

No. 189.

AN ACT

In relation to the electing of directors for the bank of Northumberland, and the Wyoming bank at Wilkesbarre.

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 so much of the second article of the third section of the act passed on the twenty-fifth day of March, one thousand eight hundred and twenty-four, entitled "An act to re-charter certain banks," as provides that no person shall be eligible as a director for more than three years out of four, and not more than three-fourths of the directors shall be re-elected for the succeeding year, be and the same is hereby repealed, so far as relates to the bank of Northumberland and the Wyoming bank at Wilkesbarre.

WM. PATTERSON,

Speaker of the House of Representatives.

JACOB KERN,

Speaker of the Senate.

APPROVED—The fourteenth day of April, Anno Domini, eighteen hundred and thirty-four.

GEO: WOLF.

No. 190.

AN ACT

To incorporate the Muddy Branch rail road company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That George Shoemaker, Samuel Brooke, Samuel Lewis, Martin Weaver, Jacob Seitzinger, John C. Offerman, E. G. Bradford, and Henry Betz, or any one of them be, and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say, they shall, on or before the first day of June next, procure a book, which shall be opened at some convenient place in the counties of Schuylkill and city of Philadelphia, in which they shall enter as follows: "We whose names are hereunto subscribed, do

Commissioners.

promise to pay the president and managers of the Muddy Branch rail road company, the sum of fifty dollars for every share of stock set opposite to our respective names, in such manner and proportions and at such times as shall be determined by the president and managers of the said company, in pursuance of an act of the General Assembly of this Commonwealth, entitled 'An act to incorporate the Muddy Branch rail road company,' witness our hands this day of in the year of our Lord one thousand eight hundred and thirty-four;" and shall thereupon give notice in one newspaper printed in the county of Schuylkill, and one printed in the city of Philadelphia, three weeks at least, of the times and places when and where the said books shall be kept open to receive subscriptions for the stock of the said company, at which respective times and places one or more of the commissioners shall attend and permit all persons of lawful age, who shall offer, to subscribe in the said books, in their own names or the name of any other persons who shall authorize the same, for shares in said stock, and the said books shall be kept open respectively, for the space of six days, until there shall have been subscribed two hundred and fifty shares, and if, at the expiration of six days, the books aforesaid shall not have the number of shares aforesaid therein subscribed, the said commissioners may adjourn from time to time and transfer the books at pleasure, until the whole number of two hundred and fifty shares shall be subscribed; and when the whole number of shares shall be subscribed, the books shall be closed: *Provided*, That no person shall be permitted to subscribe for more than five shares on the first day, after which any person may subscribe for any number of shares, until the whole stock is taken.

Public notice where the books shall be opened.

Proviso.

SECTION 2. When one hundred and fifty shares, or more, of the said stock shall be subscribed, and the sum of five dollars paid on each and every share, the commissioners, or a majority of them; may certify to the Governor, under their hands and seals, the names of the subscribers and the number of shares subscribed by each and the sums paid thereon, whereupon the Governor shall, by letters patent, under his hand and seal of the Commonwealth, create and erect the subscribers, and if the subscription shall not be full at the time, then also those who shall thereafter subscribe, to the number of shares as aforesaid, into a body politic and corporate, in deed and in law, by the name, style and title of the Muddy Branch rail road company, and by the same name the subscribers shall have perpetual succession, and be able to sue and be sued, implead 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 estate, real, personal, or mixed, of what kind or quality soever that may be necessary for the construction, repair, or management of the said road, and the same from time to time to sell,

When com'rs shall certify to Governor.

Style of corporation.

Capacities.

mortgage, grant, alien, or 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 or renew at pleasure, 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 the 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 the said corporation and the due management and ordering the affairs of the same: *Provided*, That nothing herein contained, shall be considered as in any way giving to the said corporation any banking, mining, manufacturing, or trading privileges whatsoever, or any other liberties, privileges, or franchises but such as may be necessary or incident to the making of the said rail road.

Proviso.

Organization
of company.

