

but not exceeding one dollar on every hundred dollars to them respectively insured, and no member shall be required to pay for any loss occasioned by fire, at any time, more than one dollar on every hundred dollars insured in said company in addition to his deposit note, nor more than that amount for any such loss after his said note shall have been paid in and expended, but any member upon payment of the whole of his deposit note, and surrendering his policy, before any subsequent expense or loss has occurred, may be discharged from said company.

SECTION 12. No policy shall be issued by said company till application be made for insurance for two hundred thousand dollars, at least. Policies

SECTION 13. No insurance shall be made by said company for a longer period than seven years. Insurance

SECTION 14. This act shall take effect immediately after its passage, and shall continue in force twenty years, but the legislature of this commonwealth may at any time alter, modify or annul its provisions. Continue 20 years

WM. HOPKINS,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—This twelfth day of June, Anno Domini eighteen hundred and thirty-nine.

DAVID R. PORTER.

No. 121.

AN ACT

To incorporate the Towanda Rail Road and Coal 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 Bartholomew Wistar, William L. Newbold, Daniel Trotter, Charles Barrington, Robert Bell, Charles Holmes, Thomas Hayes, David Cash, John N. Weston, David M. Bull, Henry Drinker, James C. Biddle, Thomas Elliott, Nathaniel Clapp, James P. Bull, Gordon F. Mason, and their associates, successors and assigns, be and they are hereby constituted a body politic and corporate, by the name, style and title, of the Towanda Rail Road and Coal Corporators

Privileges and franchises	Company, for the purpose of constructing a rail road as hereinafter is provided, and also, for the purpose of mining coal and for transacting the usual business of companies engaged in mining, transporting, and selling coal, and the other products of coal lands, and the said corporation by the said name is hereby declared and made capable in law to sue and be sued, to plead and be impleaded, to have a common seal and the same to alter and renew at pleasure, to make
Seal	rules and by-laws for the regulation and management of the said corporation, consistent with the laws of the United States and of this commonwealth, and generally to do and execute for the well being of said company whatever shall lawfully pertain to bodies politic. <i>Provided</i> , That nothing herein contained shall be considered as in any way giving to said
Proviso	company any banking privileges, or any other privileges or franchises but such as are incident to making and maintaining said road, and the conveyance of passengers, goods, and commodities thereon, and the transaction of the business of coal companies, but they shall be exclusively confined to the operations pertaining to the business aforesaid, according to the true intent and meaning of this act. <i>And provided also</i> , That each
Banking prohibited	stockholder shall be liable in his individual capacity for the debts, and the performance of all contracts entered into by the said company, to the amount of the balance unpaid on the stock of said stockholder.
2d proviso	SECTION 2. The said company shall have the right to hold, either by purchase or lease, not exceeding three thousand acres of land at any one time, the whole to be within the county of Bradford, in the commonwealth of Pennsylvania, and the same or any part thereof, to sell or otherwise dispose of, as the interest of the company may require. <i>Provided</i> ,
Liability of stockholders	That the said company may hold as above, such lot or lots of land not exceeding five acres in any one place, as may be found convenient as places of deposit in the transportation and sale of the products of their mines.
Company to hold 3000 acres of land	SECTION 3. The capital stock of said company shall be and consist of three hundred thousand dollars, and shall be divided into six thousand shares of fifty dollars each—which capital stock shall only be employed in constructing rail roads, in the holding and purchasing the lands aforesaid with the improvements, if any, thereon, and in constructing such other improvements, building cars, boats, engines and machinery, as may be necessary or useful for constructing said rail road and for the mining, transportation and sale of coal, and in the payments of such salaries, wages, and other expenditures as shall be requisite for the purposes aforesaid of the company, and said stock shall be assignable, and transferable, according to such rules as the board of directors shall establish.
Proviso	
Capital stock No. of shares How stock to employed	

SECTION 4. When the above named Bartholomew Wistar, William L. Newbold, Daniel Trotter, Charles Barrington, Robert Bell, Charles Holmes, Thomas Hayes, David Cash, John N. Weston, James P. Bull, Gordon F. Mason, David M. Bull, Henry Drinker, James C. Biddle, Thomas Elliott, Nathaniel Clapp, and their associates, shall have subscribed the whole number of shares aforesaid, and actually paid and expended not less than fifteen per cent of the capital stock aforesaid, in purchasing lands and in such other investments as are authorized by this act for the use of said company, the Governor on due evidence thereof shall by letters patent under his hand and the seal of the State create and erect the said Bartholomew Wistar, William L. Newbold, Daniel Trotter, Charles Barrington, Robert Bell, Charles Holmes, Thomas Hayes, David Cash, John N. Weston, James P. Bull, Gordon F. Mason, David M. Bull, Henry Drinker, James C. Biddle, Thomas Elliott, Nathaniel Clapp, and their associates, successors and assigns, into one body corporate by the name, style and title, of the Towanda rail road and coal company.

