

No. 110.

An Act

To incorporate the Chambersburg and Gettysburg Railroad company, and for other purposes.

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 Joseph Chambers, George A. Madeira, Charles Hutz, John Radebaugh, George Brown, John Thompson, John Darby, Alexander J. Thompson, Jacob Oyster, James Kerr, David Bigham, Samuel Renfrew, Robert M'Cracken, John Flannagan, David Newman, Jacob Lyon, Jacob Sholl, Peter Mark, and Henry Heitzelman, Jr., are hereby appointed commissioners, and they, or any three of them, are authorized to open books, at such times, 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.

Commiss'rs.

To provide books.

Capital stock
500,000 dols.
Shares 50
dollars each.

Capital may
be increased.

SECTION 2. The capital stock of said company shall be five hundred thousand 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 sum not exceeding eight hundred thousand 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.

SECTION 3. When one 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

Letters patent.

commonwealth, erect and create the said subscribers, and such others as may thereafter subscribe to the capital stock of the said company, and their assigns, into a body politic and corporate, in deed and in law, by the name, style and title of "The Chambersburg and Gettysburg 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.

Name, style and title.

Privileges & liabilities.

Seal.

SECTION 4. A majority of the commissioners named in this act, 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 three or more weeks notice, in at least two of the newspapers of the borough of Chambersburg, 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 subscribers, 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, a majority of whom shall be citizens of Franklin county, 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.

Organization

SECTION 5. There shall be a general meeting of the stockholders of said company held in the borough of Chambersburg, 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, by publication.

Annual election.

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.

Ratio of
votes.

SECTION 6. On all occasions wherein a vote of the stockholders of said company is to be taken, the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he, she, or they, shall hold, in the proportion following, that is to say: for each share not exceeding two shares, one vote, for every two shares above two and not exceeding ten, 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, as aforesaid, shall confer any additional right of voting, such shares to be held by the person voting, bona fide in his own right, or as husband, executor, administrator, guardian, trustee or assignee, and that corporations may vote by their chief or other officer, or agent, duly appointed: *Provided always*, That no share of stock shall be entitled to a right of suffrage, which shall not have been held by the person offering to vote, at least thirty days before the day of election; that no share of stock shall confer a right to vote, on which any arrearages shall be due and unpaid at the time of the election, and that in all cases where votes shall be given by proxy, the proxies shall have been obtained and bear date within thirty days of the time of election.

Proviso.

Powers,
rights and
privileges to
make and re-
pair railroad.

SECTION 7. The Chambersburg and Gettysburg Railroad company hereby directed to be incorporated, as soon as the letters patent shall issue, as directed by this act, shall be, and they are hereby invested with all the rights, powers, and privileges necessary for the construction and repair of a railroad from the borough of Chambersburg, or its vicinity, to some suitable point or points on the Wrightsville and Gettysburg Railroad.

Right to
enter upon
lands to lo-
cate, and for
materials to
make the
road.

SECTION 8. It shall be lawful for the said company, their officers, engineers, contractors and agents, to enter upon any lands, for the purpose of exploring, surveying and locating the route of said railroad, doing thereto no unnecessary damage; and when the route of said railroad 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 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, for all which, compensation shall be made to the owner or owners of any such lands or materials, as shall be agreed upon between the parties, or as is hereinafter pointed out.

SECTION 9. When the said company cannot agree with the owners of any lands 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 said company to enter, occupy, use, or pass over or 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 such owner or owners, no such purchase, lease or compensation can be agreed upon, the court of Quarter Sessions of the county in which said 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 by 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 twenty 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 twelve or more of said jurors attend, they shall be empannelled, and if twelve do not attend, the sheriff may summon others, at a day fixed by him for that purpose, or at once, and the said twelve, 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 works therewith connected, and all the damages which the owner or owners

Mode of
ascertaining
and making
compensation
for damages.

will sustain, or may have sustained, by reason of the construction, or proposed construction or repair, or proposed repair of said road, 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.

Public and private roads not to be obstructed.

Causeways to be made.

Proviso.

2d Proviso.

SECTION 10. 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 causeway 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 convenient places, so as to enable such owner and occupier, and others, to pass over the same safely with wagons and 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: *Provided further*, That this act shall not be so construed as to prevent owners of land through whose property the said railroad passes, from constructing a causeway

or crossing place over said railroad, but the same to be such as is usually made by said company.

SECTION 11. The said company shall permit at any time, Causeways. such causeway to be made across said railroad 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 Proviso. same be constructed so as not to impede or render inconvenient the passage of cars and carriages upon such railroad.

