

## No. 105.

**An Act**

For the incorporation of the "Pittsburg, Kittanning, and Warren 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 Benjamin Darlington, Samuel Baird, Isaac Harris, John P. Bakewell, James Ross, Harmar Denny, Francis Kearns, William Robinson, jr., Robert H. Douthell, George Ogden, George R. White, James Gray, Fourth street, John Morrison, Samuel B. McKinzey, and John Shoenberger, of the county of Allegheny, Jacob Weaver, James Bole, Robert Lowry, William Coyle, James Green, Samuel Cooper, George Rip, John Michling, Robert Spars, Joseph Buffington, Alexander Colwell, Philip Michling, John Gilpin, David Reynolds, Robert Orr, Samuel Hutchison, Chambers Orr, James Waterson, (Terry,) William Templeton, David Lawson, and Richard Reynolds, of the county of Armstrong, James Kinnear, George R. Espy, James R. Snowden, Alexander McCalmont, Arnold Plumer, John Evans, Andrew Beaumont, Edward Pierce, and R. Power, of the county of Venango, Thomas Struthers, Josiah Hall, Robert Faulkner, Archibald Sanner, Nathaniel B. Eldred, Guy C. Irvine, Galbraith A. Irvine, Thomas Martin, William A. Irvine, Lansing Wetmore, S. J. Johnson, Abraham Hazleton, Henry Sargent, John King, Walter W. Hoges, and F. W. Brigham, of the county of Warren, are hereby appointed commissioners, and they, or any ten of them, are authorized to open books, at such times and places, and upon such notice as they may deem expedient, for the purpose of receiving subscriptions to the capital stock of the company hereinafter directed to be incorporated, and if any of said commissioners shall resign, neglect to act, be absent, or become legally incapacitated to act, during the continuance of the duties devolved upon them by this act, others may be appointed in their stead, by a majority of the persons named in this act.

SECTION 2. The capital stock of said company shall be two millions of dollars, in shares of fifty dollars each, and which said capital stock may be increased, if the exigencies of the company shall require it, by the said company, to any

Commiss'rs.

To open books.

Capital stock:  
Shares \$50.  
each.

Who may subscribe. sum not exceeding five millions of dollars, and any incorporated company, city, or borough, shall have authority to subscribe thereto, as fully as any individual, and such subscription and stock subscribed by any such incorporated body, shall be represented at elections, and other acts of said company, by any president, mayor, chief officer thereof, or any agent, duly authorized thereby, all which subscription may be required in instalments, as the company may thereafter think proper.

Letters patent. ;

Name, style and title.

Privileges & liabilities.

Seal.

SECTION 3. When two thousand shares or more are subscribed, and five dollars paid on each of said one thousand shares, a majority of the commissioners shall certify, under their hands and seals, the names of the subscribers, and the number of shares subscribed by each, to the Governor of this commonwealth, and thereupon, the Governor shall forthwith, by letters patent, under his hand and the seal of the commonwealth, erect and create the said subscribers, and such others as may thereafter subscribe to the capital stock of said company, and their assigns, into a body politic and corporate, in deed and in law, by the name, style and title of "The Pittsburg, Kittanning and Warren Railroad company," and by that name the said subscribers shall have perpetual succession, and besides all the proper and necessary incidents of a corporation, shall be capable of suing and being sued, of impleading and being impleaded, in all courts of record, of making, using, and altering a common seal, of ordaining, establishing and enforcing all ordinances, regulations and by-laws, necessary, convenient, or proper, for the conducting and governing the said corporation, and generally, to do all and singular, the matters and things lawfully appertaining to the due management and well ordering of the affairs thereof; and that said company shall have the power and right of purchasing, holding, selling, leasing, conveying and encumbering, by judgment, mortgage, or otherwise, all such estates, real, personal and mixed, as may be convenient and proper for the objects and purposes hereinafter set forth.

