

## No. 52.

**An Act**

To incorporate the Wrightsville and Gettysburg Railroad 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 Thomas C. Miller, James A. Thomson, Thaddeus Stephens, James Wilson, William McClellan, Thomas S. Cooper, John F. McFarlane, John B. McPherson, Samuel Fahnestock, James McSherry, David Middlecoff, George Himes, George Ickes, Joseph Carl, William Hildebrand, Joseph Miller, Abraham Picking, G. L. Fauss, R. M. Hutcheson, Jacob Dellone and William Albright of Adams county, L. H. Skinner, Henry Wirt, John Kauffelt and Henry Feuthy of York county, William Wright and William McPherson of Lancaster county, William D. Lewis, Jesse R. Burden, John Gest, J. B. Mitchell of Philadelphia, Samuel McClellan, Jacob Albert and James H. Miller of Baltimore, or any five of them, are hereby appointed commissioners to do and perform the several things hereinafter mentioned: that is to say, they shall procure a suitable number of books, and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president and managers of the Wrightsville and Gettysburg railroad 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 Wrightsville and Gettysburg railroad company;': Witness our hands this day of in the year of our Lord one thousand eight hundred and ." And shall thereupon give notice, in two newspapers printed in the county of Adams and York, and cities of Philadelphia and Baltimore, for twenty days at least, of the time 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 in the names 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 said purpose, at least six hours in each judicial day, for the space of three days, or until there shall have been subscribed

Commissioners appointed

To procure

Form of subscription

\$50, price of each share.

Notice.

Who may subscribe.

Books to be kept open.

Whole num- ten thousand shares; and if at the expiration of three days,  
ber of shares, the book or books aforesaid shall not have the number of  
10,000. shares aforesaid therein subscribed, the said commissioners  
may adjourn from time to time, and transfer the book or  
books elsewhere, until the whole number of ten thousand  
shares shall be subscribed, of which adjournment and trans-  
fer, the commissioners aforesaid shall give such public notice  
as the occasion may require; and when the whole number of  
shares shall have been subscribed, then the books shall be  
closed.

SECTION 2. When two thousand shares or more of the  
stock shall have been 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 num-  
ber of shares subscribed by each, and the sums paid thereon,  
whereupon, 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 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 "Wrights-  
ville and Gettysburg railroad company;" and by the same  
name the subscribers shall have perpetual succession, and  
be able to sue and be sued, plead and be impleaded in all  
courts of record and elsewhere, and to purchase, receive,  
have, hold and enjoy, to them and their successors, lands,  
tenements and hereditaments, goods, chattels and all estate,  
real and personal, or mixed, of what kind or quality soever,  
and the same from time to time to sell, 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 plea-  
sure; 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 con-  
tained shall be considered as in any way giving to the said  
corporation any banking, manufacturing or trading privile-  
ges whatsoever, or any other liberties, privileges or franchises,  
but such as may be necessary or incident to the making of  
the said railroad: *Provided further*, That the said company  
shall at no time hold or possess any land for any other pur-  
pose than the construction of the said railroad, or for toll  
houses, depots, weigh houses or other necessary works.

When letters  
patent shall  
issue.

Name, style  
and title.

Powers.

Seal.

By-laws.

Proviso.

2d Proviso,

SECTION 3. The said named commissioners, or a majority of them, shall as soon as conveniently may be after the said letters patent shall have been obtained, give at least twenty days previous 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, 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 eight managers. The president and managers aforesaid, shall conduct the business of said company until the second Monday in May, then next ensuing, and 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.

