

No. 76.

AN ACT

To incorporate the Franklin 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 George Chambers, John Radebaugh, John King, Frederick Smith, Reade Washington, Philip Berlin, Thomas Lindsay, Thomas Chambers, John Cox, Samuel Dunn, William Pott, John Beaver, senior, Joseph Grubb, Daniel Shaffer, James Watson, John D. Work, Joseph Snively, junior, James Burns, Daniel Royer, Samuel Hughes, junior, John Vance, Jacob Stouffer and Andrew Thompson, are hereby appointed commissioners, and they or any three of them, are authorized to open books at such times and places, and upon such notice as they may deem expedient, for the purpose of receiving subscriptions to the capital stock of the company hereinafter directed to be incorporated, to keep open the said books until such a subscription to said capital stock is subscribed as may be necessary to its incorporation: *Provided,* That the same are not kept open longer than twelve months from the time of their first being opened, and if any of said commissioners shall resign, neglect to act, be absent, or become legally incapacitated to act, during the continuance of the duties devolved upon them by this act, others may be appointed in their stead by a majority of the persons named in this act.

Commissioners appointed to open books, &c.

Proviso.

Vacancies in board how filled, &c.

Capital stock \$300,000.

Shares \$50 each.

Increase of capital.

How corporations may subscribe, be represented at elections, &c.

Proviso.

SECT. 2. *And be it further enacted by the authority aforesaid,* That the capital stock of said company shall be three hundred thousand dollars, in shares of fifty dollars each, and which said capital stock may be increased, if the exigencies of the company shall require it, by the said company to any sum not exceeding six hundred thousand dollars, and any incorporated company, city or borough shall have authority to subscribe thereto as fully as any individual, and such subscription and stock subscribed by any such incorporated body, shall be represented at elections, and other acts of said company, by any president, mayor, chief officer thereof, or any agent duly authorized thereby, all which subscription may be required in instalments, as the company may thereafter think proper: *Provided,* That not more than one third of the money subscribed shall be required in any one year.

SECT. 3. *And be it further enacted by the authority aforesaid,* That as soon as one thousand shares are subscribed to the

capital stock of said company, a majority of the commissioners named in this act shall certify, under their hands and seals, the names of the subscribers, and the number of shares subscribed by each, and that five dollars has been paid on each share, to the Governor of this commonwealth, and thereupon the Governor shall forthwith, by letters patent, under his hand and the seal of the commonwealth, erect and create the said subscribers, and such others as may thereafter subscribe to the capital stock of said company, and their assigns, into a body politic and corporate, in deed and in law, by the name, style and title of "the Franklin rail-road company," and by that name the said subscribers shall have perpetual succession, and besides all the proper and necessary incidents of a corporation, shall be capable of suing and being sued, of impleading and being impleaded, in all courts of record, of making, using and altering a common seal, of ordaining, establishing and enforcing all ordinances, regulations and by-laws necessary, convenient or proper, for the conducting and governing the said corporation, and generally to do all and singular the matters and things lawfully appertaining to the due management and well ordering of the affairs thereof, and that said company shall have the power and right of purchasing, holding, selling, leasing, conveying and encumbering, by judgment, mortgage or otherwise, all such estates, real, personal and mixed, as may be necessary and proper for the objects and purposes hereinafter set forth.

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

Style.

Privileges, liabilities, &c.

SECT. 4. *And be it further enacted by the authority aforesaid,* That a majority of the commissioners named in this act, and of such as shall have been substituted under the provisions thereof, shall, as soon as practicable, after the reception of the letters patent from the Governor, give three or more weeks notice, in at least two of the newspapers of the borough of Chambersburg, and such further notice as they may deem advisable, of a time and place for the subscribers to the capital stock of said company to meet, and shall, at such time and place, proceed to hold an election, by ballot, and appoint judges thereof, for the purpose of electing from the stockholders, a president and six managers, for the management of the affairs of said company, a majority of whom shall be citizens of Franklin county, who shall continue in office until the day hereinafter fixed for the annual election, and until other officers are elected, under the provisions hereinafter set forth.

Organization of association.

President and six managers

SECT. 5. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the president and managers, as speedily as convenient, and from time to time, to make, alter and amend such by-laws as they may deem proper for the management and regulation of said company, which

Of the by-laws.

shall be and continue from thence in force, until altered or abrogated by the general meeting of the stockholders.

SECT. 6. *And be it further enacted by the authority aforesaid,* That there shall be a general meeting of the stockholders of said company, held in the borough of Chambersburg, on the first Monday of August of each and every year, for the purpose of electing a president and managers thereof, and of revising, altering or abrogating any of the by-laws of said company, and of examining the affairs of said company, an exposition of which shall be then submitted to them by the president and managers thereof, of which meeting at least

three weeks notice shall be given, by publication in such newspapers as said president and managers shall deem best calculated to give full and effectual information.