SECTION 3. The said named persons or a majority of them shall as soon as conveniently may be, after the said letters patent shall be obtained, give at least twenty days notice in the newspapers hereinbefore mentioned, of the time and place by them appointed, for the subscribers to meet in order to organize the said company and to choose by a majority of votes of the said subscribers by ballot, to be given in person or by proxy, which proxy shall have been obtained, and bear date within three months previously to the election, at which such proxy shall be presented, duly authorized, one president, and six managers, all of whom shall be residents of this commonwealth, a treasurer and secretary, and such other officers as shall be deemed necessary; that the president and managers aforesaid, shall conduct the business of said company, until like officers shall be chosen, and may make such by-laws, rules, orders and regulations, as are not inconsistent with the constitution and laws of the United States or of this State, and that may be necessary for the well governing the affairs of the company.

Meetings of
the stockholders.

SECTION 4. The stockholders shall meet on the first Monday in November 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 by the secretary, in the newspapers before mentioned, and choose by a majority of votes present their officers for the ensuing year as mentioned in the third section of this act, who shall continue in office for one year and until others are chosen, and 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 annual or special meeting they shall have full power and authority to make, alter, and repeal, by a majority of votes in manner aforesaid, all such by-laws, rules, orders, and regulations as aforesaid, to do and perform every other corporate act, and the number of votes to which each stockholder shall be entitled, shall be according to the number

Powers.

of shares he or she shall hold, in the proportions following; Ratio of votes to shares. that is to say, for each share not exceeding two shares, two votes; for every two shares above two and not exceeding ten shares, 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, and no share shall confer a right of voting unless it be holden by the person in whose name it appears, absolutely 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: *Provided, That* Proviso. no person shall be permitted to vote at the first election of said company, unless he or she have fully paid five dollars on each share of stock by him or her subscribed, as directed by the second section of this act, and at all subsequent elections of said company, no person shall be permitted to vote unless he or she Delinquents not to vote. shall have fully paid all the instalments called for and then due, on the shares by him or her subscribed.

SECTION 5. The election of officers provided for in the fourth section of this act shall be conducted in the following manner; that is to say, the managers for the time being, shall appoint Election of officers. 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 the voters, and when the election is closed shall count the votes and declare who is 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 deemed to be dissolved, but it shall be lawful to hold and make such election of president, managers, treasurer, secretary or other officer, on the same day or any other 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 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 situations, until an election shall take place; in the case of death, resignation or removal from the state, of any president, manager, treasurer, secretary, or other officer, his place shall be filled by the board of managers until the next annual election.

SECTION 6. The said president and managers shall meet at such times and places as shall be found most convenient for the transacting of their business, and when met four shall be a President and managers, their meetings & powers. 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 have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers as they shall deem necessary to carry on the intended work, and to fix their salaries and wages: to ascertain the times, manner and proportions in which the said stockholders shall pay the moneys due on their respective shares: to draw orders on the treasurer for moneys, 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 authorized to do.

Certificates,
to whom
issued.

SECTION 7. The president and managers first chosen, shall procure certificates of stock for all the shares of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer and sealed with the common seal of the corporation, to each person, for every share by him subscribed and held, which certificate or evidence of stock shall be transferable at his pleasure, in person or by attorney, duly authorized, in the presence of the president or treasurer, each of whom shall keep a book for that purpose, subject, however, to all payments due or to become due thereon, 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, shall be entitled to one share of the capital stock, of all the estates and emoluments of the company incident to one share, and to vote as aforesaid, at the meetings thereof, and subject to all penalties and forfeitures, and being sued for all the balance and penalty due or to become due on each share, as the original subscriber would have been.

Penalty on
non-payment.

SECTION 8. If after thirty days notice, in the public papers aforesaid, of the time and place so appointed for the payment of any portion or instalment of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay such proportion or instalment at the place appointed, for the space of thirty days after the time so appointed, every such stockholder, or his assignee, shall, in addition to the instalment so called for, pay at the rate of one per centum per month, for the delay of such payment, and if the same and additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sums before paid in part and on account of such shares, the same shall be forfeited to the said company, and may be sold to any person or persons willing to purchase, for such price as can be obtained for the same, or in default of payment by any stockholder of any such instalment as aforesaid, the president and managers may, at their election, cause suit to be brought before an alderman or justice

of the peace, or in any court having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid: *Provided*, That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, on whose share or shares any instalment or arrearages may be due and payable more than thirty days previously to the said election or meeting.

