

authorized and required to pay to Polly Lanhar, and Catharine Shade, of Franklin county, or to their legal representatives, the sum of two hundred dollars, as compensation in full for donation land due to George Snyder, a soldier of the revolutionary war, and father of the said Polly Lanhar, and Catharine Shade.

WM. A. CRABB,

Speaker of the House of Representatives.

JN. H. EWING,

Speaker of the Senate.

APPROVED—The fifth day of May, one thousand eight hundred and forty-one.

DAVID R. PORTER.

[No. 122.]

AN ACT

To Incorporate the Wilkesburg 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* Commis'rs
of the same, That James Kelly, Abraham Horbach, Harmar Denny, William Peebles, William Noble, John Roup, Francis Bailey, (Liberty street,) James Dunlop, Christian Painter, Thomas Scott, John Shoenberger, William Wilkins and Robert Graham, be and they are hereby appointed commissioners; and they, or any three of them are authorized to open books at such times and places and upon such notices as they may deem expedient, for the purpose of receiving subscriptions to the capital stock of the company hereinafter directed to be incorporated, and to keep open the said books until such an amount of the said stock is subscribed as may be necessary to its incorporation. Stock, sub-
scription
Provided, That the same are not kept open longer than two years from the time of their first being opened. 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, and that moreover the sum of two dollars shall be paid on each share when subscribed. Capital stock
SECTION 2. That the capital stock of said company shall be one hundred thousand dollars, in shares of twenty-five dollars

each, which said capital stock may be increased by the said company, if their exigencies shall require it, to any sum not exceeding two 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 incorporated body shall be represented at elections, and other acts of said company, by any president, mayor, chief officer thereof, or other agent duly authorized thereby, all which subscriptions may be required in instalments, as the company may thereafter think proper. *Provided*, That not more than one third of the money subscribed shall be required in any one year.

SECTION 3. That as soon as one thousand shares are subscribed to the capital stock of said company, and a majority of the commissioners named in the act shall certify to the Governor of the Commonwealth, under their hands and seals, the names of the subscribers, and the number of shares by them respectively subscribed, together with the fact that two dollars have been paid on each share so subscribed, the said 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 corporate and politic, in deed and in law, by the name, style and title of "The Wilksburg 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 and 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 incumbering by judgment, mortgage or otherwise, all such estates, real, personal and mixed, as may be necessary and proper for the objects and purposes hereinafter set forth.

SECTION 4. That a majority of the commissioners who shall be then in office 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 city of Pittsburg, 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 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. That it shall be the duty of the president and managers, as speedily as convenient after their organization, to make such by-laws as they may deem proper for the management and regulation of said company, and the same from time to time thereafter to add to, alter or amend, as in their judgment may best promote the interests of the said company. *Provided, however,* That the said by-laws may, at any time, be altered or abrogated by a general meeting of the stockholders.

SECTION 6. That 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 proportions following, that is to say: for every 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; 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 when there is no guardian, the parent of the minor stockholder may vote the shares of such minor, 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 or authorizing the vote, at least thirty days before the day of the 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 election, and that in all cases when votes shall be given by proxy the proxies shall be in writing and subscribed by the stockholder, and bear date within thirty days of the time of election.

SECTION 7. That the Wilksburg 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 a point in or near the city of Pittsburg, in the county of Allegheny, to a point in or near the village known by the name of Wilksburg, in said county.

SECTION 8. That 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 said company, it shall be lawful for said

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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, or earth, 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: *Provided however*, That compensation shall first be made or secured to the owner or owners of any such lands and materials as shall be agreed upon between the parties, or in such manner as is hereinafter pointed out.

Damages—
how ascertain-
de and paid

SECTION 9. That when the said company cannot agree with the owner 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 said company to enter, occupy, use, pass over, or take away, in the construction and repair of said rail road, or when by reason of any legal incapacity of any such owner to contract or in consequence of the absence of any such owner or owners, no such purchase, lease, or compensation can be agreed upon, the court of quarter sessions of the county aforesaid, or when the judges, or any of them necessary to form such court, are incapacitated by sickness, absence, interest, or relationship to any person 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 cost and charge of 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 shall 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, or 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, *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 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 or 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 of, 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 inquiries until full justice is rendered: *Provided* ^{Proviso} *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.

SECTION 10. That the said railroad shall be so constructed by the said company as to interfere with the free use and passage of any public or private roads which they may find it expedient to intersect to as small an extent as possible. And it shall be the duty of the court of quarter sessions upon petition, and view as under the provisions of the road law, upon the application of the company or any individuals interested, to cause to be made and erected, such causeways and bridges, as they may deem advisable, on the route of any such road so intersected, as soon as expedient, so as to enable all persons and vehicles to pass the railroad with convenience, and it shall be the duty of the several townships or individuals who may use them, to maintain such causeways and bridges in good repair, and said company may be compelled in the same manner, to make good and sufficient bridges or causeways, on the farms through which said railroad may pass, at such convenient places as may be designated by the viewers, so as to enable the owners and occupiers to pass conveniently with wagons and other vehicles. ^{Duty of Court Quarter Sessions}

SECTION 11. That the said company shall permit at any time, such bridges or causeways to be made across said rail-

Bridges and
causeways
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road and its branches, at the intersection of any public or private road as the reviewers laying out the same, may deem expedient: *Provided*, The same are so made as not to impede or render inconvenient the passage of the cars and carriages upon said railroad. And the said railroad company shall also permit any owner of lands through which the said railroad may pass, to erect such bridges, or 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: *Provided also*, The same are so constructed as not to impede or render inconvenient the passage of cars and carriages upon such railroad.