SECT. 7. *And be it further enacted by the authority aforesaid,* That on all occasions wherein a vote of the stockholders of said company is to be taken, the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he, she or they shall hold, in the proportions following, that is to say, for each share not exceeding two shares, one vote; for every two shares above two and not exceeding ten, one vote; for every four shares above ten and not exceeding thirty, one vote; for every ten shares above thirty and not exceeding one hundred, one vote, but no share or number of shares above one hundred, as aforesaid, shall confer any additional right of voting; such shares to be held by the person voting *bona fide* in his own right, or as husband, executor, administrator, guardian, trustee or assignee, and that corporations may vote by their chief or other officer or agent, duly appointed: *Provided always,* That no share of stock shall be entitled to a right of suffrage which shall not have been held by the person offering to vote, at least thirty days before the day of election, that no share of stock shall confer a right to vote on which any arrearages shall be due and unpaid at the time of election, and that in all cases where votes shall be given by proxy, the proxies shall have been obtained, and bear date within thirty days of the time of the election.

SECT. 8. *And be it further enacted by the authority aforesaid,* That the Franklin rail-road company, hereby directed to be incorporated, as soon as the letters patent shall issue, as directed by this act, shall be and they are hereby invested with all the rights, powers and privileges necessary for the construction and repair of a rail-road from the borough of Chambersburg, or its vicinity, to some suitable point or points near to or upon the southern boundary line of the state of Pennsylvania, and to join and intersect the river Potomac, or any rail-road, canal or other public improvement which has been or may be authorized by the state of Maryland, at or near any such point or points as may be deemed

Annual election of officers and examination of affairs.

Notice requisite.

Ratio of votes to shares.

Proviso. Of delinquent stockholders.

Votes by proxy, &c.

Route of the rail-road.

advisable, and the said company hereby incorporated is hereby further authorized and empowered to construct and repair two lateral rail-roads, one from the town of Greencastle and the other from the town of Waynesboro' to connect with the main rail-road, subject to all the provisions, restrictions and privileges hereby granted: *Provided*, Such lateral roads and privileges hereby granted: *Provided*, Such lateral roads are not extended beyond the precincts of the county of Franklin.

Two lateral rail-roads authorized.

Proviso.

SECT. 9. *And be it further enacted by the authority aforesaid*, That the company hereby incorporated is hereby authorized and empowered, so far as the same is allowed and permitted, or may be allowed or permitted, by any acts of Assembly of the state of Maryland, to enter the territory of the state of Maryland, and to continue, construct and repair said road thereon, as far as may be necessary and proper to intersect and unite with, or approximate, for the advantage of trade, any rail-road, canal or other improvement authorized, or which may be authorized by the state of Maryland.

Intersection with Maryland improvements.

SECT. 10. *And be it further enacted by the authority aforesaid*, That it shall be lawful for the said company, their officers, engineers, contractors and agents, to enter upon any lands for the purpose of exploring, surveying and locating the route of said rail-road, or its branches, doing thereto no unnecessary damage, and when the route of said rail-road or any of its branches, shall be determined upon by the said company, it shall be lawful for said company, their agents, officers, engineers, contractors and servants, at any time, to enter upon, take possession of and use, any such lands as may be necessary for carrying into effect the purposes of this act, and shall also have power to enter upon any lands adjoining or in the neighborhood of such route, and to take, dig and carry away therefrom any stone, gravel, clay, sand or earth necessary for the constructing, maintaining and repairing said rail-road and its branches, or for constructing any bridges, culverts, viaducts and other buildings, which may be required in carrying into effect the construction, maintaining and repair of said rail-road, or any of its branches, for all which compensation shall be made to the owner or owners of any such lands and materials as shall be agreed upon between the parties, or as is hereinafter pointed out.

Right to enter upon lands to locate, &c.

And for materials.

SECT. 11. *And be it further enacted by the authority aforesaid*, That when the said company cannot agree with the owners of any lands, buildings, enclosures and materials, for the purchase, lease or compensation proper for the damage done or likely to be done or sustained, by any such owners of such lands and materials, which it may be necessary for said company to enter, occupy, use or pass over, or take away, in the construction and repair of said rail-road

Arrangement for settlement of damages.