Letters patent

Name and style

SECTION 5. The affairs of the said company shall be managed by seven directors, to be chosen annually from the stockholders, the first election shall be held in the city of Philadelphia within sixty days after letters patent aforesaid shall have issued, of which election public notice shall be given by four or more of the corporators named in the first section of this act at least two weeks prior thereto, in one newspaper printed in the county of Bradford, and two or more newspaper printed in the city of Philadelphia, and the subsequent elections shall be held annually at such convenient time and place as the directors shall determine, of which thirty day's previous notice shall in like manner be given by the president of said company, or by any five of the directors. *Provided*, That in the event of a failure to hold such election the former directors may continue in office for a period not exceeding six months, or until such election shall be held.

Directors
To be chosen
annually

Election notice

Proviso
Failure to
hold election

SECTION 6. The election for directors shall be held by ballot, and each stockholder shall be entitled to vote according to the number of shares held by said stockholder in the proportion following, that is to say: for each share not exceeding four 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; for every twenty shares above one hundred, one vote. No shares shall confer a right of voting which shall not have been transferred at least three calendar months prior to the day of election, nor, unless it be bona fide held or owned by the person in whose name it appears in his own right or in that of his wife,

Mode of election

Ratio of votes

- or for his or her sole use and benefit, or, as executor or administrator, trustee or guardian, or in the right of and for the use and benefit of some copartnership, society or corporation, of which he or she may be a member, and all votes by proxy shall be on such terms and conditions as are prescribed by the act of twenty-eighth of March, one thousand eight hundred and twenty, entitled "an Act to regulate proxies."
- Proxies**
- President**
- Officers and agents**
- Vacancies**
- Instalments**
- Penalty for neglect of payment**
- Proviso**
- Dividends to be declared**
- SECTION 7.** The directors shall as soon as convenient, after their election, choose one of their number as president to serve for one year. They shall also have power to appoint, as occasion may require, all other officers and agents of the company, and to supply vacancies in the board arising from death, resignation, or otherwise, until the next annual election; at all meetings of the board, four members shall form a quorum to transact business.
- SECTION 8.** The directors may, from time to time, call in, on thirty days notice thereof, in at least one newspaper printed in the county of Bradford, and two daily papers printed in the city of Philadelphia, such instalments on the stock of said company as they may judge best, not exceeding twenty per cent. thereof, at any one time and place appointed; and if any instalment on the stock so called in, shall remain unpaid for the space of thirty days after the time so appointed, every such stockholder, or his or her assignee, shall, in addition to the instalments so called for, pay at the rate of two per centum per month for the delay of such payment; and if the same, and additional penalty remain unpaid, for such length of time as that the accumulated penalty shall become equal to the sums before paid in part and on account of such shares, the same shall be forfeited to the said company, and may be sold to any person or persons willing to purchase for such price as can be obtained for the same, or in default of payment by any stockholder; of any such instalment, as aforesaid, the president and directors may, at their election, cause suit to be brought before an alderman or justice of the peace, or in any court having competent jurisdiction for the recovery of the same, together with the penalty aforesaid: *Provided*, That no stockholder, whether an original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, on whose share or shares any instalments or arrearages may be due and payable more than thirty days previously to said election or meeting.
- SECTION 9.** Dividends of so much of the profits of the company, as shall appear to the directors advisable, shall be declared twice a year and paid to the stockholders, or their legal representatives on demand, at any time after the expiration of ten days after having been declared; but said dividend shall in no case exceed the amount of the nett profit

actually acquired by the company, so that the capital stock shall never be thereby impaired; and if any dividend shall be declared which shall impair the capital stock of said company, the directors consenting thereto, shall be liable in their individual capacities, to said company, for the amount of stock so divided, and each director present, when such dividend shall be declared, shall be adjudged consenting thereto, unless he shall forthwith give public notice to the stockholders of the declaring of such dividend: *Provided*, That whenever the dividends shall exceed six per cent. per annum, the said company shall pay a tax of eight per cent. on all such dividends into the treasury of the state for the purposes of education; and the president or secretary of said company shall annually, in the month of January, transmit to the legislature, under oath or affirmation, a statement of the receipts and expenditures thereof, and of any dividends that may have been declared during the preceding year.