SECTION 4. The stockholders shall meet on the second Monday of May then next, as aforesaid, at such place as may be fixed upon by the by-laws, of which notice shall be given at least twenty days, 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; and on the same day in each and every year thereafter, a like election shall take place, when the necessary officers shall be elected, to continue in office for one year, or until others are chosen; and the stockholders shall also meet at such other times as they may be summoned by the managers, in such manner and form as shall be prescribed by the by-laws, at which annual or special meeting, they shall have full power and authority to make, alter or 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 to at all elections, shall be according to the number of shares he or she shall hold, in the proportions following: that is to say, for each share not exceeding five shares, five votes; for every two shares above five and not exceeding ten, one vote; for every ten shares above ten and not exceeding forty, one vote; for every twenty shares above forty 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 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, as an 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 and to the use and benefit of any other person: *Provided*, That no person shall be permitted to vote at the first election of said company, unless he or she has 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 shall have fully paid all the instalments called for and then due on the shares by him or her subscribed, and all votes by proxy shall be on such terms and conditions as are prescribed by the act passed on the twenty-eighth day of March, in the year of our Lord one thousand eight hundred and twenty, entitled "An act to regulate proxies."

Proxies.

Manner of conducting elections.

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 two of the stockholders not being managers, to be judges of the said election, and to conduct the same, who, after having severally taken and subscribed an oath or affirmation, before a justice of the peace, well and truly 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 the stockholders having the highest number of votes shall be declared duly elected; and if it shall at any time happen that an election of president or managers 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 or managers, on the same day, or any other day thereafter, giving at least ten days notice, signed by the president, in the newspapers before mentioned, of the time and place of holding said election, and they are hereby required so to do at least once in every twenty days, till the requisite officers are chosen, and the president and managers of the preceding year shall in that case continue to act, and be invested with all powers belonging to their respective situations, until an election shall take place: In case of death or resignation, or removal from the state, of any president, manager or other officer, his place shall be filled by the board of managers until the next annual election: *Provided*, That none but stockholders shall be eligible to be elected president or managers.

A failure to elect officers no dissolution of the corporation.

Vacancies.

Proviso.

Five to be a quorum.  
Chairman.

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, five 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 officers, as they shall deem necessary to carry on the intended work, and to fix their salaries and wages, to ascertain the time, 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 present, and countersigned by the secretary, and generally to do all such other acts and 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 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 to him as aforesaid, shall be entitled to a share or shares, as is therein mentioned, of the capital stock of all the estates and emoluments of the company incident to 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 been.

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 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 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 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 installment aforesaid, the president and managers may, at their election, cause suit to be brought, before a justice of the peace, or in any court having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid.

Dividends  
semi-annually.

SECTION 9. Dividends of so much of the profits of the said company as shall appear advisable to the managers, shall be declared semi-annually, 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 acquired by the company; and the said company shall annually pay into the state treasury a tax of eight per cent. on all dividends which may exceed six per cent. on the capital stock actually paid in.

Tax.

Power to locate the road.

SECTION 10. The president, managers and company of the said railroad, shall have power to survey, lay down, ascertain, mark, and fix such routes as they shall deem expedient for said railroad, with one or more tracks, beginning at the most eligible point on the Pennsylvania railroad, at or near Wrightsville, and to extend from thence, to intersect the continuation of the Pennsylvania railroad, westward from Gettysburg, at or near the west end of Gettysburg, in the county of Adams, and having due regard to the situation and nature of the ground, and of the buildings thereon, the public convenience and interest of the stockholders, and so as to do the least damage to private property, and to be so constructed as not to impede or obstruct the transit on the Pennsylvania railroad; and the said railroad shall not pass through any burying ground, or any 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 two hundred dollars, without such consent; and the said president, managers and company shall, within six months after ascertaining the route of the said railroad, cause an accurate survey of the lines of the said 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 the expenses incurred thereby shall be defrayed by the said company.

Where map or plot of the road is to be filed.

May enter upon lands.

Compensation for materials.

SECTION 11. It shall be lawful for the said president, directors and company, and their agents, and all persons employed by or under them, for the purpose contemplated in this act, to enter upon any land which they shall deem necessary for laying out said railroad, and also for the purpose of searching for stone, earth, or gravel, for constructing said road; but no stone, earth, or gravel, shall be taken away from any 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 hereinafter prescribed, as to the compensation for lands over which the said road may be laid.

