

No. 153.

An Act

To incorporate the Kensington and Penntownship 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 Christopher Rex, George Day, George Landall, Ebenezer Cobb, Jesse Y. Castor, Anthony Davis, Elijah Tyson, Samuel Meads, Doctor Abraham Heifenstein, Arundias Tiers, William Boyd, William Graves, John Rambo, Thomas H. Craig, John Haines, Jacob Address, John Culin, junior, John Fernon, Henry Remmay, junior, Doctor Isaac Kline, Michael Day, John Bakeoven, Jacob Tees, Jacob Collar, Charles Keen, Robert Peal, C. B. F. Oneil, James Wood, Hugh M'Laughlin, Leonard Steinmetz, John C. Gardy, Charles Doran, Jonathan Pickering, Doctor George Uhler, William M'Carter, John D. Harper, George W. Tryon, Hugh Scott, Adam Woelpper, Joseph Smith, C. B. E. Carpenter, A. M. Peltz, Philip Ricketts, Isaac Koons, George Reed, John G. Woolf, James M'Connick, Robert T. Conrad, Doctor John A. Elkinton, W. L. Norton, Charles Elliott, John R. Walker, T. E. Kerrison, W. P. Smith, George Cadwalader, Bela Badger B. Duncan, Jacob Heyberger, Captain John Meany, James P. Smith, Nicholas Esling, Richard Cox, John D. Steever, D. M. Moore, John M. Ogden, Joseph Jackson, Thomas U. Walter, Jesse Williamson, Thomas L. Plowman, James M. Linnard, S. B. Linnard, W. J. Linnard, John F. Vanleer, Peter A. Keyser, John Thompson, John Gest, William O. Kline, Jacob Engleman, Peter Sieger, Marshall Sprogel, Lewis Allen, S. S. Pearson, S. Daniel Fidler, George Kane, Daniel Green, George G. West, Samuel Black, Joseph Baye, B. B. Hart, Simeon Dreyfous, George Rickards, N. C. Foster, M. N. Everly, George T. Chambers, Robert Coburn, Charles L. Devinney, Isaac Boileau, Peter A. Keyser, William Fry, Nathaniel C. Foster, H. Derringer, George Eretz, Adam Mentzer, junior, Howell Hopkins, John Foulkrod, Alexander Burden, Charles Provost, John Wister, junior, Benjamin F. Topham, Jacob Frick, Franklin Vansant, Reuben Myers, James Murray, William Green, Amos A. Jones, George Lineaweaver, John Krause, William H. Orr, Doctor R. M. Huston, Benjamin Kennedy, John Clark, Joseph Plankinton, Robert S. Trego, Isaac Garretson, John Hough, Jacob Kirk, junior, James M. Hart, Joseph R. Hart, Benjamin Smith, Joseph Paxon, Joel Evans, John Rheiner,

Commissioners.

