

No. 173.

AN ACT

Authorising the Governor to incorporate the Philadelphia and Delaware county, and Southwark Rail-road companies.

SECT. 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 Patterson, Jonas Preston, Peter Hill, David Johns, Richard Hill Morris, John W. Odenheimer, Evans Rogers, and William J. Leiper, George M. Hickling, Henry Korn, James Page, John H. Palethorp, Thomas Cave, of the city of Philadelphia; Benjamin Serrill, Benjamin Peirson, Thomas Smith, Preston Eyre, George G. Leiper, Joseph Engle, Samuel Edwards, and Archibald T. Dick, John K. Zealin, Joseph M. G. Lescure, Henry Myers, William Amies, David Lyons, John Hinkson, of the county of Delaware, be and they are hereby appointed commissioners, to do and perform the several things hereinafter mentioned, that is to say: they or any three of them, shall procure a sufficient number of suitable books, and in each of them enter as follows: "We, and each of us, whose names are hereunto subscribed, do promise to pay to the directors of the Philadelphia and Delaware county rail-road company, the sum of fifty dollars, for every share of stock, set opposite to our respective names, and by us respectively subscribed, in such manner and proportions, and at such times and places, as shall be determined and directed by the said directors, in pursuance of an act, entitled "An act authorising the Governor to incorporate the Philadelphia and Delaware county rail-road company:"* Witness our hands the

Commissioners appointed to open books for Philadelphia and Delaware company.

Form of subscription. \$50 per share.

day of \_\_\_\_\_ in the year of our Lord, one thousand eight hundred and thirty \_\_\_\_\_; and shall thereupon give at least twenty days previous public notice, in the newspapers printed in the county of Delaware, and in two of the daily papers, printed in the city of Philadelphia, of the times when, and places where some one or more of the aforesaid commissioners will attend, and receive subscriptions from all persons of lawful age, who shall offer to subscribe in said books, which shall be kept open for the purpose aforesaid, at least six hours in every juridical day, for the space of three days, or until there shall be subscribed in the said books four thousand shares; and if at the expiration of three days, the books aforesaid, shall not have the number of shares aforesaid, therein subscribed, then the said commissioners at their discretion, may adjourn from time to time, and transfer the books elsewhere, until the whole number of shares aforesaid

Whole No. of shares 4000.

shall be subscribed, of which adjournment and transfer, the commissioners aforesaid, shall give such public notice, as the occasion may to them seem to require, but no subscription shall be valid, unless the person so subscribing, shall pay to the said commissioners at the time of making the same, the sum of five dollars on each share, for the use of the company.

**SECT. 2.** *And be it further enacted by the authority aforesaid,* That if more than four thousand shares shall be subscribed in the time specified in the first section, to the capital stock of the said company, the said commissioners or a majority of them, shall reduce the subscription to four thousand shares, by striking off from the largest number of shares in succession, until the subscriptions shall be reduced to four thousand shares, or each of the subscriptions to one share, and if there shall be still an excess, then lots shall be drawn by the commissioners, to determine who shall be excluded.

**SECT. 3.** *And be it further enacted by the authority aforesaid,* That when two thousand shares, or more shall be actually subscribed, and five dollars on each share paid to said commissioners, the said commissioners or a majority of them, shall certify the same under oath or affirmation, to the Governor of this commonwealth, and on the receipt of such certificate, the Governor shall by letters patent, under his hand, and the seal of the commonwealth, create and erect the subscribers, and if the subscription be not full at the time, then those also who shall thereafter subscribe to the whole number of shares aforesaid, into a body corporate and politic, in deed and in law, by the name, style and title of "The Philadelphia and Delaware county rail-road company;" and by the same name the subscribers shall have perpetual succession, and all the privileges, franchises and immunities, incident to a corporation, may sue and be sued, implead and be impleaded, in all courts of record and elsewhere, may purchase, receive, have, hold and enjoy to them and their successors, and assigns, lands, tenements and hereditaments, goods, chattels, and all estate, real, personal and mixed, of what kind or quality soever, and the same from time to time may sell, mortgage, grant, alien and dispose of, and to make dividends of such portions of the profits as they may deem proper, and also may make and have a common seal, and the same alter or renew at pleasure, and generally may do all and singular, the matters and things, which to them it shall lawfully appertain, to do for the well being of the said corporation, and the due management and ordering of the affairs and business of the same: *Provided,* That nothing herein contained, shall be so considered and construed, as giving to the said corporation, any banking privileges, or any other liberties, privileges or franchises, but such as may be necessary, or incident to making and maintaining the said

\$5 to be paid on each share when taken.