SECTION 12. As soon as any portion of said railroad is Transportation. perfected, the company shall have power to place thereon cars, carriages, or wagons, constructed as they may deem best adapted for the transportation of passengers and commodities, to the advantage of the public, and may permit individuals 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 Toll rates. 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, any sum not exceeding four cents per mile per ton for toll, and three cents per ton per mile for transportation, and for the transportation of passengers not exceeding three cents per mile for each passenger; and the legislature reserves the right to reduce the tolls hereby authorized.

SECTION 13. If 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 not exceeding two years, at the discretion of the court of Quarter Sessions of the county in which the offence is committed. Penalty for injuring the railroad.

SECTION 14. 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 directors, in the presence of either the president, treasurer, or such other officer as the board of directors may appoint. Stock to be security for debts due the company. Of transfer.

SECTION 15. 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, his executor, administrator, guardian or trustee, shall neglect Penalty for neglecting to pay instalments.

to pay such instalment, at the place and time appointed, for the space of thirty days after the time so appointed, every such stockholder, his executor, administrator, guardian or trustee, shall, in addition to the instalment so called for, pay ten per cent. thereon, from the time such instalment was required to be paid, and the said company shall have the right to declare the said stock, and all the 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 thereof, as said company shall deem advisable: *Provided always*, That the company shall have the power to sue for and recover such instalments at their election.

Forfeiture.

Proviso.

Dividends.

Proviso.

2d Proviso.

Commiss'rs.
to act until
officers be
elected.

Time of com-
mencing and
completing
the work, &c.

SECTION 16. The president and managers of said company shall annually, or semi-annually, declare and make 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: *Provided always*, That 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 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 on all dividends which may exceed six per centum on the capital stock actually paid in.

SECTION 17. The commissioners nominated in the first section of this act, shall have the power to manage and conduct the affairs of the company hereby incorporated, until the officers thereof shall be elected, as directed in this act.

SECTION 18. *Provided*, That the said company shall not, directly or indirectly, engage in any banking or manufacturing concerns or business.

SECTION 19. If the president, managers and company, shall not proceed to carry on said work within five years from the passage of this act, and shall not complete the same as aforesaid, in ten years, according to the true intent and 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 20. 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 said company; and the legislature reserves the right to purchase the right of said company, and the railroad, with its appurtenances, at any time after thirty years from the passage of this act, by paying to said company a sum of money which, together with the tolls received, shall equal the cost and expenses of said railroad, with an interest of eight per centum per annum thereon.

Legislature reserve the right to resume & purchase the rights of the company.

SECTION 21. That Joseph B. Anthony, John H. Cowden, Ellis Lewis, Samuel H. Lloyd, Thomas C. Parsons, James Armstrong, William F. Packer, Tunison Coryell, Joseph Hall, Anson V. Parsons, Jacob Grafius, Apollos Woodward, James Taylor, Peter Vanderbelt, jr. and Charles Low, or a majority of them, be, and they are hereby authorized and empowered to locate and construct a railroad, with single or double track, as they may deem expedient, from the point of termination of the Williamsport and Elmira railroad, at the line of the borough of Williamsport, through the said borough, to the said basin of the Pennsylvania canal, adjacent, and that all the persons above named, who shall consent in writing to construct the said road, and commence the same within two years from and after the passing of this act, and their successors, shall be a corporation, by the name and style of the "Williamsport Railroad company," and shall possess all the powers and privileges, and be subject to all the regulations and restrictions now provided by-law for the Williamsport and Elmira Railroad company, aforesaid: *Provided*, That the town council of the borough of Williamsport, shall have full power and authority, by ordinance, duly enacted and promulgated, to regulate the speed at which locomotives, cars, wagons, or other vehicles, shall pass upon the said road, within the corporate limits of said borough, in such manner that no injury shall occur to the property or inhabitants of the same.

Williamsport railroad co. incorporated.

Time of commencing the work.

Proviso.

SECTION 22. That John Dawson, Esq. Moses Nixon, John Morrison and John Kennedy Duncan, are hereby appointed commissioners, to do and perform the several things hereinafter mentioned, that is to say; they shall, on or before the first Monday of May next, procure one or more books, and enter in each of them as follows: "We whose names are hereunto subscribed, do promise to pay unto the president, managers and company of the Fayette County Turnpike Road, 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 presi-

Fayette co. Turnpike Road company.

To procure books.