Samuel Bucher, William Rhiner, John Bender, David Charles, Thomas Pratt, Reese W. Flower, Daniel M. Broadhead, Miles N. Carpenter, Benjamin Kennedy, John Stoffelt, Stacy Barcroft, Charles Koons, John Thompson, George L. Fauss, George W. Hamersly, Joseph Williams, Lawrence L. Minor, James D. Clark, Alexander Miller, Thaddeus Stevens, Ner Middlesworth, John H. Ewing, John H. Walker, Henry M. Watts, Joshua F. Cox, Francis Park, Joseph G. Park, John Park, John W. Odenheimer, John Ligget, S. H. Carpenter, George L. Ashmead, Benjamin Stiles, Jacob F. Hœckley, John Taylor, Simon Cameron, Marshall Sprogell, John Nagle, Samuel Shoch, Jonathan K. Hassinger, Robert W. Harper, James M. Comley, M. Bomesler, Dr. Joseph L. Thomas, Daniel Thomas, General Samuel Castor, Daniel Bender, John M. Bockius, Joseph A. Davidson, William Rice, junior, Nathaniel A. Warwick, Christian Read, James Flannigan, Benjamin Crispin, Jonathan T. Knight, John Felton, Philip Barned, Henry Reed, William A. Lee, Benjamin Hutchison, Abraham Okie, Joseph Yeager, Wm. G. Alexander, Robert Morris, William A. Martin, Joseph C. Burden, Benjamin T. Bioren, John Oakford, John Pearce, Thomas M'Cully, Saml. W. Dilworth, Richard Peltz, Thomas Lewellen, Jacob Shearer, junior, Augustus P. Fugereary, John R. Walker, Franklin Vansant, Richard Tichenor, John Wobert, John B. Trevor, Peter Wager, John Stam, George Binder, Ellis Middleton, John Cumming, Warner Justice, Amos Ellis, George Gorgas, junior, James Clark, junior, Hanson Walter, Samuel Abbot, George Meckie, B. F. Hedges, Charles Coward, John Mitchel, John M. Kennedy, Samuel Magargee, W. S. Book, John Ross, William M'Farran, Thomas B. Patterson, George Dilks, Evan Fox, Robert Neal, Benjamin Stimble, Shreeve Ackley, John Longstreth, Nathan Ellis, Nathaniel Mercer, Thos. Richards, Thos. H. Forsyth, John Smith, William Ettinger, John Newman, Richard Cumming, Joshua Coulter, Jos. Linard, Isaac Knight, Enoch Middleton, Edwin Middleton, Joseph Knight, Wm. Abbot, Anthony Mirkey, John Hubbert, C. Dillman, Joseph Baker, Thomas M. Logan, John Baird, Isaac Abrahams, William Fittler, William M'Ferran, Jonathan Wainwright, John Pristine, John A. Mirkey, John C. Da Costa, Isaac W. Norris, Thomas B. Patterson, Franklin Eyre, Benjamin Baker, Thomas Weaver, John A. Mirkey, Anthony Mirkey, Theodore Colladay, or any ten of them, be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: they shall, on or before the first day of June next, procure a book, which shall be opened at the Commissioners' Hall in the district of Kensington, in the county of Phila-

Philadelphia, in which said book they shall enter as follows:

Form of sub-
scription. "We whose names are hereunto subscribed, do promise to pay to the president and managers of the Kensington and Penntownship Railroad company, the sum of fifty dollars for every share of stock set opposite our respective names, in such manner and proportions, 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 Kensington and Penntownship 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 newspaper printed in the said district of Kensington, if one be established there, and in two or more newspapers printed in the city of Philadelphia, two weeks at least, of the time and place where the said books shall be opened and kept to receive subscriptions for the stock of said company, at which time and place one or more of the said 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 others who shall authorize the same, for shares in the said stock, and the said books shall be kept open respectively for the said purpose, at least six hours in every juridical day, for the space of three days, or until there shall have been subscribed six thousand shares, and if at the expiration of three days as aforesaid, the books shall not have therein subscribed the number of shares aforesaid, the commissioners may adjourn from time to time, and transfer the books elsewhere, within the city or county of Philadelphia, until the whole number of six thousand shares shall be subscribed, of which adjournment and transfer the commissioners shall give such public notice as they may deem just and necessary, 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 on the first day, and not more than one hundred on the second, after which any person may subscribe for any number of shares, until the whole of the stock is taken: *And provided also*, That no subscription shall be valid, unless the person so subscribing shall pay to the said commissioners at the time of doing the same, the sum of five dollars on each and every share, for the use of the company.

6000 shares.

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When letters patent shall issue.

SECTION 2. When three thousand shares or more of the said stock shall be subscribed, and the sum of five dollars paid on each and every share, as aforesaid, the commissioners, or a majority 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 on each share paid at the time of subscribing, where-

upon the Governor shall, by letters patent, under his hand, and the seal of the commonwealth, create and erect the subscribers, and if the subscription shall not be full at the time, then also those who shall thereafter subscribe to the number of shares aforesaid, into a body politic and corporate, in deed and in law, by the name, style and title of "The Kensington and Penntownship Railroad company," and by that 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, 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 estates, real, personal, or mixed, of what kind or quality soever, and the same from time to time to sell, exchange, mortgage, grant, alien, or otherwise to dispose of, and to make such dividends of the profits as they may deem proper, and to also make, have, and keep 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, nor to the laws and constitution of this commonwealth, and generally to do all and singular, the matters and things which it shall lawfully appertain to do for the well being, managing and ordering the affairs of said corporation: *Provided*, That nothing herein contained shall be so considered as in any way giving to the said corporation any banking privileges whatsoever, or any other liberties, privileges, or franchises, than may be necessary or incident to the making and maintaining the said railroad, and the conveyance of passengers, and the transportation of the mail, and of goods, merchandise, and other commodities thereon.