Apportionment in case of excess.

When 2000 shares are subscribed Governor may incorporate.

Style.

Privileges and liabilities

Proviso. Debarred from other privileges.

rail-road, and to the conveyance of passengers, and the transportation of goods, merchandise and commodities thereon.

SECT. 4. *And be it further enacted by the authority aforesaid,* That for the management of the affairs of the said corporation, seven directors shall be elected, by ballot, annually, by the stockholders of the said company, the votes to be delivered in person or by proxy duly authorised; which directors shall appoint one of their own number to be president, and shall respectively serve one year, or until other directors be elected, and shall have power to make such by-laws, rules, orders, and regulations, not inconsistent with the constitution and laws of the United States, and of this commonwealth, as may be necessary for the well ordering of the affairs of the said company: *Provided,* That none but stockholders shall be eligible to be elected directors, and that at every such election, and in all other cases in which the stockholders shall be called upon to vote, each share of stock shall be entitled to one vote; and also, that in all cases of elections for directors, the seven stockholders having the greatest number of votes, shall be declared duly elected.

Seven directors and president.

Their duties:

Proviso. One vote each share, &c.

SECT. 5. *And be it further enacted by the authority aforesaid,* That no share of stock shall be entitled to a right of suffrage, which shall not have been held three calendar months, prior to the day of election, nor unless it shall be held by the persons in whose name it appears absolutely and bona fide in his own right, or in that of his wife, or for his or her sole use and benefit, or as executor or administrator, trustee or guardian, or in the right and for the use and benefit of some co-partnership, corporation, or society of which he or she may be a member, and not in trust for the use and benefit of any other person; that no share or shares, held by transfer, shall be entitled to vote, unless the same shall have been transferred at least three months before the election, and no share or shares shall be entitled to vote at any election, or at any general or special meeting of the said company, on which any instalment or arrearages may have been due and payable, more than twenty days previously to the said election or meeting; and that all votes, by proxy, shall be upon such terms and conditions as are prescribed by the act passed the twenty eighth day of March, in the year one thousand eight hundred and twenty, entitled "An act to regulate proxies." *Provided,* That all proxies shall be dated within sixty days of the election at which the same shall be presented.

Circumstances under which stockholders cannot vote.

Votes by proxy.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the aforesaid commissioners, or a majority of them, shall, as soon as practicable, after the said letters patent shall have been obtained, give at least fifteen days previous public notice, in the newspapers hereinbefore mentioned, of the time and place by them appointed, for the subscri-

First and annual election for officers.

bers or stockholders to meet, for the purpose of electing seven directors, as provided for in the preceding sections; and that annually thereafter, the said stockholders shall meet on the third Monday in January, for the purpose of electing directors as aforesaid, upon a like previous notice, to be given by the directors for the time being, in such newspapers as they may deem advisable: *Provided*, That if, from any cause, such election shall not be held at the time specified therefor, the same may be held at any other time, on notice as aforesaid; that until such election be held, the directors of the preceding year shall continue to act, and that this charter shall not be avoided by reason of the irregularity or want of such election: *And provided also*, That in case of any vacancy, from death or resignation of any director, his place shall be filled by the board of directors.

Proviso.  
Vacancies  
from any  
cause how  
supplied.

General pow-  
ers of direc-  
tors.

SECT. 7. *And be it further enacted by the authority aforesaid*, That the said directors shall meet at such times and places, and be convened in such manner, as they may hereafter agree upon; four directors shall be a quorum for the transaction of business, who, in the absence of the president, may appoint a president pro tem. The said directors shall appoint a secretary, treasurer, and such engineers and other officers, as they may find necessary; shall fix their compensation, and may demand adequate security for the performance of their respective trusts; they shall have full power to ascertain and decide the time, manner, and proportions, in which the stockholders shall pay the money due on their respective shares, and to forfeit, to the use of the company, the share or shares of every person failing to pay any instalment so required; to regulate tolls, to make such covenants, contracts, and agreements, with any person, co-partnership, or body politic, whatsoever, as the execution and management of the works, and the convenience and interests of the company may require; and in general to superintend and direct all receipts, disbursements, and other affairs and proceedings of the company.