and its branches, or where by reason of any legal incapacity of any such owner to contract, or in consequence of the absence of such owners or owner, no such purchase, lease, or compensation can be agreed upon, the court of Quarter Sessions of the county in which such rail road or its branches is constructing, or when the judges, or any of them necessary to form such court, are incapacitated, by sickness, absence, interest or relationship, to any persons concerned, then the court of Quarter Sessions of any adjoining county, on application thereto by petition, either by said company or owner, or any one in behalf of either, and at the costs and charges of the said company, when the application is made by said company, or when said company are adjudged to pay damages, shall issue their precept to the sheriff of the proper or adjoining county, as said court may deem advisable, commanding said sheriff to summon twenty discreet and disinterested persons, from the proper or adjoining counties, to meet on or adjoining the lands required, or from whence materials are or may be taken, or at some convenient place adjacent, in not less than ten nor more than twenty days thereafter, giving such reasonable notice as the court may designate to both parties, as may be best calculated to advise an absent party, and if twelve or more of said jurors attend they shall be empannelled, and if twelve do not attend the sheriff may summon others, at a day fixed by him for that purpose, or at once, and the said twelve or more jurors being so empannelled, and sworn and affirmed faithfully, justly and impartially to value the lands and tenements so occupied, used or required, or intended to be used, occupied or required for such rail-road and branches, and works therewith connected, and all the damages which the owner or owners will sustain, or may have sustained, by reason of the construction or proposed construction, or repair or proposed repair of said road, or its branches, as the case may be, taking into consideration the advantages and disadvantages of the same to the owner or owners, according to the best of their knowledge and judgment, and in case of materials taken, or proposed to be taken for the purposes aforesaid, that they will faithfully, justly and impartially value the materials so taken or to be taken, and find the rate of compensation to be paid therefor by said company, taking into consideration the advantages and disadvantages arising to said owner from the construction of said rail-road and its branches, and the works thereof, and thereupon the said inquest shall proceed to view the lands and tenements so used or intended to be used, and the materials used or intended to be used, or if necessary, the place whence taken or intended to be taken, and to hear the evidence of the several parties, and for that purpose shall have power to swear, or direct the swearing or affirming of witnesses, and make re-

Sheriff to
summon ju-
rors.

To not under
oath.

port of their proceedings, stating the damages assessed, or Report of compensation adjudged, and to whom payable, and in what ^{jury and} manner, to the said court, who, upon confirmation thereof, ^{confirmation.} may order such damages to be paid, or order new inquiries until full justice is rendered: *Provided always never-* ^{Proviso.} *theless,* That any owner or owners applying for a review, ^{Applicants for} shall be liable for the costs of the proceedings prayed ^{a review may} for in case a report more favorable is not obtained upon ^{be liable for} such review. ^{costs.}

SECT. 12. *And be it further enacted by the authority afore-* ^{Erection of} *said,* That the said rail-road shall be so constructed by the ^{bridges or} said company as not to obstruct or impede the free use and ^{causeways.} passage of any public or private roads which they may find expedient to intersect, but it shall be the duty of said company to cause to be made sufficient bridges or causeways, over any such roads so intersected, as soon as expedient, so as to enable all persons and vehicles to pass over the rail-road with safety and convenience, and to maintain such causeways in good repair, and said company, for the accommodation of all persons owning or possessing lands through which said rail-road may pass, shall cause to be made good and sufficient bridges or causeways, at such convenient places as the owner or occupier may designate, so as to enable such owner and occupier and others, to pass over the same safely with wagons and other vehicles: *Provided always,* ^{Proviso.} That the said company shall not be obliged to make more ^{But one to} than one bridge or causeway upon each plantation or lot of ^{each planta-} ground. ^{tion.}

SECT. 13. *And be it further enacted by the authority afore-* ^{New roads} *said,* That the said company shall permit at any time such ^{crossing rail-} bridges or causeways to be made across said rail-road and ^{road.} its branches, at the intersection of any public or private road, as the reviewers laying out the same may deem expedient: *And provided,* The same are so made as not to impede or render inconvenient the passage of the cars and carriages upon said rail-road, and the said rail-road company shall also permit any owner of lands through which the said rail-road or its branches may pass, to erect such bridges or causeways as the court of Quarter Sessions of the county may adjudge convenient, upon views and reviews conducted as required by the general road laws of this commonwealth: *And provided,* The same are so constructed as not to impede or render inconvenient the passage of cars and carriages upon such rail-road. ^{Proviso.} ^{Not to ob-} ^{struct free} ^{passage of} ^{cars, &c.} ^{Owners of} ^{land may} ^{erect bridges} ^{or causeways.} ^{2d proviso.} ^{Not to impede} ^{cars.}

SECT. 14. *And be it further enacted by the authority afore-* ^{Company} *said,* That as soon as any portion of said rail-road is per- ^{authorized to} fected, the company shall have power to place thereon cars, ^{transport pas-} carriages or wagons, constructed as they may deem best ^{sengers, &c.} adapted for the transportation of passengers and commodities, to the advantage of the public, and shall permit individ-

Individuals. uals to place such cars and carriages or wagons thereon of such construction 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 passenges, goods, wares, merchandize and commodities, at rates as follows, viz: On all goods, produce, merchandize, property and commodities transported upon the said rail-road and its branches, any sum not exceeding four cents per mile per ton for toll, and three cents per ton per mile for transportation, and for the transportation of passengers not exceeding three cents per mile for each passenger.