SECTION 3. The said named persons, or a majority of them, shall, as soon as conveniently may be after the said letters patent shall be obtained, give at least twenty days notice, in the newspapers 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 bear date within three months previously to the election at which said proxy shall be presented, duly authorized, one president and twelve managers, all of whom shall be residents of this commonwealth, a treasurer, secretary, and such other officers as shall be deemed necessary; that the president and managers as aforesaid, shall conduct the business of the company until the second 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 laws and constitution of the United States or of this commonwealth, for the well governing the affairs of the said company: *Provided*, That no person shall be eligible to the office of president or manager except a stockholder.

Proviso.

Annual meeting for election of officers.

SECTION 4. The stockholders shall meet on the second Monday in January in every year, at such place as may be fixed upon by the by-laws, of which notice shall be given, at least twenty days previous, by the secretary, in the newspapers before mentioned, and choose, by a majority of the votes present, officers for the ensuing year, as mentioned in the third section of this act, who shall continue in office for one year, and until others are chosen, and at such other time 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 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, in the ratio following: for every share not exceeding two shares, one vote; for every two shares above two and not exceeding ten shares, one vote; and for every five shares above ten, one vote; but no share shall confer a right of suffrage, which shall not have been holden three calendar months prior to the day of the 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 or administrator, trustee or guardian, or in the right and for the use and benefit of some copartnership, 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 a 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 of assembly of this commonwealth, passed on the twenty-eighth day of March, one thousand eight hundred and twenty, entitled "An act to regulate proxies." *And provided also*, That no share shall be entitled to a vote at any election, or at general or special meetings of said company, on which any instalment or arrearages may have been due and payable more than thirty days previous to said election or meeting.

Number of votes each stockholder is entitled to.

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SECTION 5. The election of officers provided for in the third 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 election, and to conduct the same, after having taken and subscribed an oath or affirmation, before an alderman or justice of the peace, well and truly, and according to law, and the best of their knowledge and abilities, to conduct the same; the said judges shall decide upon the qualification of voters, and when the election is closed, shall count the votes, and declare who is elected; and if it shall at any time happen that an election of president, managers, treasurer, secretary, or other officers, shall not be made, the corporation shall not for that cause be dissolved, but it shall be lawful to hold and make such election of president, managers, secretary, treasurer, or other officers, on any day thereafter, by giving at least ten days notice, signed by the president or secretary, in the newspapers before mentioned, of the time and place of holding said election, and the president, managers, treasurer, secretary and other officers of the preceding year, shall in that case continue to act, and be invested with all the powers and duties incident to their respective situations, until an election shall take place; in cases of death, resignation, or removal from the state of the president, managers, treasurer, or secretary, his or their place may be filled by the board of managers until the next annual meeting.

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, five shall be a quorum, who in the absence of the president shall choose a chairman, and shall keep minutes of their transactions, fairly entered in a book, and a quorum being formed, they shall have authority to appoint all such surveyors, engineers, superintendents, and other artists and officers, as they shall deem necessary to carry on the intended work, and to fix their salaries and wages, to ascertain the times, manner and proportions in which the said stockholders shall pay the moneys due on their respective shares, to draw orders on the treasurer for moneys, which shall be signed by the president, or in his absence by a majority of the managers present, and countersigned by the secretary, and generally, to do all such other 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 said president and managers first chosen, shall procure certificates or evidences of stock for all the shares of the said company, and shall deliver one or more certificates, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for the number of shares by him or her subscribed or held, which certificate or evidence of

How transferred.

stock shall be transferrable at his or her pleasure, in person or by attorney, duly constituted, 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 on the book of the company, kept for the transfer of stock, shall be a member of the corporation, and for every certificate assigned to him or her as aforesaid, shall be entitled to one share of the capital stock, of all the estates and emoluments of the company incident to one share, and to vote as aforesaid at the meetings thereof, and subject to all the penalties and forfeitures, and to be sued for all the balance and penalty due or to become due on each share, as the original subscriber would have been.

Penalty on delay in paying instalments.

