

No. 87.

**An Act**

Authorizing the Governor to incorporate the Willardsburg and Jersey Shore 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 William Willard, junior, Samuel W. Morris, Robert G. White, George Crawford, Levi J. Nichols, Asa C. Bush, William Garretson, Horace Frizelle, Isaac N. Pomroy, Curtis Merritt, Charles Wharton, junior, John White, Israel Morris, George D. B. Keim, and George M. Keim, Samuel Nevins Mathew Newkirk, Frederick Clett, Isaac Otis, Richard Morris, Charles F. Lex, George Tomb, John Bailey, Stephen Winchester, John Pursell, James H. Hepburn, Doctor J. M. Green, D. A. Davidson, B. W. Richards, Joseph Burden, John R. Walker, William Badger, R. L. Longhead, William A. Martin, B. T. Bioren, W. G. Alexander, Parsey Oakford, Hugh Cassaday, John Pearce, be, and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they, or any three of them, shall procure a sufficient number of suitable books, and in each of them shall enter as follows, viz: "We and each of us whose names are hereunto subscribed, do promise to pay to the directors of the Willardsburg and Jersey Shore railroad company, the sum of fifty dollars for every share of stock set to our respective names, and by us respectively subscribed, in such manner and proportions, and at such times and places as shall be determined and directed by the said directors, in pursuance to an act entitled 'An act authorising the Governor to incorporate the Willardsburg and Jersey Shore railroad company.' Witness our hands, the day of \_\_\_\_\_ in the year of our Lord, one thousand eight hundred and thirty \_\_\_\_\_;" and shall thereupon give notice, in one or more newspapers printed in the city of Philadelphia, and two in Tioga county, and two in Lycoming county, for one calendar month at least, of the times when, and the places where the said books shall be open to receive subscriptions for the stock of said company, at which time and places, some one or more of the said commissioners shall attend, and receive subscriptions from all persons of lawful age who shall offer to subscribe in said books, which shall be kept open for the purpose aforesaid, at least six hours in each juridical day, for the space of three days.

Number of shares.

1st instalment.

When letters patent to issue.

General powers.

No banking privileges.

How to organize.

or until the books shall have been subscribed therein sixteen thousand shares, and the said commissioners may adjourn from time to time, and transfer the books from place to place, until the whole number of shares aforesaid shall be subscribed, of which adjournment and transfer, the said commissioners shall give such notice as the case may require: *Provided always*, That every person offering to subscribe in said books, in his own or any other name, shall previously pay to the attending commissioner or commissioners, the sum of five dollars for every share to be subscribed, and no subscription shall be valid, unless the person so subscribing shall pay the said sum of five dollars, so as aforesaid: *Provided*, That on the first day that the books shall be so opened, no person, in his own name or in the name of another, for his use, shall be permitted to subscribe for more than twenty shares of said stock.

SECTION 2. Whenever one thousand shares shall have been bona fide subscribed, by at least twenty persons, and five dollars shall have been paid on each share as aforesaid, the said commissioners, or a majority of them, shall certify the same, under oath or affirmation, to the Governor of this commonwealth, 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 "The Willardsburg and Jersey Shore railroad 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, have, receive, hold and enjoy, to them and their successors, such lands, tenements, and hereditaments, and such personal estate as shall be necessary to them in the prosecution of their works, 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 privileges whatever, or any other liberties, privileges or franchises, but such as may be necessary or incident to the making or maintaining of the said railroad.

SECTION 3. The said named commissioners, or any five of them, shall, as soon as conveniently may be after the

said letters patent shall be obtained, give at least thirty days previous 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 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 ten managers, who shall be residents of this commonwealth, a treasurer and secretary or secretaries, and such other officers as shall be deemed necessary; that the president and managers shall conduct the business of said company until the first Monday of January then next, 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 first Mon-Annual elec-  
 day of January in every year, at such place as may be fixed tions.  
 upon by the by-laws, of which notice shall be given at least  
 thirty days, by the secretary, in the newspapers before men-  
 tioned, and choose, by a majority of votes present, their  
 officers, 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 pre-  
 scribed by the by-laws, at which annual or special meetings,  
 they shall have full power and authority to make, alter or  
 repeal, by a majority of the votes, in manner aforesaid, all such  
 by-laws, rules, orders and regulations, as aforesaid, and to  
 do and perform every other corporate act; and the number Right of  
 of votes to which each stockholder shall be entitled, shall be voting.  
 according to the number of shares he or she shall hold, in  
 the following proportions, that is to say: for each share not  
 exceeding two shares, one vote; 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,  
 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 election, nor  
 unless it be holden by the person in whose name it appears,  
 absolutely and bona fide, in his or her 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 copartnership, corpora-  
 tion, 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 per-

son: *Provided*, That no shares held by transfer shall be entitled to vote, unless the same shall have been transferred at least three months before the election, 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 one thousand eight hundred and twenty, entitled "An act to regulate proxies."

Manner of election.