SECTION 10. The company hereby incorporated shall have power to survey, lay down, and ascertain such route as they shall deem expedient for a rail-road, with double or single track, beginning at a convenient point on the Pennsylvania canal, at or near the borough of Towanda, in Bradford county, and to extend the same to the coal lands in Franklin township, in said county, and shall have the right of extending said road, or of constructing lateral rail-roads thereupon to such coal mine, in said township, or its vicinity, as from time to time may be found expedient, with the right also to extend the same so as to form a junction with the Williamsport and Elmira rail-road, at such part thereof as they may find practicable; and the said rail-road shall not pass through any burial ground, place of public worship, or dwelling house, without the consent of the owner; and the said company shall, within six months after ascertaining the route of said rail-road, cause an accurate survey of the lines of said road to be made, a map or plot of which survey they shall cause to be filed in the office of the secretary of state, which map or plot, or certified copy thereof, shall be sufficient evidence of the route of said road, which may then be opened, and all the expenses thereof shall be defrayed by said company.

SECTION 11. That the said company shall have power by themselves or agents to enter in and upon such lands as may be necessary to make the rail-road, aforesaid; and also have liberty of taking from any land in the neighborhood, gravel, stone, wood, or other materials necessary for the construction of said rail-road, paying, if the owner of said land and said company can agree, the damages they shall do to said lands, or if they cannot agree thereon, the damages shall be ascertained in the manner hereinafter prescribed, as to the

compensation for lands over which said rail-road shall be laid.

SECTION 12. That whenever it shall be necessary for the said company to enter in and upon, and occupy for the purpose of making of said rail-road, any land upon which the same may be located, if the owner or owners of said land shall refuse to permit such entry and occupation, and the parties cannot agree upon the compensation to be made for any injury, or supposed injury, that may be done to said land, by such entry and occupation, 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 said corporation, to award a *venire* directed to the sheriff of the county, requiring him to summon a jury of disinterested men to view, examine, and survey the said lands, tenements, or hereditaments, and estimate the injury or damages if any, that in their opinion will be sustained, as aforesaid, by reason of said rail-road, and report the same, under their oaths and affirmations, to the said court; which report being confirmed by the said court, judgment shall be entered thereon, and the said sheriff and jurors shall be entitled to the like fees for their services, as are allowed by law in other cases of special juries, to be paid by said company; and it shall be the duty of the said jury, in estimating such injury or damage, to take into consideration the advantage that will be derived to the said owner or owners of such lands, from said rail-road: *Provided*, That either party may appeal to the court within thirty days after such report shall 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 filing of such report or inquisition, and the confirmation thereof, or upon final judgment an appeal therefrom, and the said company paying to such owner the amount in said report or judgment specified, in full compensation for the 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, or on account of such injury: *Provided*, That the payment of damages, aforesaid, for the land through which the said road may be laid, shall be made before the said company, or any person under their direction, or in their employ, shall be authorized to enter upon or break ground in the premises, except for the purpose of surveying and laying out said road, unless the consent of the owner or owners, be first obtained.

SECTION 13. That the said rail-road shall be so constructed as not to impede or obstruct the free use or passage of any public road or roads which may cross or enter the same, and

Mode of ascertaining damages

Proviso

Right of appeal and the mode

2nd proviso

Damages to be paid before entry upon land

Public roads not to be impeded

in all cases where the said rail-road may cross, in any manner interfere with any existing public road, the said company shall make, or cause to be made, a good and sufficient causeway or causeways, to enable persons passing or travelling said public roads, to cross and pass under or over the said rail-road; and if the said company shall neglect or refuse to keep such way or causeways in good repair, they shall be liable to a penalty of ten dollars for every day the same shall be so neglected or refused to be repaired, to be recovered by the supervisors 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 all actions at the suit of any person who may be aggrieved thereby.