SECTION 9. The president and managers of the said company shall demand and require of and from the treasurer and all Officers to and every officer and other persons by them employed, bonds to give bonds. sufficient penalties and with such securities as they shall, by their rules, orders and regulations, require for the faithful discharge of the several duties and trusts to them or any of them committed respectively.

SECTION 10. Dividends of so much of the profits of the institution as shall appear advisable to the directors, shall be declared at least twice a 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 nett profits actually acquired by the company, so that the capital stock shall never be thereby impaired. If the said directors shall make any dividend which shall impair the capital stock of said institution, the directors consenting thereto shall be liable in their individual capacities to said company for the amount of the stock so divided, and each director present when such dividend is made, shall be judged to be consenting thereto, unless he forthwith enter his protest on the minutes of the board, and give public notice to the stockholders at the declaring of such dividend, provided no dividend shall exceed fifteen per cent. per annum.

SECTION 11. When actual operations shall have been commenced, and at the end of every year thereafter, there shall be furnished to the Legislature an abstract of the account of the company, shewing the whole amount of the capital paid into the funds of the company, the sums expended, the tolls and other profits accruing within the year, and the amount of the dividend declared in each year, or the losses sustained, as the case may be, which abstract may be verified by the oath or affirmation of the president of the company for the time being.

SECTION 12. The president, directors and company of the said rail road company shall have power to survey, lay down, ascertain, mark and fix such route as they shall deem expedient for said rail road within the county of Schuylkill, beginning at a convenient point of intersection of a certain lateral rail road which was authorized by the fourth section of an act of the General Assembly, approved on the eighth day of April, in the year of our Lord, one thousand eight hundred and twenty-nine, to be made by the Minehill and Schuylkill Haven rail road company, and which has since been made and completed by said company and now is in full operation; thence up the

Map of road
to be filed in
Secretary's
office.

valley of the Muddy Branch of Schuylkill, following as near as convenient the course of the said Muddy Branch and crossing the same as shall be expedient, any distance not less than three miles nor more than five miles, having due regard to the situation and nature of the ground and of the buildings thereon, the public convenience and the interest of the stockholders, and so as to do the least damage to private property; and the said road shall not be more than five rods wide, and shall not pass through any burying ground nor place of public worship, or any dwelling house without the consent of the owner thereof, nor shall it pass through any out buildings of the value of three hundred dollars without such consent; and the said president, directors and company shall within six months after ascertaining the route of the said rail road, cause an accurate survey of the lines of the said rail road to be made, a map or plot of which survey they shall cause to be filed in the Secretary's office of this State, which map or plot, or a certified copy thereof, shall be sufficient evidence of the course of the said road, which may then be opened, and all expenses incurred thereby shall be defrayed by the said company.

Authority to
enter on en-
closures, &c.

SECTION 13. It shall be lawful for the president, directors and company of the said rail-road company and their agents, and all persons employed by or under them, for the purpose contemplated in this act, to enter upon any land they shall deem necessary for laying out said road, and also for the purpose of searching for stone and gravel for constructing said road, but no stone, sand or gravel, shall be taken away from any seated land without the consent of the owner thereof, until the rate of compensation for the same be ascertained and paid, which rate of compensation, if the parties cannot agree thereon, shall be ascertained in the manner hereafter prescribed, as to the compensation for lands over which said road may be laid.

Right to con-
struct double
track, to erect
works, &c.

SECTION 14. It shall and may be lawful for the company hereby incorporated to make, erect or establish a double or single track rail-road, on the route laid out as aforesaid, to be constructed so that the said rail-road in its progress shall in no part of it rise above one inch to a foot, and said company are also hereby empowered to erect, make and establish all works, edifices and devices to such rail-road, as may by the said company be expedient, for the purpose of carrying into effect the objects of their incorporation, and also to contract and agree with the owner or owners, for the purchase of any lands or tenements which may be necessary for the purpose of erecting the said rail-road.

Arrangement
for the assess-
ment of dam-
ages.