SECTION 8. If after thirty days notice in the newspapers aforesaid, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, any stockholder shall neglect to pay such proportion or instalment, at the place appointed, for the space of thirty days after the time so appointed, every such stockholder or his assignee shall, in addition to the instalment so called for, pay at the rate of one per centum per month for the delay of said payment; and if the same and the additional penalty shall remain unpaid for such a 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 company, and may be sold to any person or persons for such price as can be obtained for the same, or in default of payment by any stockholder, of any such instalment as aforesaid, the president and managers may at their election, cause suit to be brought, before any alderman or justice of the peace, or in any court having competent jurisdiction, for recovery of the same, together with the penalty aforesaid.

Surety required of officers.

SECTION 9. The president and managers of said company shall demand and require from the treasurer, and from all and every other officer, person or persons whatsoever, employed by them, such surety as the said company may think necessary, for the faithful discharge of their several duties and trusts to them committed.

Semi-annual declaration of dividends.

SECTION 10. Dividends of so much of the profits of the company as shall appear advisable to the managers, shall be declared at least twice a year in each and every year, and paid to the stockholders or their legal representatives, on demand, at any time after ten days shall have elapsed from the time such dividend shall have been declared, but they

Capital stock not to be impaired.

shall in no case exceed the amount of the nett profits actually acquired by the company, so that the capital stock shall never be impaired thereby; and if the said president and

managers shall at any time make a dividend whereby the capital stock of the company may be impaired, the managers consenting thereto shall be liable in their individual capacities to the company, for the amount of the stock so divided, and each manager present when such dividend shall be declared, shall be taken and deemed as consenting thereto, unless he or they shall cause their protest against the same to be entered on the minutes of the board of managers, and give notice thereof to the stockholders of the same.

SECTION 11. The president and managers 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 railroad, with as many tracks as they may find necessary, beginning on the river Delaware, at or near the monument erected for the commemoration of William Penn's treaty with the Indians, in the Kensington district of the Northern Liberties, and terminating at the Columbia railroad, at or near, as practicable to the railroad bridge across the river Schuylkill; said railroad to be located on the proposed route of the Columbia avenue, at least as far as Sixth street, and to be continued on the same to its westerly termination: *Provided*, The expense thereof, and the damages to private property, shall not render the undertaking unwise or impracticable: *Provided also*, That the said road shall not occupy said street or avenue, so as to prevent the use of the same for traveling, and ordinary purposes, and that the same shall not pass through or over any burial ground, or the ground belonging to any place of public worship, intended for that purpose, or any dwelling house, without the owner thereof having been first compensated therefor.

SECTION 12. The said president and managers shall have power, by themselves, or their superintendents, engineers, artists and workmen, to enter in and upon, and occupy such land on which said railroad, or its depots and warehouses, may be located, or which may be necessary for the erection of weigh houses, and other buildings for the use of the company, and for repairs to the said road, and therein to dig, embank, excavate, tunnel, make and construct said road; and the said company shall, previous to making said entry, first pay and satisfy the owner or owners of the ground to be taken and occupied as aforesaid; but if the parties cannot agree upon the price and compensation so to be paid by the said company, to such owner or owners, it may be lawful for the parties to appoint five suitable and judicious persons, neither of whom shall be inhabitants of, or owners of real estate in the district of Kensington, or the township of Penn, and in case the said parties cannot agree upon such persons, then either party, having given twenty days notice to the other of their intention so to do, may apply to the court of

Viewers to be sworn or affirmed.

