

## No. 43.

**An Act**

To incorporate the Plymouth 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 Samuel Maulsby, Dr. Joseph Leedom, Thomas Livezey, Josiah Albertson, John Davis, Harman Yerkes, <sup>Commissioners.</sup> Jacob Albertson, Aaron Lukens, John Friedley, Alan W. Corson, Benjamin Albertson, and Daniel H. Mulvany, of the county of Montgomery, and Thomas S. Smith, of the city of Philadelphia, or any two 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 August next, procure three books, one of which shall be opened at the Exchange in the city of Philadelphia, and one at the public house of Walter <sup>Where books shall be opened.</sup> W. Paxson, in the borough of Norristown, and one at the public house of Benjamin Rezzet, in the township of Plymouth, in each of which they shall enter as follows: "We, <sup>Form of subscription.</sup> whose names are hereunto subscribed, do promise to pay to the president and managers of the Plymouth railroad company, the sum of fifty dollars for every share of stock set opposite our respective names, in such manner and proportion, and at such times as shall be determined by the president and managers of said company, in pursuance of an act of the General Assembly of this commonwealth, entitled 'An act to authorize the Governor to incorporate the Plymouth railroad company.' Witness our hands, the day of            one thousand eight hundred and thirty-            ."

And shall thereupon give notice in one newspaper printed in the county of Montgomery, and one newspaper printed in the city of Philadelphia, two weeks at least, of the time and places when and where the said books shall be kept open to receive subscriptions for the stock of 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 in the names of any other persons who shall authorize the same, for shares in the said stock; and the said books shall be kept open respectively for said purpose, at least six hours in every juridical day, for the space of three days, or until there shall have been subscribed six hundred shares; and if, at the expiration of three days, the books aforesaid <sup>Six hundred shares.</sup> shall not have the number of shares aforesaid therein sub-

scribed, the said commissioners may adjourn from time to time, and transfer the book or books elsewhere, until the whole number of six hundred shares, shall be subscribed, of which adjournment and transfer, the commissioners aforesaid shall give such public notice as the occasion may require; and when the whole number of shares shall be subscribed, then the books shall be closed: *Provided*, That no person be permitted to subscribe for more than twenty shares the first day, after which any person may subscribe for any number of shares, until the whole stock shall be taken:

Proviso.

2nd Proviso. *And provided also*, That 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 and every share, for the use of the company.

When charter may issue

SECTION 2. When three hundred or more shares of said stock shall be subscribed, and the sum of five dollars paid on each and every share, as aforesaid, the commissioners, or any five of them, shall certify to the Governor, under oath or affirmation, the names of the subscribers, and the number of shares subscribed by each, and the sum of five dollars paid on each share at the time of subscribing, whereupon the Governor shall, by letters patent, under his hand and seal of the commonwealth, erect and create the subscribers, and if the subscription be not full at the time, then also those who shall subscribe thereafter to the number of shares aforesaid, into a body politic and corporate, in deed and in law, by the name, style, and title of "The Plymouth Railroad Company;" and by the same name the subscribers shall have perpetual succession; with all the privileges, franchises and immunities incident to a corporation, 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 all estate, real, personal, and 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 property as they may deem proper; and also to make and have a common seal, and the same to alter and renew at pleasure; and also to ordain, establish, and put in execution such by-laws, ordinances and regulations, as shall appear necessary and convenient for the government of said corporation, not being contrary to the constitution and laws of the United States and this commonwealth, and to own and place locomotive engines and cars on the said railroad, and transport persons, minerals, produce, and merchandise, and other articles, at and for such prices or compensation, as shall be agreed upon by the said company, and such per-

Style & title.

Privileges & liabilities.