Organization

SECTION 4. A majority of the commissioners named in this act, or any ten of them, and of such as shall have been substituted under the provisions thereof, shall, as soon as practicable after the reception of the letters patent from the Governor, give them three or more weeks notice, in such newspapers as they, or any ten of them, may select, and such further notice as they may deem advisable, of a time and place for the subscribers to the capital stock of said company to meet, and shall at such time and place, proceed to hold an election, by ballot, and appoint three of the subscri-

bers, (not commissioners,) judges thereof, for the purpose of electing from the stockholders, a president and six managers, for the management of the affairs of said company, who shall continue in office until the day hereinafter fixed for the annual election, and until other officers are elected, under the provisions hereinafter set forth.

SECTION 5. There shall be a general meeting of the stockholders of said company held in the city of Pittsburg, on the first Monday of August of each and every year, for the purpose of electing a president and managers thereof, and of revising, altering, or abrogating any of the by-laws of said company, and of examining the affairs of said company, an exposition of which shall be then submitted to them by the president and managers thereof, of which meeting, at least three weeks notice shall be given publication in such newspapers as said president and managers shall deem best calculated to give full and effectual information, and previous to such election, the board of directors shall appoint three stockholders, not directors, judges of the election.

Annual election, etc.

SECTION 6. It shall be lawful for the said company, their officers, engineers, contractors, and agents, to enter upon any lands, buildings, and enclosures, for the purpose of exploring, surveying, and locating the route of said railroad, or its branches, doing thereto no unnecessary damage, and when the route of said railroad, or any of its branches, shall be determined upon by the said company, it shall be lawful for said company, their agents, officers, engineers, contractors, and servants, at any time to enter upon, take possession of, and use any such lands, buildings, and enclosures, as may be necessary for carrying into effect the purposes of this act, and shall also have power to enter upon any lands adjoining, or in the neighborhood of such route, and to take, dig, and carry away therefrom any stone, gravel, clay, sand, wood, earth, or other materials necessary, for the constructing, maintaining and repairing said railroad, or for constructing any bridges, culverts, viaducts, and other buildings which may be required in carrying into effect the construction, maintaining, and repair of said railroad, or any of its branches, for all which, compensation shall be made to the owner or owners of any such lands and materials, as shall be agreed upon between the parties, or as is hereinafter pointed out.

Right to enter upon lands for locating road, and for materials.

Compensation.

SECTION 7. When the said company cannot agree with the owners of any lands, buildings, enclosures and materials, for the purchase, lease, or compensation, proper for the damage done, or likely to be done or sustained by any such owners of such lands and materials, which it may be necessary for

Mode of ascertaining damages.

said company to enter, occupy, use or pass over, or to take away in the construction and repair of said railroad, or where, by reason of any legal incapacity of any such owner to contract, or in consequence of the absence of any such owners or owner, no such purchase, lease, or compensation, can be agreed upon, the court of Quarter Sessions of the county in which such railroad, or its branches, is constructing, or when the judges, or any of them, necessary to form such court, are incapacitated by sickness, absence, interest, or relationship to any persons concerned, then the court of Quarter Sessions of any adjoining county, on application thereto by petition, either by said company or owner, or any one, in behalf of either, and at the costs and charges of the said company, when the application is made by said company, or when said company are adjudged to pay damages, shall issue their precept to the sheriff of the proper or adjoining county, as said court may deem advisable, commanding said sheriff to summon six discreet and disinterested persons from the proper or adjoining counties, to meet on or adjoining the lands required, or from whence materials are or may be taken, or at some convenient place adjacent, in not less than ten, nor more than twenty days thereafter, giving such reasonable notice as the court may designate, to both parties, as may be best calculated to advise an absent party, and if four or more of said jurors attend, they shall be empannelled, and if four do not attend, the sheriff may summon others, at a day fixed by him for that purpose, or at once, and the said four or more jurors being so empannelled, and sworn or affirmed, the oath or affirmation to be administered by the sheriff, faithfully, justly, and impartially to value the lands and tenements so occupied, used or required, or intended to be used, occupied, or required, for such railroad and branches, and works therewith connected, and all the damages which the owner or owners will sustain, or may have sustained, by reason of the construction, or proposed construction, or repair, or proposed repair of said road, or its branches, as the case may be, taking into consideration the advantages and disadvantages of the same to the owner or owners, according to the best of their knowledge and judgment, and in case of materials taken, or proposed to be taken, for the purposes aforesaid, that they will faithfully, justly, and impartially value the materials so taken, or to be taken, and find the rate of compensation to be paid therefor by said company, taking into consideration the advantages and disadvantages arising to said owner from the construction of said railroad, and the works thereof, and thereupon, the said inquest shall proceed to view the lands and tenements so used, or intended to be used, and the materials used, or intended to be used, or if