Common Pleas of the city and county of Philadelphia, and the court shall award a venire, directed to the sheriff, to summon a jury of judicious and disinterested persons, none of whom shall reside in, or be freeholders in the said district of Kensington or township of Penn, and not a stockholder in said company, in order to ascertain and report to the said court what damages, if any, have accrued to the owners of said land, houses, or other buildings, by reason of the construction of said railroad through or upon the same, which said jury, having been first sworn or affirmed, justly and equitably to assess the damages, if any, which may have been sustained by the owner or owners of the land, and having viewed the premises, shall proceed to estimate the quantity and the quality of the land to be occupied by the said railroad, and the inconveniences which may result to the owner of the same by reason thereof, and under the influence of these considerations, and a just regard to the advantages which may be likely to accrue to the owner or owners of said land from the opening of the said railroad through the same, to make their assessment, and report to the court, which said report being confirmed by the court, judgment shall be entered thereon, and the amount so assessed shall be paid to the owner or owners of said land, before any entry shall be made by said company, and the expenses of said valuation shall be borne by the same; and in order to avoid delay and expense, it shall and may be lawful for as many owners of land as may think proper, to submit their claims for damages to the same jury, whose report on their respective claims shall be taken to have the same effect, and be equally binding, as though the venire had been issued at their instance or request: *Provided always*, That either party may, within thirty days after such award or report shall have been filed in the prothonotary's office, appeal from the same, by filing in said office an affidavit, that in their opinion injustice has been done; if the company be the appellant, said affidavit shall be made by the president, or some one of the managers thereof; said cause shall be then placed on the trial list, and tried as all other issues are tried in said court: *And provided also*, That in case the owners of any of the lands through which said road shall pass be feme covert, or minors, non compos mentis, or living out of the state, without trustees, guardians, committees, or accredited agents here, then and in that case, it shall be the duty of the president or managers of said company to make the facts known to the said court, whose duty it will be to appoint some suitable person or persons as trustees, guardians, committees, or agents, to act in their behalf, under the control and direction of the court.

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SECTION 13. It shall not be lawful for the said railroad company to use any locomotive steam engine on the same,

or any part thereof, nor shall any other motive power but horse power be used on the same, unless it should be necessary to construct an inclined plane at the western end thereof, in which case they are authorized to place a stationary engine at such place as the managers of said company may think proper: *And provided also*, That any individual unconnected with, either as agent or stockholder, any other railroad company, shall on his account be permitted to use said railroad, with his or her own cars, subject and under such regulations, rules and orders, as the said Kensington and Penntownship railroad company may make, order and direct.

SECTION 14. The president and managers, by and with their superintendents, engineers, artists, workmen and labourers, with their tools, instruments, carts and other carriages, and beasts of draught and burden, may enter upon the lands contiguous and near the said railroad, first giving notice to the owner or owners, or occupiers thereof, and from thence to take and carry away any earth, stone, gravel, or sand, doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done thereon, the amount whereof, if the parties cannot agree, shall be assessed as directed in the twelfth section of this act.

SECTION 15. The said railroad shall be so constructed as not to impede or obstruct the free use or passage of any railroad already made and laid out, or of any public road, street, lane, or other highway, now laid out or opened, or to be hereafter laid out and opened, and that for the accommodation of all persons through whose lands said road may pass, it shall be the duty of said company to erect good and sufficient causeways or bridges, from one side of the road to the other, where, from the depth of the cut, the same may be required, and the same to be always kept in good order, at the expense of said railroad company; and in case the said company shall, upon reasonable notice and request of any of said land-holders, or occupiers of said land, refuse to make such causeways or bridges forthwith, or when made to keep the same in good order and repair, said company shall be liable to the party aggrieved for the damages sustained by said neglect or refusal, before any magistrate or court having cognizance thereof: *Provided*, That the said company shall not be compelled to make, or cause to be made, more than one causeway or bridge through any one plantation or lot of ground, for the accommodation of any one person owning or occupying said plantation or lot of ground, nor shall said company be required to make such bridge or causeway for the accommodation of any such lot of ground, unless the same shall contain at least three acres:

2d Proviso. *And provided also*, That in the event of any private bridge or causeway being converted to public use, so as to be made to accommodate a public road, laid out or opened subsequent to the passage of this act, then and in such case, the company shall be forever thereafter exonerated from the duty of keeping said bridge or causeway in repair.

Suits for penalties must be commenced within one year.

SECTION 16. No suit or action shall be prosecuted by any person or persons, for any penalties incurred by the said railroad company under this act, unless such suit or action shall be commenced within one year next after the offence committed, or the cause of action shall have accrued, and the defendants in any 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 the authority of this act, and that in all suits or actions brought against this company, the service of process on any manager, toll gatherer, or other officer of the company, shall be as good and as available in the law as though the same had been made on the president thereof.

Penalty for wilful injury to works.

SECTION 17. If any person or persons shall wilfully and knowingly break, injure, or destroy, or in any manner damage 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 so sustained, to be sued for and recovered, with full costs of suit, before any tribunal having cognizance thereof, by action, in the name and for the use of the company.