Form of subscription.

dent and managers of said company, in pursuance of an act of the general assembly of this commonwealth, by which said company is incorporated, for the purpose of making an artificial road from Monroe or Uniontown, in Fayette county, to the Virginia State Line, near Springhill Furnace, in Springhill township, Fayette county; Witness our hands, the day of , Anno Domini, one thousand eight hundred and thirty-seven," and shall thereupon give notice, in one or more of the public papers printed in Uniontown, for one calendar month at least, of the times and places when and where the said books shall be open to receive subscriptions for the stock of said company, at which respective times and places, some one or more of said commissioners shall attend, and permit all persons of lawful age, who shall offer to subscribe in said books, in their own name or names; or in the name or names of any other person or persons who shall duly authorize the same, for any number of shares of the said stock; and the said books shall be kept open respectively for the purpose aforesaid, at least six hours in every juridical day, for the space of six days, or until the said books so opened, shall have at least forty shares therein subscribed, and if at the expiration of the said six days, the books aforesaid, or any one of them, shall not have the number of shares aforesaid therein subscribed, the said commissioners respectively having charge of said books, may adjourn from time to time, and transfer the said books from place to place, until the whole number of shares shall be subscribed, of which adjournment and transfers, the commissioners aforesaid may, if they think proper, give public notice, and when the whole number of shares subscribed in all the books, shall amount to four hundred shares, the same shall be closed.

Who may
subscribe.

400 shares.

SECTION 23. When fifteen or more persons shall have subscribed one hundred or more shares of the said stock, the commissioners, or any two or more of them, shall certify, under their hands and seals, the names of the subscribers, and the number of shares subscribed by each, to the Governor, and thereupon, it shall and may be lawful for the Governor, by letters patent, under his hand, and the seal of the state, to create and erect the subscribers, and if the said subscription be not full at the time, then also those who shall afterwards subscribe to and for the number of shares aforesaid, into a body politic and corporate, by the name, and style and title of "The president, managers and company of the Fayette county Turnpike road," and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall

Letters pa-
tent.

Name, style
and title.

be capable of taking and holding their capital stock, and the increase and profits thereof, and of enlarging the same from time to time, by new subscriptions, in such manner and form as they shall think, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing, taking and holding, to them and their successors and assigns, and of selling, transferring and conveying, in fee simple, or for any less estate, all such lands, tenements, hereditaments and estates, real and personal, as shall be necessary to them in the prosecution of their works, or for the collection of their tolls, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do: *Provided always,* That if the said company shall at any time issue any note or notes, in the nature or manner of bank notes, or shall transact any business in the nature or manner of banking, then, in either of those cases, their chartered privileges shall cease, and revert to this commonwealth.

SECTION 24. The commissioners, as soon as may be after said letters patent shall be sealed and obtained, shall give notice, in one or more papers printed in the said Union-town, of a time and place by them to be appointed, and less than thirty days from the publication of the first notice, at which time and place, the said subscribers shall proceed to organize the said corporation; and shall choose, by a majority of votes of the subscribers, by ballot, to be delivered in person, or by proxy duly authorized, one president, four managers, one treasurer, and one secretary, to conduct the business of said company for one year, and from thence until the next annual election, and until their successors shall be chosen, and organized agreeably to the provisions of this act, and in case of the death, removal out of the county of Fayette, or resignation of any president or manager, treasurer or secretary, the board of managers may and shall choose another stockholder to supply the vacancy, until the next annual election of said company, and the said president and managers so to be chosen, and their successors, may and shall make such by-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this state, or of the United States, as shall be necessary for the well ordering of the affairs of the said company, and generally, shall have like powers, authorities and privileges, and be subject to all the duties, qualifications, restrictions, penalties, fines and forfeitures, and be entitled to like tolls and profits, in proportion to the distance, as are given and granted to the president, managers and company of the Pittsburg and Greensburg turnpike road, by the several acts of this

Privileges & liabilities.

Proviso.

Organization

To have like powers and be subject to like duties, etc., of the Pittsburg and Greensburg Turnpike road comp'y.

Proviso. commonwealth: *Provided*, If the said company shall not proceed to carry on the said work in five years after the passage of this act, or shall not within seven years thereafter complete the said road, according to the true intent and meaning of this act, then, in either of those cases, it shall and may be lawful for the legislature of this commonwealth, to resume all and singular, the rights, privileges, liberties and franchises by this act granted to said company.

Power to extend the road to N. Haven. SECTION 25. That the said commissioners shall have power to extend said road to New Haven, on the Youghiogheny river, in said Fayette county: *Provided*, Such extension be required by the citizens, and sufficient stock be subscribed for that purpose.

Summit Coal comp'y. may hold land in Schuylkill county. SECTION 26. That the second section of an act entitled "An act to incorporate the Summit Coal company," approved the eighteenth day of March, A. D. one thousand eight hundred and thirty-six, be so amended that said company may hold land in Schuylkill county: *Provided*, The same be within two miles of the Luzerne county line.

LEWIS DEWART,

Speaker of the House of Representatives.

J. R. BURDEN,

Speaker of the Senate.

APPROVED—The twentieth day of May, one thousand eight hundred and thirty-seven.

JOS : RITNER.