Company
may permit
individuals to
use road

SECTION 12. That as soon as any portion of the said railroad is 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 shall permit individuals to place such cars and carriages, and 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, wares, merchandize and commodities.

Penalty for
injury works

SECTION 13. That 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, shall on conviction thereof be punished by fine and imprisonment, at the discretion of the court of quarter sessions of Allegheny county, in the county jail of said county, for any term not exceeding three years.

Transfer of
stock

SECTION 14. That no stockholder indebted to the company shall transfer his stock, or any part thereof, or receive any dividend on any portion thereof, until such debt is discharged or secured to the satisfaction of the board of managers.

Penalty for
non-payment
of instalments

SECTION 15. That 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 time and 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 legal interest thereon from the time such instalment was required to be paid; and if such stockholder shall neglect the payment thereof, for the space of ninety 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 of forfeiture, the said stock and payment shall be vested in said company, to be by them sold for the use of said company, or disposed of as

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

SECTION 16. That the president and managers of said company shall annually or semi-annually declare and make such **Dividends** dividends as they may deem proper of the nett profits arising from the revenues 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; but when the dividends exceed ten per cent. per annum, the tolls shall be so reduced as to keep the per centage below that amount. An annual statement of accounts, under oath, shall be made to the legislature by the president or treasurer of the company. *Provided always*, That no declaration of **Proviso** dividends shall be made so as to impair the capital stock of said company. *And provided further*, That whenever the **2d proviso** dividends shall exceed six per cent. per annum the said company shall pay a tax of eight per cent. on all such dividends above six per cent. into the treasury of this State, for the use of the Commonwealth.

SECTION 17. That the commissioners nominated in the first section of this act shall have the power to manage and conduct **Com'ission'rs power** the affairs of the company hereby incorporated until the officers thereof shall be elected, as directed by this act. *Provided*, That the said company shall not at any time, either **Proviso** directly or indirectly, engage in any banking or commercial or manufacturing business.

SECTION 18. That if the president, managers and company **Commence-** shall not proceed to carry on said work within five years from **ment and** the passage of this act, and shall not complete the same as **completion** aforesaid, in ten years, according to the true intent and meaning thereof, or if after the completion of the said road, the said corporation shall suffer the same to go to decay and to 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 19. That if the said company shall, at any time, misuse or abuse any of the privileges hereby granted, the **Legislative** legislature may resume all and singular the rights and **reservation** privileges hereby granted to said company. *Provided*, That the State may, at any time after the expiration of thirty years, have the privilege of purchasing the entire interest and property of the said corporation, at a just and reasonable valuation or appraisement, to be made in such manner as may at any time hereafter be provided by law.

SECTION 20. That no person shall be elected or shall serve **Presidential** in said company, as president or manager thereof, who is not **qualification** the bona fide holder of at least twenty shares of stock therein.

Centre co supervisors of Walker and Miles tps to subscribe for stock in B. E. & B. V. turnpike road

SECTION 21. That the supervisors of the public highways for the townships of Miles and Walker, in the county of Centre, be and they are hereby authorized to subscribe for and in the name and behalf and for the use of the inhabitants of said townships, any number of shares not exceeding one hundred and fifty in the capital stock of the "Bald Eagle, Nittany and Brush Valley turnpike road company," in the following proportions, to wit: the supervisors for the township of Miles any number of shares not exceeding one hundred, for the use of the inhabitants of said township, and the supervisors for the township of Walker any number of shares not exceeding fifty for the use of the inhabitants of said township. *Provided, however,* That the amount of moneys so subscribed as aforesaid shall be expended by said company, under the direction of said supervisors, in the making and constructing of such portions of said turnpike road as shall pass through said townships, and for no other purposes whatsoever; the amount of moneys to be expended in each township to be in proportion to their several subscriptions as aforesaid. *Provided further,* That the supervisors for the time being of said townships of Miles and Walker, shall have all the rights and privileges of other stockholders in said company, in proportion to the stock subscribed for by them, respectively, for the use of the inhabitants of their respective townships.

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2d proviso

Greene co election for or against poor house extended

SECTION 22. That the time fixed in the nineteenth section of the act entitled "An act to provide for the erection of a house and of employment and support of the poor in the county of Greene," to which this is a supplement, for ascertaining the sense of the citizens of Greene county as to the expediency of erecting a poor house, be and the same is hereby extended until the general election in October, one thousand eight hundred and forty-one, and also the time at which the commissioners named in said act shall enter upon the duties of their offices is hereby extended in conformity thereto.

WM. A. CRABB,

Speaker of the House of Representatives.

JN. H. EWING,

Speaker of the Senate.

APPROVED—The fifth day of May, one thousand eight hundred and forty-one.

DAVID R. PORTER.