Stock certifi-  
cates.

SECT. 8. *And be it further enacted by the authority aforesaid*, That the directors first chosen, as aforesaid, shall issue a certificate to each stockholder, for the number of the shares he or she shall subscribe for, or hold in the said corporation, signed by the president, countersigned by the treasurer, and sealed with their common seal; subject, however, to all the payments due and to grow due thereon; which stock shall be transferable, in person or by attorney, executors, administrators, guardians, or trustees, under such regulations as may be provided by the by-laws.

Transferable.

Annual state-  
ment to stock-  
holders.

SECT. 9. *And be it further enacted by the authority aforesaid*, That at each annual meeting of the stockholders, the directors of the preceding year, shall exhibit to them a complete statement of the affairs and proceedings of the company for

such year, and that special meetings of the stockholders may be called by order of the directors, or by stockholders holding one fourth in amount of the capital stock, on like notice as that required for annual meetings, specifying moreover the object of the meeting, but no business shall be transacted at such special meeting, unless a majority in value of the stockholders, shall attend in person or by proxy.

Special meetings.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the said company be and they are hereby authorised as soon as they conveniently can, to locate and construct a rail-road, of one or more tracks, from a point at or near the city of Philadelphia, thence along the route of the Baltimore post road, or as near thereto as the ground will admit, making the post towns of Darby and Chester, or their vicinity, points in said road to the Delaware state line, and to make, construct and erect such ware houses, toll houses, carriages, cars and all other works and appendages necessary for the convenience of the said company, in the use of the said rail-road: *Provided,* That where the track of the post road shall be used for said rail-road, the latter shall not be so located as to interfere with the post road.

Location of road.

Proviso. Not to interfere with post road.

SECT. 11. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said company, their officers, engineers and agents, to enter upon any lands for the purpose of exploring, surveying and locating the route of the said rail-road, doing thereto no unnecessary damage; and when the said route shall be determined by the said company, it shall be lawful for the said company, their agents, officers, engineers, contractors and servants, at any time to enter upon, take possession of and use such land; and also to take from any land in the neighbourhood, gravel, stone, wood and other materials for the purpose of constructing and maintaining such rail-road, subject however to such compensation as said company may have agreed to pay therefor, or as shall be ascertained in manner hereinafter respectively directed.

Right to enter upon lands to locate and for materials.

SECT. 12. *And be it further enacted by the authority aforesaid,* That when the said company cannot agree with the owner or owners of such required land for the purchase thereof, or for the damages sustained by such owner or owners, or as to the compensation to be paid to the owner or owners of any sand, gravel, stone, wood or other material taken for the purpose aforesaid, or where by reason of legal incapacity or absence of any such owner or owners, no such agreement or purchase can be made, the court of common pleas for the proper county, on application thereto by or on behalf of either party, and at the costs and charges of said company, shall nominate and appoint twelve discreet and disinterested persons of the said county, and shall issue a precept to the sheriff of the said county, to summon the said twelve persons, to meet on the land so required, or

Appraise-ment of damages.

Appointment of view-ers.

from whence the said materials shall or may be taken, at a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter; and the sheriff upon receiving the said warrant, shall forthwith summon the said twelve persons, and shall give at least eight days notice to the respective parties; and the said sheriff shall attend at the time and place named in the warrant, and when nine or more of the said persons shall have appeared, shall in the case of land so required, administer to each of them an oath

**Their oaths.** "that he will faithfully, justly and impartially value the land occupied or required for such rail-road or other works, and all damages which the owner or owners shall sustain, or may have sustained by reason of the construction of the said rail road and other works, taking into consideration, the advantages as well as the disadvantages of the same to the said owner or owners, according to the best of his skill and judgment; and in case of materials taken for the purpose aforesaid, that he will faithfully, justly and impartially value the materials so taken, and fix the rate of compensation to be paid therefor by the said company to the said owner or owners, taking into consideration the advantages as well as the disadvantages arising from the construction of such rail-road and other works, to the said owner or owners according to the best of his skill and judgment;" whereupon the said persons shall proceed to view the land so required, or the place from whence such materials shall or may be taken, as the case may be, and to hear the evidence of the respective parties, and their verdict signed by the sheriff, and at least seven of the jury shall be returned by the sheriff within five days thereafter to the prothonotary of the said county, who shall file the same; and the said sheriff and persons shall be entitled to the like fees for their respective services, as are allowed to the execution of an order issued by the orphans' court, for the valuation of lands of an intestate, under the intestate laws of this commonwealth.