SECTION 15. Whenever it shall be necessary for the president, directors and company, of the said rail-road company, to enter in and upon and occupy for the purpose of making such rail-road, any land upon which the same may be located, if the owner or owners of the said land shall refuse to permit such entry and occupation, and the parties cannot agree upon

the compensation to be made for any injury, that may be done to said land by such entry and occupation, it shall and may be lawful, for the parties to appoint six suitable and disinterested persons to estimate such damages, who shall be under oath or affirmation, fairly and impartially to estimate the same, and shall reside within the proper county where the land lies, and the expenses incurred by the said appraisers shall be defrayed by the said rail-road company, but if the parties cannot agree upon such persons, or if the persons so chosen shall not decide upon the matter, or if the owner of such land shall refuse or neglect to join in such appointment, within twenty days after the requisition for that purpose upon him, or if such owner shall be feme covert, under age, non compos mentis, out of the state, or unknown, then it shall be lawful for the court of Common Pleas of the county in which the land lies, on application of either party and at the cost and charges of said corporation, to appoint six disinterested persons, men of said county, to view, examine and survey the said lands, tenements, or hereditaments, and estimate the injury or damage, if any, that in their apprehension will be sustained as aforesaid by reason of said rail-road, and report the same under their oaths or affirmations to the said court, which report being confirmed by the said court, judgment shall be entered thereon, and the viewers shall be entitled to the like fees for their services as are allowed by law to viewers of public roads and highways, to be paid by said company, and it shall be the duty of the said appraisers in estimating such injury or damage, to take into consideration the advantages that will be derived to the owner or owners of the said lands from the said rail-road: *Provided*, That either party may appeal to the court within thirty days after such report may have been filed in the Prothonotary's office of the proper county, in the same manner as appeals are allowed by the provisions of the arbitration act of eighteen hundred and ten, and upon the coming in of such report and the confirmation thereof, or upon final judgment on appeal therefrom and the said company paying to such owner the sum in such report or judgment, specified in full compensation for the injury sustained as aforesaid, the said company shall have the same right to occupy the said lands for the purposes aforesaid, and they and all who act under him shall be acquitted and freed from all responsibility, for and on account of such injury: *Provided*, That the payment of damages aforesaid, for land through which the said road may be laid shall be made before the said company, or any person under their direction or in their employ shall be authorized to enter upon and break ground in the premises, except for the purposes of surveying and laying out said road, unless the consent of the owner of such land be first obtained.

Appointment
of viewers.

Fees of
viewers.

Proviso.

Appeal to
court.

2d proviso.

SECTION 16. The said rail road shall be so constructed by the said company, as not to obstruct or impede the free use and pas-

Co. to erect
public cause-
ways.

Penalty for
neglect.

Creation of
private cause-
ways.

One to each
owner.

Penalty on
neglect.

sage of any public road or public roads which may cross or enter at the same, being now laid out or hereafter to be laid out, and in all places where the said rail road may cross or in any way interfere with any public road, it shall be the duty of the said company to make, or cause to be made, a good and sufficient causeway or causeways, to enable all persons passing or travelling such public road to cross and pass over or under the said rail way, which causeway or causeways shall be made and maintained by the said company; and if the said company shall refuse or neglect to make such causeway or causeways, or when made to keep the same in good repair, they shall be liable to pay a penalty of ten dollars for every day the same shall be neglected or refused to be made or repaired, to be recovered by the supervisor 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 an action or actions at the suit of any person who may be aggrieved thereby, and the service of process upon any officer or agent of said company, shall be as good and as available, in law, as if served upon the president thereof.

SECTION 17. For the accommodation of all persons owning or possessing land through which the said rail road may or shall pass, and to prevent inconveniences to such person in crossing or passing the same, it shall be the duty of the said company, when required, 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 the occasion may require: *Provided*, That the said company shall in no case be required to make, or cause to be made, more than one such causeway through each plantation or lot of land, for the accommodation of any one person owning or possessing land through which the said rail road may or shall pass, and where any public road shall cross said rail road, the person owning or possessing land through which the said road shall pass, shall not be entitled to make such requisition on said company, and the said causeway or causeways, when so made, shall be maintained and kept in repair by said company, and if said company shall refuse or neglect to make such causeway or causeways, or when made to keep the same in good repair, the said company shall be liable to pay any person aggrieved thereby, all damages sustained by such person in consequence of such refusal or neglect, to be sued for and recovered before any magistrate or any court having cognizance thereof, and the service of process upon any officer or agent of said company, shall be as good and available in law as if served upon the president thereof.

