECTION 9. That the president and managers of the said company Survey and fix shall have power to survey, lay down, ascertain, mark and fix such route. route as they shall deem expedient for a railroad, with as many tracks as they may deem necessary, beginning at or near the mouth of Zerbe's run, in Coal township, Northumberland county, to the river Susquehanna, at or near the mouth of Mahonoy creek: *Provided*, That the said railroad shall not, except in deep cuts and fillings, or at points selected for depots or engine and water stations, exceed four rods in width; and that it shall not pass through any burying ground or place of public worship, or any dwelling house, without the consent of the owner thereof.

SECTION 10. That the said president and managers shall have full Enter upon and power and authority by themselves or their superintendents, engineers, occupy lands, artis and workmen, to enter in and upon, and occupy all land on which &c. the said railroad or its depots and warehouses may be located, or which may be necessary for the erection of its engine and water stations, weigh-scales, or any other purposes necessary or useful in the construction and repairs of the said railroad, and therein to dig and embank, make and construct the same: *Provided*, The said company shall first make com- Damages, how perty so taken and occupied as aforesaid, or give adequate security therefor; but if the parties cannot agree upon the compensation to be made to such owner or owners, it shall and may be lawful for the parties to appoint five suitable, judicious and disinterested persons of the county of Northumberland, who shall be under oath or affirmation, and who shall reside within the county of Northumberland; and if they cannot agree upon such persons, then either of the parties, after giving twenty days' notice to the other, may apply to the court of common pleas of the county in which the land may lie, and the court shall award a venire, directed to the sheriff, to summon a jury of seven judicious and disinterested persons from the said county, in order to ascertain

and report to the said court what damages, if any, have been sustained by the owner or owners of the said ground, by reason of the construction of the said railroad through the same; which said jury or valuers being duly sworn or affirmed, and having viewed the premises, shall proceed to estimate the quantity and quality of the land occupied by the said railroad, and all other inconveniences which may be likely to result therefrom to the said land; and under the influence of these considerations, and a just regard to the advantages which may seem likely to result to the owner or owners of said land, from the opening of the said railroad through the same, to make their assessment and report to the court, which report being confirmed by the said court, judgment shall be entered thereon, and execution may issue in case of non-payment for the sum awarded, and the expenses incurred by the appraisers or jury, shall be defrayed by the said company: *Provided*, That either party may appeal to the said court within thirty days after such report may have been filed in the prothonotary's office, in the same manner as appeals are allowed in other cases; and if the party appealing shall not obtain a verdict and judgment more favorable than the assessment by the appraisers or jury as aforesaid, he, she or they shall pay all costs and expenses which may accrue in consequence of said appeal: *And provided further*, That the said company may offer and tender such sum as they may deem a just and reasonable compensation to the owner or owners of the ground, materials and property taken and occupied as aforesaid, or give adequate security for the said sum; and in case the said owner or owners shall refuse to accept the same, and resort to the proceedings hereinbefore prescribed to obtain such compensation, and shall fail to obtain an assessment of the appraisers, or a verdict and judgment for a greater sum than the sum so as aforesaid offered or secured by the said company, he, she or they shall pay all the costs and expenses of the said proceedings: *And provided also*, That if any person or persons owning land, or any other property which shall be affected by this act, be feme covert, under age, non compos mentis, or out of the state, then and in either of the cases the president and managers of the company, and at the cost and charges of the said corporation, shall, within one year after the construction of the railroad through the said land, represent the same to the court of common pleas of the county where the lands lie, as the case may be, who shall proceed thereon in the same manner and to the same effect as directed by this act in other cases.

Further powers.

SECTION 11. That the president and managers, by and with their superintendents, engineers, artists, workmen and laborers, with their tools, instruments, carts, wagons and other carriages, and beasts of draught and burden, may enter upon the lands contiguous and near the said railroad, first giving notice to the owners or occupiers thereof, and from thence to take and carry away timber, stone or gravel, sand or earth, doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damage that may be done thereon, the amount whereof, if the parties do not agree, shall be assessed as hereinbefore mentioned in this act.

Lateral railroads.

SECTION 12. That the said company shall not prevent any person or persons being the owner or owners of land bordering on the said railroad or in the vicinity thereof, or adjacent thereto, from making such lateral railroads, and to connect them with the said railroad from their said lands, as the said person or persons may wish, for the purpose of transporting their coal or produce on said railroad: *Provided*, That all such connections of lateral roads are to be made at the expense of the person

so wishing to connect, and according to the direction and approval of the engineer or managers of said company, so as not to obstruct or endanger the free travel on the main road: *And provided also*, That any person or persons owning such coal or produce shall have the privilege of transporting the same on said railroad in their own cars, subject to the rules and regulations of said company.

SECTION 13. That the said railroad 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; in all cases where the said railway may cross or in any manner interfere with any existing public road, canal or slackwater navigation, the said company shall make or cause to be made, as soon as conveniently may be, a good and sufficient causeway or causeways to enable all persons passing or traveling such public road, canal or slackwater navigation to cross or pass over or under said railroad; 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 refused to be repaired, to be recovered by the supervisors of the township with costs, for the use of the township, as debts of 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.

Public roads not to be impeded by said railroad.