Duty of company

Penalty for neglect

Duty of supervisors

SECTION 14. That for the accommodation of all persons owning or possessing land through which the said rail road may pass, it shall be the duty of the said company to make or cause to be made a good and sufficient causeway or causeways wherever the same may be necessary to enable the occupant or occupants of said lands to cross or pass over the same with wagons, carts and implements of husbandry, as occasion may require, and the said causeway or causeways when so made, shall be maintained and kept in good repair by said company; and if the said company shall neglect or refuse on request to make such causeway or causeways, or when made, to keep the same in good order, the said company shall be liable to pay any person aggrieved thereby, all damages sustained by such person in consequence of such neglect or refusal, to be paid for and recovered before any magistrate or court having cognizance thereof. *Provided*, That the said company shall in no case be required to make or cause to be made more than one causeway through each plantation or lot of land for the accommodation of any one person owning or possessing land through which said rail road may pass; and when any public road shall cross said rail road, the person owning or possessing land through which said public road shall pass, shall not be entitled to require the company to erect or keep in repair any causeway or bridges for the accommodation of the occupant of said land. *Provided further*, 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 subsequent to the passage of this act, then, and in such case, the company shall be forever thereafter exonerated from the duty of keeping the said bridge or causeway in repair.

Private causeways to be made

To be kept in repair

Provido

2nd proviso

SECTION 15. No suit or action shall be brought, or prosecuted, by any person or persons, for any penalties incurred under this act, unless such suit or action shall be commenced within ten months next after the offence shall be committed

Suits for penalties when to be commenced

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.

Penalty for injuring work SECTION 16. If any person or persons shall wilfully and knowingly break, injure or destroy the rail road, or any part thereof, to be erected by the said company, in pursuance of this act, he, she or they shall forfeit and pay to the said company, three times the actual damages so sustained, to be sued for and recovered with costs of suit, in any court having cognizance thereof, by action of debt in the name and for the use of said company.

Tolls SECTION 17. The said company shall be entitled to receive toll from all persons travelling on said road, that is to say: on each ton of coal, one and a half cents per mile; on each ton of salt gypsum, and lime, two cents per mile; on brick, two cents per ton per mile; lumber square and round, for every hundred feet solid, two cents; on boards, planks, scantling or other sawed stuff reduced to inch stuff, two cents; for every thousand feet per mile, on shingles per thousand, one and a half cents per mile; on staves and heading for pipes and hogsheads per mile, two cents per thousand staves, and headings for barrels and other vessels of less size, one cent per mile per thousand; for all other articles not enumerated, three cents per ton per mile; on all single and detached articles, weighing less than a ton, it shall be lawful to charge and receive on the transports thereof an advance of ten per cent on the rates as above stated.

Actions against company SECTION 18. That in all suits or actions which may be brought against said company, the service of process upon any manager, toll-gatherer or other officer of the company, shall be as good and available in law as if made on the president thereof.

Road to be public highway SECTION 19. That the said road shall be a public highway on the completion of a section of five miles or more of the rail road, all transportation on the same of whatever nature or kind, shall be carried on and conducted under the superintendence and direction of said company, who shall make rules for the regulation of all travelling and transportation on the same, and alter the same as they may deem expedient; and it shall be lawful for any company that may be hereafter incorporated by any law of this commonwealth, or any individual or individuals, to intersect said rail road or rail roads, at any place where it may be deemed expedient, so that the same may be in such manner as not to injure the same.

Rules and regulations

Road may be intersected

SECTION 20. This act shall continue in force until the first day of May, in the year of our Lord eighteen hundred

and sixty-four and no longer; and if the said corporation shall not commence the construction of the said rail road within the term of three years, and complete the same as far as the coal lands in Franklin township, within seven years from the passage of this act, then this charter shall be null and void.

Duration of
charter
Time of com-
mencement
and comple-
tion

SECTION 21. If any increase of capital stock be deemed necessary by the stockholders to complete the said rail road, or to extend the same, it may be lawful for the said company, at a stated or special meeting, to be convened for the purpose, to increase the number of shares, so that in the whole they shall not exceed ten thousand shares, and to receive and demand for shares so subscribed the moneys in like manner and under like penalties as is hereinbefore provided for the original subscription, or as shall be provided for by their by-laws.

Increase of
capital stock

SECTION 22. The legislature hereby reserve the right to amend, alter and repeal the charter hereby granted whenever they think proper, in such manner, however, that no injustice may be done to the corporators, and the legislature reserve the right to purchase the said road at any time after twenty years from the passage of this act, by paying to the said company a sum of money, which, together with the tolls received, shall equal the cost and expenses of said rail road, with an interest of six per cent. per annum thereon.

Right to alter,
repeal, amend
purchase, &c.
reserved

WM. HOPKINS,

Speaker of the House of Representatives.

P. S. MICHLER,

Speaker of the Senate, pro. tem.

APPROVED—The twelfth day of June, eighteen hundred and thirty-nine.

DAVID R. PORTER.