SECTION 18. No suit or action shall be brought or prosecuted by any person or persons, for penalties incurred under this act, unless said suit or action shall be commenced within

six months 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. Suits to be commenced within six months.

SECTION 19. The company shall not prevent any person or persons, being the owner or owners of land bordering on the said rail road or adjacent thereto, for making such lateral rail roads and to connect them with said rail road from their said lands, as the said person or persons may conceive necessary for the purpose of transporting their coal or produce down the said rail road.

SECTION 20. On the completion of the said rail road, the same shall be esteemed a public highway, free for the transportation of all commodities; and the said company may charge and receive tolls, and for freights on and for the transportation of goods, wares and merchandize, at the following rates, that is to say, on each ton of coal, one and an half cent per mile; on each ton of salt, gypsum and lime, one and an half cent per mile; on brick, lumber squared and round, one hundred feet solid, two cents per mile; on boards, planks, scantling, or other sawed stuff, reduced to inch stuff, one cent per one thousand feet, per mile; on shingles per thousand, one cent per mile; on staves and heading for pipes and hogsheads per mile, two cents per thousand, and staves and heading for barrels and other vessels of less size, one cent per mile per thousand; on all other articles not enumerated, two cents per ton, per mile; on all single and detached articles, weighing less than a ton, it shall be lawful to charge and receive, on the transports thereof, an advance of twenty per cent on the rates as above established: *Provided*, That every person or persons using the said road, shall only use those carriages and wagons and conveyances which shall be adapted thereto, which said carriages, wagons and conveyances, to be used thereon for the transportation of persons or commodities, shall be prescribed by the said company: *And provided further*, That whenever the aforesaid tolls shall exceed fifteen per cent on the capital expended, they shall be reduced so as not to exceed that amount. Lateral rail-roads allowed to connect.

Rates of toll.

using the said road, shall only use those carriages and wagons and conveyances which shall be adapted thereto, which said carriages, wagons and conveyances, to be used thereon for the transportation of persons or commodities, shall be prescribed by the said company: *And provided further*, That whenever the aforesaid tolls shall exceed fifteen per cent on the capital expended, they shall be reduced so as not to exceed that amount. Rates of toll.

SECTION 21. 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, 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 cost of suit, in any court having cognizance thereof, by action of debt, in the name and for the use of the said company. 2d proviso.

SECTION 22. If the president, managers and company, shall not proceed to carry on said work within two years from the passage of this act, and shall not complete the same as afore- Punishment for wilful injury.

Time allowed to commence and complete said road. said in five years, according to the true intent and meaning 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, except so far as compels said company to make reparation for damages.

Increase of capital stock. SECTION 23. If any increase of the capital stock be deemed necessary by the stockholders to complete the said rail-road, it may be lawful for the said president, managers and company, at a stated or special meeting convened for the purpose, to increase the number of shares, so that the capital of said company shall not exceed fifty thousand dollars, and to receive and demand the moneys for shares so subscribed, in like manner and under like penalties as are herein before provided for the original subscription; or as shall be provided for by their by-laws.

Leg. reserves right to annul SECTION 24. If it shall appear, that the privileges by this act granted, are injurious to the citizens of this Commonwealth, the Legislature reserves the right to revoke, alter, or annul the charter hereby granted, at any time they may think proper.

Excess of dividend over 12 per cent, how applied. SECTION 25. Whenever the dividends of the said company shall exceed twelve per cent per annum, one half of the excess shall be paid into the State Treasury, for the general purposes of education.

WM. PATTERSON,

Speaker of the House of Representatives.

JACOB KERN,

Speaker of the Senate.

APPROVED—The fourteenth day of April, Anno Domini, eighteen hundred and thirty-four.

GEO : WOLF.

No. 191.

AN ACT

Making an appropriation to the Waynesburg, Green Castle and Mercersburg turnpike road company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the Governor is hereby authorized and required, to draw his warrant on the State Treasurer, in favor of the president and managers of the Waynesburg, Green Castle and Mercersburg turnpike road company, for the sum of three thou-