**Duties.**

**Verdict.**

**Fees.**

**SECT. 13.** *And be it further enacted by the authority aforesaid,* That either party shall be at liberty to make exceptions to any verdict rendered according to the provisions of the preceding section, within twenty days after the same shall be returned and filed by the prothonotary as aforesaid; which exceptions shall be heard by the court of common pleas of the proper county, who may either affirm or set aside the same as shall be lawful and right, and if no such exceptions be filed within twenty days, or if any verdict be affirmed, then the verdict shall stand as a judgment against the party against whom it is given, but if any such verdict be set aside by the court, a new precept shall issue to the sheriff, in the manner before specified: *Provided,* That upon the subsequent proceedings, if the party excepting

**Appeal with-  
in 20 days.**

**Proviso.  
Appellant  
may be liable  
for costs.**

does not recover a verdict more favourable than the verdict so excepted to and set aside, such party shall pay all costs of such subsequent proceedings.

SECT. 14. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said company, to construct and keep in repair good and sufficient passages across the said rail-road, where any public roads shall intersect and cross the same, so that the passage of carriages, horses, persons and cattle along the said roads shall not be obstructed; and also when the said rail-road shall intersect any farm, to provide and keep in repair a suitable passage for the use of said farm.

Erection and preservation of passages.

SECT. 15. *And be it further enacted by the authority aforesaid,* That on the completion of the said rail-road, the same shall be esteemed a public highway, for the conveyance of passengers and transportation of merchandize and commodities, under such regulations as shall be prescribed by the directors; and it shall and may be lawful for the said company to demand and receive such sum or sums of money for tolls of persons and property, as they shall from time to time think reasonable: *Provided,* That the toll on any species of property, shall not exceed eight cents per ton per mile, nor upon passengers more than four cents each per mile.

Road to be a highway.

Rate of toll.

Limited.

SECT. 16. *And be it further enacted by the authority aforesaid,* That if any owner or driver of any car, carriage, wagon or conveyance upon the said rail-road, shall pass by any place appointed for receiving tolls without making payment thereof, with intent to defraud the said company, he, she or they so offending shall forfeit and pay for every such offence for the use of said company, the sum of twenty dollars, to be sued for and recovered by action of debt, before any justice of the peace in like manner, and subject to the same rules and regulations as debts under one hundred dollars ed. may be sued for, and recovered together with costs of suit.

Penalty on passing toll house without paying.

How recovered.

SECT. 17. *And be it further enacted by the authority aforesaid,* That dividends of so much of the profits of the company as shall appear advisable to the directors, shall be declared at least twice a year, and paid to the stockholders or their legal representatives, on demand, at any time after the expiration of ten days therefrom, but they shall in no case exceed the amount of nett profits actually acquired by the company, so that the capital stock shall never be thereby impaired; and if the said directors shall make any dividends which shall impair the capital stock of the said company, those of them consenting thereto, shall be liable in their individual capacities to the said company, for the amount of the stock so divided; and each director present, when such dividend shall be made, shall be judged to be consenting thereto, unless he forthwith enter his protest on the minutes of the board, and give public notice thereof to the stock-

Semi-annual declaration of dividends.

Not to impair capital.

Directors may be liable.

Dividend and contingent fund limited. holders at the declaring such dividend, nor shall any dividend exceed twelve per cent per annum, nor shall the contingent fund of said company at any time exceed one-fourth of their capital stock.