SECTION 5. The election of officers provided for in the fourth section of the 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, 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, and the said judges shall decide on 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 or other officer, 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 or other officer, on the same day, or on any other day thereafter; by giving at least thirty 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 and 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; and in the case of death or resignation, or removal from the state of any president, manager, treasurer, or other officer, the place shall be filled by the board of managers, until the next annual election.

Quorum of directors to act.

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, six 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 authority to appoint all such surveyors, engineers, superintendents, 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 proportion in which said stockholders shall pay the moneys due on their respective shares, to draw orders on the treasurer for the same, 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:

Powers.

act and by the by-laws and regulations of this 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 every such share or shares by him subscribed and held, which certificate or evidence of stock shall be transferrable at his pleasure, in person or by attorney, (duly authorized,) 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, and 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 balances and penalty due or to become due on each share, as the original subscriber would have been.~~ <sup>Certificates of stock.</sup>

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 each proportion or instalment at the place appointed, for the space of thirty days after the time so appointed, each and every share of said stock on which such stockholder has so neglected to pay as aforesaid, shall be forfeited to the said company, and may be sold to any person or persons willing to purchase, for such prices 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 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, or 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. <sup>Forfeiture of stock.</sup>

SECTION 9. The president and managers of the said company shall demand and require of and from the treasurer, and all and every 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. <sup>Treasurer to give bond.</sup>

Dividends.

SECTION 10. Dividends of so much of the profits of the institution as shall appear advisable to the managers, shall be declared twice 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 of said company shall never be thereby impaired, and 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 said company, for the amount of the stock so divided, and each manager present when such dividend shall be 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 such dividend: *Provided*, No such dividend shall exceed fifteen per cent. per annum, nor shall the contingent fund of the company at any time exceed one fourth of their capital stock; that the president and managers of the aforesaid company shall annually, on the first Monday in December, transmit to the Auditor General a full statement of the affairs of the said company, under oath, and shall pay annually into the treasury of the commonwealth, a tax of eight per centum on all dividends which may exceed six per centum on the capital stock actually paid in.

State ment to  
Auditor Gen-  
eral.

Statement to  
the legisla-  
ture.

SECTION 11. When actual operations shall have commenced, 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 whole amount of their capital actually paid into the funds of the company, the sums expended, the tolls and other profits accruing within the year, and the amount of dividends declared in each year, or the losses sustained, as the case may be, which abstract shall be verified by the oath or affirmation of the president of the company for the time being.

Route of road

SECTION 12, The president, managers and company of the said railroad company, shall have power to survey, lay down, ascertain, mark and fix such route as they shall deem expedient for a double or single railroad, beginning at a point in the Tioga railroad, at or near Willardsburg, in the county of Tioga, thence pursuing the valley of the Crooked creek to the Big Marsh, and thence by Wellsboro', along a branch of the third fork of Pine creek, to its source, near the source of Wilson's creek, and thence by Wilson's creek the second fork of Pine creek, and the Main creek, or by such other route as shall be most passable, to a point on the West Branch canal, at Jersey Shore, in the county of Lycoming, 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 Restrictions.  
not pass through any burying ground nor place of public  
worship, nor any dwelling house, without the consent of the  
owner thereof, nor shall it pass through any out building of  
the value of ten 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 said road to be made, a Survey to be  
map or plot of which survey they shall cause to be filed in filed.  
the prothonotary's office of the counties of Tioga and Lyco-  
ming, respectively, which maps or plots, 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 in-  
curred thereby shall be defrayed by said company.

SECTION 13. It shall be lawful for the president, managers Right of en-  
and company of the said railroad company, and their agents, try, &c.  
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 said road, but no stone, sand, gravel or Restrictions.  
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  
hereinafter prescribed, as to the compensation for lands over  
which the said road may be laid.

SECTION 14. It shall and may be lawful for the company Additional }  
hereby incorporated, to make, erect and establish a single or powers.  
double track railroad, on the route laid out as aforesaid, and  
they are also hereby empowered to make and establish all  
works, edifices and devices to such railroad, as may by the  
said company be deemed expedient for the purposes of car-  
rying into effect the objects of their incorporation; and also,  
to contract and agree with the owner or owners for the pur-  
chase of any lands or tenements which may be necessary for  
the purpose of erecting the said railroad.