Penalty for misdemeanor

SECTION 18. If any person or persons shall wilfully and maliciously remove or destroy any of the company's constructions, or place designedly and with evil intent, any obstruction on the line of the said railroad, so as to jeopardize the safety, or endanger the lives and limbs of persons traveling the same, such person or persons so offending, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the Eastern penitentiary, or the prison of the county of Philadelphia, for a term not exceeding two years: *Provided*, That nothing herein contained shall prevent said company from pursuing any pecuniary action for the damage or injury so done and committed.

Proviso.

President and managers make rules and regulations.

SECTION 19. It shall and may be lawful for the president and managers, from time to time, to ordain and establish rules and regulations for the due ordering of all traveling and transportation on said road, and for its preservation, with power to alter, amend, repeal or enlarge the said rules and regulations, as they may deem expedient, and that they shall have full power and authority to prescribe the kinds and descriptions of cars, carriages or wagons to be used on the said road for the conveyance of passengers, and the

transportation of the mails, or of goods, wares, merchandise, lumber, 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: *Provided*, That the toll on any species of property shall not exceed an average of six cents per ton per mile, nor upon each passenger an average of three cents per mile. Proviso.

SECTION 20. At each annual meeting of the stockholders, the president and managers of the preceding year shall exhibit to them a complete statement of the affairs and proceedings of the company for such year, and that special meetings of the stockholders may be called by order of the president, at the request of stockholders holding one third of the amount of capital stock, in like notice as that required for annual meetings, specifying the object of the meeting, but no business shall be transacted at said meeting except that for which it shall have been called, nor unless a majority in value of the stockholders shall attend, in person or by proxy. President and manager's annual statement to the stockholders.

SECTION 21. If the president, managers and company shall not proceed to carry on the said work within three years from the passage of this act, and shall not complete the same within seven years as aforesaid, according to the true intent and meaning of this act, or if after the completion of the said road, the company shall suffer the same to go into decay, and be impassable for the space of two years, then this charter shall become null and void, except so far as compels the said company to make reparation for damages. Time of commencing and completing road.

SECTION 22. Whenever the said Columbia avenue, or such part thereof as may be occupied by said railroad company, shall be required for public use, as a highway, that the said railroad company shall be entitled to have and receive from the treasury of the county of Philadelphia, a just and rateable proportion of the damages which they shall have paid to the several owners of land through which said avenue may pass, the same to be estimated according to the quantity of ground actually used and occupied by said company; and in case the said company and the commissioners of said county cannot agree upon the amount of monies to be paid to said company, then and in that case the same shall be referred to the judges of the court of Common Pleas of the city and county of Philadelphia, who may decide the same upon the report of a jury of valuation, or by testimony heard in open court. Columbia av. enue.

SECTION 23. If any increase of the capital stock of said company shall be found necessary and expedient to improve or to complete the said road, or to increase the facilities of traveling or transportation upon the same, it may be lawful for the said president, managers and company, at a stated or special meeting convened for that purpose, to increase the Company may increase the capital stock.

number of shares, so that the capital of the said company shall not exceed six hundred thousand dollars, and to receive and demand the monies for shares so subscribed, in like manner, and under like penalties as are provided for heretofore in the original subscription, or as shall be provided for in the by-laws.

At the end of 3 years to furnish abstract of the accounts of the company, and yearly thereafter to legislature.

SECTION 24. At the end of the third year after the charter shall have been 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 amounts 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; that the president

Annual statement to Auditor General.

and managers of the aforesaid company shall annually, on the first Monday in December, transmit to the Auditor General a full statement of their affairs, under oath, and shall pay annually into the treasury of this commonwealth, a tax of eight per cent. on all dividends which may exceed six per cent. on the capital stock actually paid in.

Legislature may resume the rights hereby given.

SECTION 25. 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.

Right to purchase reserved.

SECTION 26. The legislature reserves the privilege of purchasing the said railroad and its appurtenances, at any time after the expiration of twenty years from the passage of this act, by paying to said company a sum of money which, together with the tolls collected, shall equal the amount expended by said company in constructing and keeping in repair the said road, with eight per cent. per annum interest on the sum.

NER MIDDLESWARTH,

Speaker of the House of Representatives.

THOMAS S. CUNNINGHAM,

Speaker of the Senate.

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

JOS: RITNER,