Rates of toll and transportation.

Penalty and imprisonment on wilful injury to property of company.

SECT. 15. *And be it further enacted by the authority aforesaid,* That any person or persons who shall wilfully and maliciously, by any means, injure or destroy any part of the rail-road or its branches, constructed by said company, or any of the works, buildings, vehicles, machines, implements or materials of said company, such person, so offending shall on conviction thereof, be punished by fine and imprisonment at the discretion of the court of quarter sessions of the county of Franklin, in the county jail of the said county, for any term not exceeding three years.

Of delinquent stockholders.

SECT. 16. *And be it further enacted by the authority aforesaid,* That no stockholder indebted to the company shall be authorized to transfer his stock or any part thereof, or to receive any dividend or any portion thereof, until such debt is discharged or secured satisfactorily.

Penalty on delay.

SECT. 17. *And be it further enacted by the authority aforesaid,* That if after thirty days notice in the public papers of the time and place appointed for the payment of any instalment of the said capital stock, any stockholder shall neglect to pay such instalment at the place and time appointed for the space of thirty days after the time so appointed, every such stockholder, or his assignee, shall in addition to the instalment so called for, pay legal interest thereon from the time such instalment was required to be paid; and if such stockholder shall neglect the payment thereof for the space of ninety days, the said company shall have the right to declare the said stock and all payments made thereon forfeited to the company, and after such declaration of forfeiture, the said stock and payments shall be vested in said company, to be by said company sold for the use of said company, or disposed thereof as said company shall deem advisable. *Provided always,* That the company shall have the power to sue for and recover such instalment at their election.

May amount to forfeiture.

Proviso.

Declaration of dividends.

SECT. 18. *And be it further enacted by the authority aforesaid,* That the president and managers of said company shall annually or semi-annually declare and make such dividend as they may deem proper, of the nett profits arising from the resources of said company, after deducting the current

and probable contingent expenses, and they shall divide the same amongst the proprietors of the stock of said company, in proper proportions to their respective shares, that when the dividends exceed ten per cent per annum, the tolls shall be so reduced as to keep the per centage below that amount, and that an annual statement of accounts under oath shall be made to the Legislature by the president or treasurer of the company: *Provided always*, That until the completion of the main line of the said rail road, the said president and managers shall have the power, if they deem it expedient, to apply the whole of the profits aforesaid to the construction and completion of said road: *And provided also*, That no declaration of dividends shall be so made as to impair the capital stock of said company: *And provided further*, That whenever the dividends shall exceed six per cent per annum the said company shall pay a tax of eight per cent on all such dividends above six per cent, into the treasury of this state, for the use of the commonwealth.

Reduction of tolls.
Statement to Legislature.
Proviso.
Profits may be applied to completion of road.
2d proviso.
Div. not to impair capital
3d proviso.
Tax of 8 per cent on dividends over 6.

SECT. 19. *And be it further enacted by the authority aforesaid*, That the commissioners nominated in the first section of this act, shall have the power to manage and conduct the affairs of the company hereby incorporated, until the officers thereof shall be elected as directed in this act; *Provided*, That the said company shall not at any time be directly or indirectly engaged in any banking or commercial, or manufacturing concerns.

Stock commissioners to act until election.
Proviso.
Company precluded from certain operations.

SECT. 20. *And be it further enacted by the authority aforesaid*, That if the president, managers and company shall not proceed to carry on said work within five years from the passage of this act, and shall not complete the same as aforesaid, in ten years, according to the true intent and meaning of this act, or if after the completion of the said road the said corporation shall suffer the same to go to decay, and be impassible for the term of two years, then this charter shall become null and void, except so far as compels said company to make reparation for damages.

Time of commencement and completion.

SECT. 21. *And be it further enacted by the authority aforesaid*, That if the said company shall, at any time, misuse or abuse any of the privileges hereby granted, the Legislature may resume all and singular the rights and privileges hereby granted to the said company, *Provided*, That the state may at any time, after the expiration of thirty years, have the privilege of purchasing the entire interest and property of the said corporation, at a just and reasonable valuation or appraisalment, to be made in such manner as may at any time hereafter be provided for by law.

Reservation of right to resume privileges.
Proviso.
—To purchase in 30 years.

JOHN LAPORTE,

Speaker of the House of Representatives:

WM. G. HAWKINS,

Speaker of the Senate.

APPROVED—The twelfth day of March, A. D. one thousand eight hundred and thirty-two. GEO. WOLF,