necessary, the place whence taken, or intended to be taken, and to hear the evidence of the several parties, and for that purpose shall have power to swear, or direct the swearing or affirming of witnesses, and make report of their proceedings, stating the damages assessed, or compensation adjudged, and to whom payable, and in what manner, to the said court, who, upon confirmation thereof, may order such damages to be paid, or order new inquisitions, until full justice is rendered: *Provided always nevertheless*, That any owner or owners applying for a review, shall be liable for the costs of the proceedings prayed for, in case a report more favorable is not obtained upon such review. Proviso.

SECTION 8. 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 or private roads which they may find expedient to intersect, but it shall be the duty of said company to cause to be made sufficient causeways over any such roads, so intersected, as soon as expedient, so as to enable all persons and vehicles to pass over the railroad with safety and convenience, and to maintain such causeways in good repair, and said company, for the accommodation of all persons owning or possessing land through which said railroad may pass, shall cause to be made good and sufficient causeways, at such convenient places as the owner or occupier may designate, so as to enable such owner and occupier, and others, to pass over the same safely with wagons or other vehicles: *Provided always*, That the said company shall not be obliged to make more than one causeway upon each plantation or lot of ground. Public or private roads not to be obstructed.  
Causeways.

SECTION 9. The said company shall permit at any time, such causeways to be made across said railroad and its branches, at the intersection of any public or private road, as the reviewers laying out the same may deem expedient, and provided the same is so made as not to impede or render inconvenient the passage of the cars and carriages upon said railroad, and the said railroad shall also permit any owner of lands through which the said railroad or its branches may pass, to erect such causeways as the court of Quarter Sessions of the county may adjudge convenient, upon views and reviews, conducted as required by the general road laws of this commonwealth: *And provided*, the same are so constructed as not to impede or render inconvenient the passage of cars and carriages upon such railroad. Causeways.  
Proviso.

SECTION 10. As soon as any portion of said railroad is perfected, the company shall have power to place thereon cars, carriages, or wagons, constructed as they may deem Transportation on the road.

best adapted for the transportation of passengers and commodities to the advantage of the public, and may permit to place such cars and carriages, or wagons thereon, of such construction, and under such limitations and restrictions as they may deem proper, and the said company is hereby authorized to charge and take toll for freight and transportation of passengers, goods, produce, merchandise, and commodities, at rates as follows, viz: On all goods, produce, merchandise, property, and commodities, transported upon the said railroad and its branches, any sum not exceeding ten cents per mile per ton for toll, and five per cent. per ton per mile for transportation, and for the transportation of passengers, not exceeding five cents per mile for each passenger, and the legislature reserves the right to reduce the tolls hereby authorized.

Tolls.

**SECTION 11.** Any person or persons who shall wilfully and maliciously, by any means, injure or destroy any part of the railroad constructed by said company, or any of the works, buildings, vehicles, machines, implements or materials of said company, such persons so offending, shall, on conviction thereof, be punished by fine and imprisonment, in the jail of the proper county, or western penitentiary, at the discretion of the court of Quarter Sessions of the county in which the office is committed.

Penalty for  
injuring the  
railroad.

**SECTION 12.** The stockholder indebted to the company, shall not be authorized to transfer his stock, or any part thereof, or to receive any dividend, or any portion thereof, until such debt is discharged or secured, to the satisfaction of the board of directors, all transfers of stock to be made on the books of the company in the presence of either the president, treasurer, or such other officers as the board of directors may appoint.

Of transfers  
of stock.