SUITS MUST COMMENCE WITHIN 1 YEAR. SECT. 18. *And be it further enacted by the authority aforesaid,* That no suit or action shall be brought or prosecuted by any person or persons, for any penalties incurred under this act, unless such suit or action shall be commenced within one year, next after the offence shall have been committed, or the cause of action shall have accrued; and the defendant or defendants, in such suit or action, may plead the general issue, and give this act and the special matter in evidence; and that the same was done in pursuance and by authority of this act.

PENALTY ON WILFUL INJURY TO PROPERTY OF COMPANY. SECT. 19. *And be it further enacted by the authority aforesaid,* That if any person or persons, shall wilfully and knowingly break, injure, or destroy the rail-road, or any part thereof, or any work, edifice, or device, or any part thereof, to be erected by the said company, in pursuance of this act, or shall in any manner obstruct the free passage along the said rail-road, he, she, or they, shall forfeit and pay to the said company, the actual damage thereby sustained, to be sued for and recovered, with costs of suit, in any court having cognizance thereof, by action of debt, in the name and for the use of the company.

TO COMPLETE WITHIN TEN YEARS. SECT. 20. *And be it further enacted by the authority aforesaid,* That if the said company shall not carry into effect the objects of their charter, within the term of ten years from the passing of this act, or if, after the completion of the said rail-road, the said corporation shall suffer the same to go to decay, and be impassable, for the term of two years, then this charter shall become null and void, so far as compels said company to make reparation for damages.

RIGHT TO RE-SUME PRIVILEGES. SECT. 21. *And be it further enacted by the authority aforesaid,* That if said company shall misuse or abuse any of the privileges hereby granted, the legislature may resume all the rights and privileges of said company.

COMMISSIONERS APPOINTED TO OPEN BOOKS FOR THE SOUTHWARK COMPANY. SECT. 22. *And be it further enacted by the authority aforesaid,* That Thomas D. Grover, John Pierce, James M. Cann, William G. Alexander, Joseph Burden, Philip Peltz, F. A. Raybold, Joseph Solms, George M. Hickling, and John Crean, are hereby appointed commissioners, who may fill any vacancy occurring in their body, who are hereby authorized to receive subscriptions to a company, to be known by the name and style of the "Southwark rail-road company;" the amount of stock of said company not to exceed two hundred thousand dollars, at fifty dollars a share; the company to be subject to all the restrictions, and entitled to all the provisions and privileges, contained in the preceding sections of this act; and when one thousand shares, or more,

CAPITAL \$200,000.  
\$50 per share.  
To be incorporated under preceding sections.

shall be actually subscribed, and five dollars on each share paid to said commissioners, and a certificate thereon shall have been made, under oath or affirmation, to the Governor, he shall, by letters patent, under his hand and seal of the commonwealth, create and erect the subscribers into a body corporate and politic, in deed and in law, by the name and style of the "Southwark rail-road company;" who are hereby authorised to construct a rail-road, of one or more tracks, from the river Delaware, in the district of Southwark, and thence through the county of Philadelphia to Broad and Cedar-streets, in such direction as they shall deem best to connect with the termination of the city rail-road: *Provided*, That said company shall be, and are hereby empowered, to construct a rail-road from Broad-street, in the county of Philadelphia, to the river Schuylkill.

When 1000 shares are taken and \$5 paid on each, charter to issue.

Style.  
Location.

Proviso.

SECT. 23. *And be it further enacted by the authority aforesaid*, That the president or secretary of the said companies, shall, annually on the first Monday, in December, transmit to the Auditor General, a full statement of the affairs, under oath, of the said companies; and shall pay annually into the treasury of the commonwealth, a tax of eight per centum, on all dividends which may exceed six per centum on the capital stock actually paid in.

Annual statement to Auditor General.

Tax on dividends.

FREDK. SMITH,

*Speaker of the House of Representatives.*

WM. G. HAWKINS,

*Speaker of the Senate.*

APPROVED—The second day of April, Anno Domini, one thousand eight hundred and thirty-one.

GEO. WOLF.

No. 174.

AN ACT

To incorporate the Swatara and Good Spring creek rail-road company.

SECT. 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 G. M. Eldridge, and Isaac Starr, of the city of Philadelphia; Isaac Eckert, of Berks county; Christian Ley, of Lebanon county; Marcus Cauffman, and Simon Ulman, of Pinegrove, in the county of Schuylkill, or any two of them,

Commissioners to open books, &c.