SECTION 12. It shall and may be lawful for the company thereby incorporated, to make, erect, and establish a railroad on the route laid out as aforesaid, and they are also hereby empowered to erect, make, and establish all works, edifices, and devices to such railroad, as may by the said company be deemed expedient for the purpose of carrying into effect the objects of their incorporation, and also to contract or 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 railroad, weigh scales, toll houses, depots, and warehouses, or other necessary appendages.

Powers of  
the company

Scales, de-  
pots, toll  
houses, &c.

SECTION 13. Whenever it shall be necessary for the said president, directors, and company, to enter in and occupy, for the purpose of making said railroad, 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 or supposed injury that may be done to said land by such entry and occupation, it shall and may be lawful for the parties to appoint five suitable and disinterested citizens of the counties of York and Adams, to estimate such damage, who shall be under oath or affirmation, fairly and impartially to estimate the same, and the expenses incurred by the said appraisers shall be defrayed by the said railroad 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 lands 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 of York or Adams, on application of either party, and at the cost and charges of said corporation, to appoint five disinterested men of said county to view, examine, and survey the said lands, tenements, and hereditaments, and estimate the injury or damage, if any, that in their apprehension will be sustained, as aforesaid, by reason of said railroad, 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 railroad: *Provided*, That either party may

Damages to  
be estimated  
and how.

Court to ap-  
point view-  
ers.

Viewers to  
report under  
oath.

*Provided*.

## Appeals.

appeal to the court within twenty 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 the year 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 shall pay to such owner the sum in such report or judgment specified, in full compensation for the injury sustained as aforesaid, and the said company, and all who act under them, shall be acquitted and freed from all responsibility for and on account of such injury: *Provided*, Upon payment or tender of payment, by the said company, of the sum specified in the report of said viewers or appraisers, to the owner of said land, the said president and manager of said company, their agents or contractors for making or repairing the said road, may immediately take and use the same, without awaiting the issue of proceedings, as hereinbefore prescribed.

Proviso as to tender of compensation.

Public roads not to be obstructed.

SECTION 14. The said railroad shall be so constructed by the said company, as not to obstruct or impede the free use and passage of any public road or roads which may cross or enter the same, being now laid out or hereafter to be laid out, and in all places where the said railroad may cross, or in any way interfere with any public road now laid out, 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 traveling such public road to cross and pass over or under the said railway, 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, after having been duly notified thereof, to be recovered by the supervisor of the township, with costs, for the use of the township, as debts of a 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 available in law as if served upon the president thereof.

Penalty.

Service of process.

Relative to causeways:

SECTION 15. For the accommodation of all persons owning or possessing land through which the said railroad may or shall pass, and to prevent inconveniences to such persons in crossing or passing the same, it shall be the duty of 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 *Proviso*. case be required to make or cause to be made, more than one such causeways through each plantation or lot of land, for the accommodation of any one person owning or possessing land through which the said railroad may or shall pass, and the said causeway or causeways, when so made, to 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, when duly notified thereof, the said company shall be liable to pay to <sup>Company</sup> any person aggrieved thereby, all damages sustained by such <sup>liable for</sup> person in consequence of such refusal or neglect, to be sued <sup>damages sus-</sup> for and recovered before any magistrate or any court having <sup>tained.</sup> cognizance thereof; 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: *Provided*, That the owner or owners of land through which said railroad passes, shall not be prevented from constructing crossing places over or under such railroad, but the same to be such as are usually made by the company.

SECTION 16. No suit or action shall be brought or <sup>Relative to</sup> prosecuted by any person or persons for penalties incurred under <sup>suits being</sup> this act, unless said suit or action shall be commenced <sup>brought.</sup> 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, that the same was done in pursuance and by authority of this act.

SECTION 17. The said company shall not prevent any <sup>Lateral rail-</sup> person or persons, being the owner or owners of land <sup>roads.</sup> bordering on said railroad, or adjacent thereto, from making such lateral railroads, and to connect them with said railroad from their said lands, as the said person or persons may conceive necessary.