SECTION 15 Whenever it shall be necessary for the presi- Viewers of  
dent, managers and company of the said railroad company, damages,  
to enter in and upon, and occupy, for the purpose of making  
said railroad, any land upon which the same may be located,  
and if the owner or owners of the said lands 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 such land by such  
entry and occupation, it shall and may be lawful for the  
parties to appoint six disinterested persons to estimate such  
damage, who shall, under oath or affirmation, fairly and im-  
partially 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 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 or owners of such land shall refuse or neglect to join in such appointment, within twenty days after requisition for that purpose made, or if such owner be feme covert, under age, non compos mentis, or out of the state, 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 the said corporation, to appoint six disinterested persons of said county to view, examine and survey the said lands, tenements or hereditaments, and estimate the injury or damage, if any, in their opinion, 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 said court, judgment shall be entered thereon, and the said viewers shall be entitled to the like fees for their services as are allowed by law to reviewers of public roads and highways, to be paid by the said company, and it shall be the duty of the appraisers in estimating such injury or damage, to take into consideration the advantage that will be derived to the owner or owners of the said lands from the said railroad: *Provided*, That either party may appeal to said 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 in other cases; and upon the coming in of such report or inquisition, and the confirmation thereof, or upon final judgment on appeal therefrom, and the said company paying to such owner the sums in such report or judgment specified, in full compensation for said lands, or for the injury sustained as aforesaid, the said company shall become seized of the same estate in the said lands, which the owner held in the same, and they, and all who act under them, shall be acquitted and freed from all responsibility for and on account of such injury: *Provided*, That on 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 managers, their agents or contractors for making or repairing the said road, may immediately take and use the same, without awaiting the issue of proceeding, as hereinbefore prescribed.

Appeal.

Tender.

Not to obstruct public roads.

SECTION 16. 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 at 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, it shall be the duty of the said company to make, or cause to be made, a sufficient causeway or causeways, to enable all persons pass-

ing or traveling such public road, to cross and pass over the said railroad, which causeway or causeways shall be made and maintained by the said company, and the sufficiency of the same shall be judged of by the supervisors of the proper township, at the expense of the said company; and if the said company shall neglect or refuse 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 five dollars for every day the same shall be so neglected or refused to be made and 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 available in law as if served upon the president thereof. Penalty.

SECTION 17. For the accommodation of all persons own-Private ing or possessing land through which the said railroad may crossings, or shall pass, and to prevent inconvenience to such persons in crossing and passing over 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, whenever the same may be necessary, to enable the occupant or occupants of said lands to cross or pass over the same with wagons, carts and implements of husbandry, as 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 railroad may or shall pass; and the said causeway, when so made, shall be maintained and kept in repair 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, the said company shall be liable to pay any person aggrieved thereby, all the 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: *Provided*, 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 18. No suit or action shall be brought or prose- Limitations cuted by any person or persons, for any penalties incurred of suits. under this act, unless such 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.

**To be a public highway.** SECTION 19. On the completion of the said railroad or any portion of one track, not less than ten miles, the same shall be esteemed a public highway, for the conveyance of passengers, merchandise and commodities, under such regulations as shall be prescribed by the managers, and it shall and may be lawful for the said company to demand and receive such sum or sums of money for tolls, of persons and property, as they shall from time to time think proper and reasonable:

**Rates of toll.** *Provided,* The rates of toll on any species of property shall not exceed the following, that is to say: on each ton of produce, minerals, or other commodities not herein enumerated, two cents per mile; for boards, plank, scantling, or other sawed stuff reduced to inch measure, two cents per thousand feet; and for shingles, one cent on each one thousand thereof; and all fractions not less than half a ton, one cent each; on all passengers, excepting only such as are necessarily engaged in conducting the cars, one cent each per mile; but no person or persons shall ride, lead, drive or pass along said railway any horse or horses, cattle or any animal of what kind soever, nor place any car or other carriage thereon, without a permit or license first had and obtained from said company, subject to such rules and regulations and shall from time to time be established by the said company, to govern the use of said railroad; and it shall be lawful for the president and managers of the company to prescribe the kind of carriages, wagons and conveyances which shall be used on the said railroad, for the transportation of persons and commodities, and to adopt such regulations as to the transit of wagons and carriages on the said road, as may seem to them most conducive to the interests of the public and of persons using the same.

**Nonpayment of toll.** SECTION 20. If any owner or driver of any car, carriage, wagon or conveyance, upon the said railroad, shall pass by any place appointed for the receiving tolls, without making payment thereof, with intent to defraud the said company, he, she or they so offending, shall forfeit and pay for every such offence, for the use of said company, the sum of twenty dollars, to be sued for and recovered by action of debt, before any justice of the peace, in like manner, and subject to the same rules and regulations, as debts under one hundred dollars may be sued for and recovered, together with costs of suit.

**Injury to road.** SECTION 21. If any person or persons shall wilfully and knowingly break, injure or destroy the railroad, or any part thereof, or any work, edifice, and 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 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 the said company, and 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.

SECTION 22. If the said corporation shall not carry into effect the objects of this charter within the time of ten years from the passing of this act, or if after the completion of the said railroad the said corporation shall suffer the same 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.

SECTION 23. If an increase of the capital stock be deemed necessary by 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 the capital of said company shall not exceed one million of dollars, and to receive and demand the money for shares so subscribed, in like manner, and under like penalties, as are hereinbefore provided for the original subscription, or as shall be provided for by their by-laws.

SECTION 24. If 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 said company; the legislature also reserves the right to purchase the right of said company and the 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.

NER MIDDLESWARTH,

Speaker of the House of Representatives.

THOMAS S. CUNNINGHAM,

Speaker of the Senate.

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

JOS : RITNER.