Seal.

sons, and the owners or such persons having in charge such minerals, produce, merchandise, and other articles, 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 privileges whatsoever. *Proviso.*

SECTION 3. The said commissioners, or any six of them, shall, as soon as conveniently may be after the said letter patent shall be obtained, give at least twenty days' notice in the newspapers herein before mentioned, of the time and place by them appointed for the subscribers to meet, in order to organize the said company, to choose by a majority of the votes of the said subscribers, by ballot, to be given in person or by proxy, which proxy shall have been obtained and been dated within three months previously to the election at which such proxy shall be presented, duly authorized, six managers, all of whom shall be residents of this commonwealth; and the said managers, together with the president elected as is hereinafter prescribed, shall conduct the business of said company, until the second Monday in December then next, and until like officers shall be chosen, and 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, as may be necessary for the well governing the affairs of the said company: *Provided*, That no person but a stockholder shall be eligible to the office of president or manager. *Proviso.*

Election of  
managers.

6 Managers.  
Managers  
and president  
to conduct  
business.

SECTION 4. The stockholders shall meet on the second Monday of December in every year, at such places as may be fixed upon by the by-laws, of which notice shall be given, at least twenty days previous, in the newspapers before mentioned, and choose, by a majority of the votes present, six managers 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, at which annual 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 the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he or she shall hold, but no share shall confer a right of suffrage, which shall not have been holden three calendar months prior to the day of election, nor unless it be holden by the person 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, administrator, trustee or guardian, or in the right,

Election of  
managers.

Ratio of  
votes.

or 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 and to the use and benefit of any other person. *Provided*, That no shares held by transfer, shall be entitled to vote, unless the same shall have been transferred at least these months before the election, and all votes by proxies shall be on such terms and conditions as are prescribed by the act passed the twenty-eight day of March, one thousand eight hundred and twenty, entitled "An act regulating proxies." *And provided also*, That no share shall be entitled to vote at any election, or at any general or special meeting of the said company, on which any instalment or arrearage may have been due and payable more than thirty days previously to said election or meeting.

Manner of conducting elections.

SECTION 5. The election of managers provided for in the third section of this act, shall be conducted as follows: 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 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 fairly, to the best of their knowledge and abilities; and the said judges shall decide upon the qualification of voters, and declare who has been elected; and if it shall at any time happen, that an election of managers shall not be made, the corporation for that cause shall not be dissolved, but it shall be lawful to make and hold such election of managers, on any day thereafter, by giving at least ten days notice, signed by the president and secretary, in the newspapers before mentioned, of the time and place of holding said election, and the managers of the preceding year shall in that case continue to act, and be invested with all the powers belonging to their situation, until an election shall take place: in case of the death, resignation, removal from the state, or ceasing to be a stockholder, of any manager, his place may be filled by the board of managers until the next annual election, and the said managers shall have power and authority annually, within three months after the annual election of managers, as prescribed by the fourth section of this act; and whenever a vacancy shall happen, or at any other time, to elect a president, treasurer and secretary, who shall serve until others are elected.

Neglect not to dissolve.

Vacancies, how filled:

Meetings of managers.

Four a quorum.

Record of proceedings,

SECTION 6. The 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 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 monies due on their respective shares, to draw orders on the treasurer for monies, which orders shall be signed by the president, or in his absence, by a majority of the managers, 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.

SECTION 7. The president and managers first chosen, shall procure certificates or evidence 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 said corporation, to each person for such share or shares by him held, which certificate or evidence of stock, shall be transferable at his pleasure, in person or by attorney, authorized, in the presence of the president or treasurer, one 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 to him as aforesaid, shall be entitled to a share or shares, as is therein mentioned of the capital stocks, of all the estates and emoluments of the company incident for such share or shares, and to vote as aforesaid, at the meetings thereof, and subject to all penalties and forfeitures, and of being sued for all the balance and penalty due or to become due on each share, as the original subscriber would have done.

SECTION 8. If after thirty days notice in the public papers aforesaid, of the time and place appointed for the payment of any proportion 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 assignees, shall, in addition to the instalment so called for, pay at the rate of two 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 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 afore-

said, 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.

**Bond of treasurer and other officers.** SECTION 9. The president and managers of said company shall demand and require of and from the treasurer, and all and every other, the officers and other persons by them employed, bond in 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 respectively committed.