**SECTION 13.** If after thirty days notice in the public papers, of the time and place appointed for the payment of any instalment of the said capital stock, any stockholder shall neglect to pay such instalment, at the place and time 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 interest at the rate of two per cent. per month, from the time such instalment was required to be paid, and if such stockholder shall neglect the payment thereof, for the space of sixty days, the said company shall have the right to declare the said stock, and all payments made thereon, forfeited to the company, and after such declaration or forfeiture, the said stock and payments shall be vested in said company, to be by said company sold for the use of said company, or disposed of as

Penalty for  
neglecting to  
pay instal-  
ments.

Forfeiture.

said company shall deem advisable: *Provided always*, That *Proviso*, the company shall have the power to sue for and recover such instalment, at their election.

SECTION 14. The president and managers of said company shall annually, or semi-annually, declare and make *Dividends*, such dividend as they may deem proper, of the nett profits arising from the resources of said company, after deducting the current and probable contingent expenses, and they shall divide the same amongst the proprietors of the stock of said company, in proper proportions to their respective shares: *Proviso*. *Provided always*, That until the completion of the main line of said railroad, the said president and managers shall have the power, if they deem it expedient, to apply the whole of the profits aforesaid to the construction and completion of said road: *And provided also*, That no declaration of *2d Proviso*, dividend shall be so made as to impair the capital stock of said company, and the said company shall pay annually into the treasury of the commonwealth, a tax of eight per centum *Tax*, on all dividends which may exceed twelve per centum on the capital stock actually paid in.

SECTION 15. The commissioners nominated in the first *Commissioners* section of this act, shall have the power to manage and con- *to act until* duct the affairs of the company hereby incorporated, until *election*, the officers thereof shall be elected, as directed in this act.

SECTION 16. *Provided*, That the said company shall not, *Banking, &c.* directly or indirectly, engage in any banking or manufac- *prohibited*, turing concerns or business.

SECTION 17. If the president, managers and company, *Time of com-* shall not proceed to carry on said work within five years *mencement* from the passage of this act, and shall not complete the same *and comple-* as aforesaid, in ten years, according to the true intent and *tion, etc.* meaning of this act, or if after the completion of the said road, the said corporation shall suffer the same to go to decay, and be impassable for the term of two years, then this charter shall become null and void, except so far as compels said company to make reparation for damages.

SECTION 18. If the said company shall at any time misuse *Legislature* or abuse any of the privileges hereby granted, the legislature *may resume* may resume all and singular, the rights and privileges hereby *privileges, &* granted to the said company; and the legislature reserves *purchase the* the right to purchase the right of said company, and the rail- *road,* road, with its appurtenances, at any time after thirty years from the passage of this act, by paying to said company a sum of money which, together with the tolls received, shall equal the cost and expenses of said railroad, with an interest of eight per centum per annum thereon.

**Allegheeny river not to be obstructed**      **SECTION 19.** The said company shall not construct their works in such manner as to prevent the improvement of the said Allegheeny river, by clearing the channel thereof, or by slack water and canals, or either: *Provided*, The same be done by the commonwealth.

**Slack water navigation.**      **SECTION 20.** And the said company shall have the privilege of making and constructing a slack water navigation of the Allegheeny river, or canalizing the same, at such places, and for such distances, as they may deem best calculated for their interests: *Provided however*, That the state may at any time after thirty years, purchase the right of the said company to their works, upon paying the said company the cost thereof, including all charges, and interest on the same at the rate of eight per cent. per annum.

**Power to locate and construct.**      **SECTION 21.** The president and managers of the Pittsburg, Kittanning and Warren Railroad company, shall have full power and authority to locate and construct a railroad, with as many tracks as they may deem expedient, with all necessary fixtures for the regulation and well being of the same, from the Allegheeny river, at the borough of Franklin, to the Ohio river, at or near the borough of Beaver, by the most direct and eligible route, subjected to all the privileges and penalties provided for and enjoined by the act incorporating said company.

LEWIS DEWART,

Speaker of the House of Representatives.

J. R. BURDEN,

Speaker of the Senate.

APPROVED—The fourth day of April, one thousand eight hundred and thirty-seven.

JOS : RITNER

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No. 106.

### An Act

Appropriating the state dividends of stock held in the Youngmans-town and Bellefonte Turnpike Road, in aid of the Lewisburg and Youngmanstown Turnpike Road, and for the preservation of the Cumberland road, and for other purposes.

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