SECTION 18. On the completion of said railroad, or any <sup>Railroad to</sup> five miles thereof, the same shall be esteemed a public high- <sup>be a public</sup> way, for the conveyance of passengers and transportation of <sup>highway.</sup> merchandise and commodities, and the said company may charge and receive, not exceeding the rates of tolls per mile <sup>Rates of toll.</sup> for the transportation of passengers and all kinds of produce and commodities, and all transit or traveling on the said road, as are now charged on the Philadelphia and Columbia railroad: *Provided*, The said tolls do not reduce the nett <sup>Proviso.</sup> revenue and profits of the said company, below six per cent. per annum on the capital expended: *And provided further*, That <sup>2d Proviso.</sup> the legislature reserves the right to reduce and regulate the tolls hereby authorized.

SECTION 19. If any owner or driver of any car, carriage or conveyance whatsoever, upon the said railroad, shall pass

Penalty §20  
for defraud-  
ing the com-  
pany.

by any place appointed for receiving tolls without making payment, with intent to defraud the said company, he, she or they so offending, shall forfeit and pay for the use of the said company, the sum of twenty dollars, to be sued for and recovered by an 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 may be sued for and recovered, together with costs of suit.

Penalty for  
injury done  
to the road.

SECTION 20. If any person or persons shall wilfully and knowingly break, injure, or destroy the railroad, 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 costs of suit, in any court having cognizance thereof, by action of debt, in the name and for the use of said company, and shall also be subject to indictment in the court of Quarter Sessions of the county in which the offence was committed, and upon conviction of such offence, shall be punished by fine and imprisonment, at the discretion of the court.

Indictment.

Fine and im-  
prisonment.

Time of com-  
mencing and  
completing  
the work.

SECTION 21. If the president, managers and company, shall not proceed to carry on the said work within one year from the passage of this act, and shall not complete the same as aforesaid, in four years thereafter, according to the true intent and meaning of this act, or if, after the completion of the said railroad, as aforesaid, the said corporation shall suffer the same to go to decay, and be impassable for the term of three years, then this charter shall become null and void, except so far as compels said company to make reparation for damages.

Number of  
shares may  
be increased  
to 12,000.

SECTION 22. If any increase of the capital stock be deemed necessary for the stockholders to complete the said railroad, 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 they shall not exceed in the whole, twelve thousand, and to receive and demand the moneys for shares so subscribed, in like manner, and under like penalties, as is hereinbefore provided for the original subscription, or as shall be provided for by their by-laws.

Right to pur-  
chase the  
road, &c. re-  
served for  
the state.

SECTION 23. 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; and the legislature also reserves the right for the purchase by the state, of the right, title and interest of the said company in the said railroad, with the 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 costs

and expenses of said railroad, with an interest of eight per centum per annum thereon.

SECTION 24. The said Wrightsville and Gettysburg railroad shall be constructed of the same width of the Philadelphia and Columbia railroad, and be calculated to pass the locomotive engines running, and the cars of the said Philadelphia and Columbia railroad; and the said company shall at all times permit the locomotive engines running on the railroads of this state, with the cars attached thereto, to pass from end to end of said railroad, by paying the same tolls that shall be charged on the Pennsylvania railroads at that time. Rate of toll.

SECTION 25. The present Wrightsville, York and Gettysburg railroad company may, if they deem proper, surrender their present charter, and accept this in the place of it, and all the stock and property of said company shall become the stock and property of the company hereby authorized, such acceptance to be notified to the Governor, in thirty days after the passage of this act. This charter may be accepted by another comp'y.

NER MIDDLESWARTH,  
Speaker of the House of Representatives.

THOMAS S. CUNNINGHAM,  
Speaker of the Senate.

APPROVED—The twenty-first day of March, A. D. eighteen hundred and thirty-six.

JOS: RITNER.

No. 53.

## An Act

Authorizing the Governor to incorporate the Bristol and Newtown Railroad 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 Alexander Boyd, Dr. Phineas Jenks, Chapman Buckman, David Hutchinson, Jesse S. Heston, Morris Buckman, Theodore Morris, Thomas Janney, John Yardley, Mahlon K. Taylor, Robert S. Trego, Joseph Archumbault,