**Declaration of dividends.** SECTION 10. Dividends of so much of the profits of the institution as shall appear advisable to the managers, shall be declared at least twice a year 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 nett profits actually acquired by the company, so that the capital stock shall never be thereby impaired: if the said managers shall make any dividend which shall impair the capital stock of said institution, the managers consenting thereto, shall be liable in their individual capacities to the said company, for the amount of stock so divided, and each manager present when such dividend is made, shall be adjudged 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*, That whenever the dividend 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.

**Location of road.** SECTION 11. The president and managers of the said railroad company, shall have power to survey, lay down, and ascertain, mark and fix such route as they shall deem expedient for a railroad, with as many sets of tracks as they may deem necessary, beginning at some point in the lands of Samuel Maulsby, in the township of Whitmarsh in said county of Montgomery, near the road dividing the townships of Plymouth and Whitmarsh, east of the said road, and terminating at some suitable point of the Philadelphia, Norristown and Germantown railroad, between Matson's ford and Wagers's ford, on the river Schuylkill, in said township of Plymouth, and county aforesaid: *Provided*, That said railroad, except in deep cuts and fillings, or at points selected for depots or engine or water stations, shall not exceed four rods in width, and it shall not pass through any burying ground or place of public worship, or any dwelling house, without the consent of the owner thereof: *And provided also*, That the said company shall have power, and they are hereby authorized to construct, continue and extend the line of their

**Commencement.**

**Termination.**

**Proviso.**

**Width.**

**2d Proviso.**

said railroad, from the said lands of said Samuel Maulsby, May extend to such point as shall appear most expedient and proper to road not exceeding four miles. the president and managers of said company, such extension not to exceed four miles in length, upon the same conditions, and under the same restrictions as are in this act prescribed with respect to the main line of said road.

SECTION 12. The said president and managers shall have Right of power and authority, by themselves or their superintendents, entry upon engineers, artists and workmen, to enter in and upon, and lands. occupy all land on which 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 purpose necessary or useful in the construction or repairs of the said railroad, and therein to dig and embank, make and construct the same, and the said company shall pay or satisfy the owner or owners of the ground so taken and occupied as aforesaid, 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 Montgomery, who shall be under oath or affirmation, and who shall reside within the county of Montgomery, 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 said county, and the court shall award a venire, directed to the sheriff; to summon a jury of 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 said ground, by reason of the construction of said railroad through the same, which said jury of valuers, being duly sworn or affirmed, and having viewed the premises, shall proceed to estimate the quality and quantity 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 the said land, from the opening of the said railroad through the same, to make their assessments 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 said railroad company: *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 said county, in the same manner as appeals are allowed in other cases: *And provided also*, That if any person or persons owning land or any other property, which shall be

McLde of as-  
damages.  
Appointment of viewers.  
Their oaths and duties.  
Report and Confirmation.  
Proviso.  
Appeal within thirty days.  
2d Proviso.

Cases where owners are feme covert, non compos mentis, etc. affected by this act, be feme coverts, 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 costs 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 said county, 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.

Company to enter upon lands for materials.

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

Compensation—how ascertained and paid.

SECTION 14. 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 slack water 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 roads, canal or slackwater navigation, to cross and pass over such railroad, and if the company shall neglect or refuse to keep such way or causeways in good repair, they shall be liable for a penalty of ten dollars for every day the same shall be so neglected, or refused to be repaired, to be recovered by the supervisor of the township, with costs, for the use of the township, as debts of the 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.

Causeways for public roads.

Penalty on neglect to make.

How recovered and appropriated.

Causeways for landholders.

SECTION 15. 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, whenever the same may be necessary, to enable the occupant or occupants of said land to cross or pass over the same with wagons, carts and implements of husbandry, as occasion may require, and the said causeway or causeways, when so made, shall be maintained and kept in good repair by said company,

and if the said company shall neglect and refuse, on request, to make such causeway or causeways, or 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 such railroad, the person owning or possessing land through which the said public road shall pass, shall not be entitled to require the company to erect or keep in repair, any causeway or bridge for the accommodation of the occupant of said land: *Provided further*, That this act shall not be so construed as to prevent owners of lands through whose property the said railroad passes, from constructing a causeway or crossing place over said railroad, but the same to be such as are usually made by the said company.

SECTION 16. 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 six months next after the offence committed, or the cause of action accrued, and the defendants in any 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.