SECTION 14. That for the accommodation of all persons owning or possessing land through which the said railroad 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 or under the same with wagons, carts and implements of husbandry, as occasion may require; and the said causeway or causeways when 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, and 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 sued 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 the said railroad may pass; and where any public road shall cross said railroad, the person owning or possessing land through which such public road shall pass, shall not be entitled to require the said company to erect or keep in repair any causeway or bridge for the accommodation of the occupant of said land: *Provided further*, That in the event of any private bridge or causeway being converted to public 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 said company shall be forever thereafter exonerated from the duty of keeping the said bridge or causeway in repair.

Causeways.

SECTION 15. That 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 the cause of action accrued; and the defendants in any 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; and in all suits or actions brought against the said company, the service of process on the president, secretary,

Limitation of suits.

treasurer, engineer, agent or any manager of the said company, shall be as good and available in law as if made on the president thereof.

Penalty for injuries. SECTION 16. That if any person or persons shall wilfully or knowingly break, injure or destroy the railroad hereby authorized, or any part thereof, or any work, edifice or device, or any part thereof, to be erected by the said company in pursuance of this act, he, she or they shall forfeit and pay to the said company three times the actual damages so sustained, to be sued for and recovered with full costs, before any tribunal having cognizance thereof, by action in the name and for the use of the said company.

Further provisions for injuries. SECTION 17. That if any person or persons shall wilfully or maliciously remove or destroy any of the said company's constructions, or place designedly and with evil intent any obstruction on the line of the railroad, so as to jeopard the safety and endanger the lives of persons traveling the same, such person or persons so offending shall be deemed guilty of misdemeanor, and shall be adjudged on conviction, to be imprisoned in the Eastern penitentiary of Pennsylvania for a term not more than two years: *Provided*, That nothing herein contained shall prevent the said company from pursuing any other appropriate remedy at law in such cases.

Rules and regulations. SECTION 18. That it shall and may be lawful for the president and managers from time to time, to ordain and establish rules and regulations for the due ordering of all traveling and transportation on the said road, and for its preservation, with power to alter, repeal, enlarge or amend the said rules and regulations as they may deem expedient; and that they shall have full power and authority to prescribe the kinds and descriptions of cars, carriages or wagons to be used on the said road, for the conveyance of passengers and the transportation of the mails, or of goods, wares, merchandize and minerals, and to regulate the speed at which they shall travel, and to adopt and enforce such rules and regulations in relation to the transit thereof as they may deem expedient; and the said company are hereby authorized and empowered as soon as any portion of the said railroad is perfected, to place thereon cars, carriages or wagons constructed as they may deem best adapted for the transportation of mails, passengers and commodities to the advantage of the public, and shall permit individuals to place such cars, carriages or wagons thereon of such constructions, and under such limitations and restrictions as they may deem proper; and the said company is hereby authorized to charge and take toll for freight and transportation of passengers, goods, wares, merchandize and minerals at rates as follows, to wit: on coal and other minerals any sum not exceeding fifteen mills per ton per mile for toll, and fifteen mills per ton per mile for transportation on goods, wares, merchandize and other property, any sum not exceeding two cents per ton per mile for toll, and two cents per ton per mile for transportation, and for the transportation of passengers any sum not exceeding three cents per mile for each passenger; and the said company are hereby authorized to charge at the rate of three cents per ton for weighing all coal, minerals, wares, goods, merchandize and other property transported on said railroad.

Annual statement.

SECTION 19. That at each annual meeting of the stockholders, the president and managers of the preceding year shall exhibit to them a complete statement of the affairs and proceedings of the said company for such year; and that special meetings of the stockholders may be called by order of the president and managers, or by the president at the request of the stockholders holding one-fourth of the amount of the capital stock, after giving such notice as hereinafter required for annual meetings, specifying moreover the object of the meeting; but no busi-

ness shall be transacted at such meetings, except that for which it shall have been called, nor unless a majority in value of the stockholders shall attend in person or by proxy.

SECTION 20. That if the president and managers and company shall not proceed to carry on the said work within three years from the passage of this act, and shall not complete the same within seven years as aforesaid, according to the true intent and meaning of this act, or if after the completion of the said road the said company shall suffer the same to go to decay and be impassable for the term of two years, then this charter shall become null and void, except so far as compels the said company to make reparation for damages. Commencement and completion of road.

SECTION 21. That at the end of the third year after the charter shall be obtained, and at the end of every year thereafter, there shall be furnished to the legislature an abstract of the accounts of the said company, showing the debts of the company, the amount received for toll and transportation and weighing, and the rates charged and the amount of dividends declared, which abstract shall be verified by the oath or affirmation of the president or treasurer of said company. Accounts to be furnished the legislature.

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 granted to the said company by this act. Reservation.

J. S. M'CALMONT,
Speaker of the House of Representatives.

V. BEST,
Speaker of the Senate.

APPROVED—The twenty-second day of March, one thousand eight hundred and fifty.

WM. F. JOHNSTON.

No. 326.

A N A C T

To amend an act to authorize the erection of free bridges over the river Schuylkill, at or near Philadelphia, passed the sixteenth day of March, one thousand eight hundred and thirty-nine.

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 within ninety days from the passage of this act, the commissioners of the district of Spring Garden shall make a conveyance of all their right, title and interest in the bridge over the river Schuylkill, near Callowhill street, with the contiguous land now held by them, to the commissioners of the county of Philadelphia in fee simple.