SECTION 17. 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 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.

SECTION 18. If any person or persons shall wilfully or maliciously remove or destroy any of the 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 subject to indictment in the court of Quarter Sessions of the proper county, and upon conviction of such offence, shall be punished by fine and imprisonment, at the discretion of the court: *Provided*, That nothing herein contained, shall prevent the company from pursuing any other appropriate remedy at law in such cases.

**Company au-** **SECTION 19.** It shall and may be lawful for the president  
**thorized to** and managers, from time to time, to ordain and establish  
**regulate and** rules and regulations for the due ordering of all traveling  
**superintend** and transportation on the said road, and for its preservation,  
**traveling** with power to alter, repeal, enlarge or amend the said rules  
**and transpor-** and regulations, as they may deem expedient, and that they  
**tation on** shall have full power and authority to prescribe the kinds  
**road** and descriptions of cars, carriages or wagons to be used on  
 the said railroad, for the conveyance of passengers, and the  
 transportation of the mail, or of goods, wares, merchandise  
 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:  
**Proviso.** *Provided,* That the toll on any species of property, shall not  
 exceed an average of four cents per ton per mile, nor upon  
**Rate of toll.** each passenger an average of four cents per mile, and the  
 legislature reserves the right to reduce and regulate the tolls  
 hereby authorized.

**Annual** **SECTION 20.** At each annual meeting of the stockholders,  
**statement** the president and managers of the preceding year shall ex-  
**of affairs to** hibit to them a complete statement of the affairs and proceed-  
**stockholders** ings of the company for such year, and that special meetings  
**Special** of the stockholders may be called, by order of the presi-  
**meetings.** dent and managers, or by the president, at the request of  
 stockholders holding one-fourth of the amount of the capital  
 stock, in like notice as that required for annual meetings,  
 specifying moreover, the object of the meeting; but no busi-  
 ness shall be transacted at such meetings except that for  
**Condition** which it shall have been called, nor unless a majority in value  
**thereof.** of the stockholders shall attend in person or by proxy.

**Time allow-** **SECTION 21.** If the president and managers and company,  
**ed to com-** shall not proceed to carry on the said work within three  
**mence and** years from the passage of this act, and shall not complete  
**complete** the same within five years, as aforesaid, according to the  
**works, etc.** true intent and meaning of this act, or if after the comple-  
 tion 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 said company to make reparation for damages.

**Increase of** **SECTION 22.** The president and managers shall be, and  
**capital stock.** they are hereby authorized to increase the capital stock of  
 the said company from time to time, so that the whole num-  
 ber of shares thereof shall not exceed one thousand, of fifty  
 dollars each, and to sell and dispose of so many shares as  
 that the whole shall amount to the said number of one thou-  
 sand, and to receive subscriptions therefor, and to regulate  
 the payments therefor, to be made to the said company; and  
 the subscribers to and purchasers thereof, and his, her, or  
 their assignee or assignees, shall be subject to the like penal-

ties and liabilities in regard to the same, as are prescribed by the eight section of this act: *Provided*, That the said *Proviso*, company shall have the power to borrow money on loan to enable them to finish their works, and to give mortgages, certificates, or other evidence and securities for the payment thereof, the same to be convertible or not convertible into stock, as shall be agreed on between said company and the lender or lenders.

SECTION 23. That at the end of the three years 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 company, showing the amount of capital paid in, and the debts of the said company, the amount received for tolls and transportation, and 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.

SECTION 24. 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 corporation; the legislature also reserves the right to purchase the right of said company, and the railroad, with its appurtenances, at any time after thirty years from the passage of this act, by paying to said company a sum of money, which, together with the tolls received, shall equal the cost and expenses of said railroad, with an interest of eight per centum per annum thereon.

NER MIDDLESWARTH,

Speaker of the House of Representatives.

THOMAS S. CUNNINGHAM,

Speaker of the Senate.

APPROVED—The eighteenth day of March, Anno Domini, one thousand eight hundred and thirty-six.

JOS: RITNER.

No. 44.

## An Act

To incorporate the Honesdale Bank of Wayne county.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in Gen-*