

prosecutions
for a libel.

intent and meaning of this act, the defendant or defendants in such action or indictment may plead this act in bar, or give the same in evidence on the plea of not guilty: *Provided*, That this act shall be and continue in force for the term of three years, and from thence to the end of the next session of the legislature.

JAMES ENGLE, *Speaker*
of the House of Representatives.

P. C. LANE, *Speaker of the Senate.*

APPROVED—the sixteenth day of March, one thousand eight hundred and nine.

SIMON SNYDER.

CHAPTER XXXVII.

An ACT to enable the Governor to Incorporate a Company for the purpose of making an artificial road from the Philadelphia and Lancaster Turnpike Road, between the twenty-third Mile-stone and the Admiral Warren Tavern, to the point where the Reading Road intersects the Morgantown Road, to the west of Jones' Tavern in Berks County.

SECTION I. *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,*

Commissioners appointed.

That Michael Gunckle, Isaiah Kirk, Rees John, John Smith, Samuel Laverty, Thomas Bull, Doctor James McFarland, James John and Col. William Harris, be and they are hereby appointed commissioners to do and perform the several duties hereinafter mentioned, *that is to say*, they shall on or before the first day

Books to be procured.

of April next, procure two books and in each of them enter as follows, " We whose names are hereunto subscribed, do promise to pay to the president, managers and company of the Little Conestoga turnpike road, the sum of fifty dollars for every share of stock in the said company set opposite to our respective names, in such manner and proportions as shall be determined by the said president and managers, in pursuance of an act of the General Assembly of this Commonwealth, entitled " An act to enable the Governor of this Commonwealth to incorporate a company for the purpose of making an artificial road from the Philadelphia and Lancaster turnpike, between the twenty-third mile-stone and the Admiral Warren tavern, to the point where the Reading road intersects the Morgantown road, to the west of Jones' tavern in Berks county," Witness our hands, the day of in the year of our Lord, one thousand eight hundred and

Terms of subscription.

How and when notice is to be given of the books being open.

And shall give notice in two of the public newspapers in the city of Philadelphia and Lancaster, and in the public newspaper printed in Downingstown in the county of Chester, for two weeks at least, of the times when and places where the said books will

be open to receive subscriptions of stock for the said company, at which times and places three of the said commissioners shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said books, which shall be kept open for the purpose at least four hours in every juridical day, for the space of three days, if three days shall be necessary, and if at the expiration of the said three days, the books shall not have three hundred shares therein subscribed, the said commissioners may adjourn from time to time, until the said number of shares shall be subscribed, of which adjournment public notice shall be given in at least two public papers, and when the said subscriptions in the said books shall amount to the number aforesaid, the same shall be closed: *Provided always*, That every person offering to subscribe in the said books in his own name or in the name of any other person shall previously pay to the attending commissioners five dollars for every share to be subscribed, out of which shall be defrayed the expence attending the taking such subscriptions and other incidental charges, and the remainder shall be left in the hands of the commissioners for the use of such corporation as soon as the same shall be organized and the officers chosen as hereinafter mentioned.

Three of the commissioners to attend.

Commissioners may adjourn from time to time until the necessary number of shares shall be subscribed for. Notice of the adjournment to be given. Every person offering to subscribe, to pay five dollars. How to be appropriated.

SECT. II. *And be it further enacted by the authority aforesaid*, That when twenty persons or more, shall have subscribed one hundred and fifty shares or more of the said stock, the said commissioners may, or when the whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals the names of the subscribers and the number of shares subscribed by each subscriber to the Governor of this commonwealth, whereupon he shall by letters patent under his hand and the Seal of the State create and erect the subscribers, and if the said subscription be not full at the time, then also those who shall thereafter subscribe to the number aforesaid, into one body politic and corporate in deed and in law by the name, style and title of "The Little Conestoga Turnpike Company," and by the said name the said subscribers shall have perpetual succession and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding the said 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 proper if such enlargements shall be found necessary to fulfil the intent of this act, and of purchasing, taking and holding to them and their successors and assigns in fee simple and for any lesser estate, all such lands, tenements, hereditaments and estates, real and personal as shall be necessary to them in the prosecution of their works, 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.

When one hundred and fifty shares or more are subscribed, the commissioners may certify, &c. Whereupon the governor shall create and erect the subscribers, &c. into one body politic and corporate. Style and title of the corporation. Its privileges and franchises.

SECT. III. *And be it further enacted by the authority aforesaid*,

That the commissioners herein before named shall as soon as conveniently may be, give thirty days notice in two public newspapers in Philadelphia and Lancaster, one whereof shall be in the German language, and in the public newspaper printed in Downingstown, in the county of Chester, of the time and place by them appointed for the said subscribers to meet in order to organize the said corporation, and to choose by a majority of votes of the said subscribers by ballot to be delivered in person or by proxy duly authorized, one president, twelve managers, one treasurer and such other officers as shall be deemed necessary to conduct the business of said company until the second Monday of November next, and until like officers shall be chosen, and may make such by-laws, rules, orders and regulations as do not contravene the laws and constitution of this commonwealth, and may be necessary for the well governing the affairs of the said company: *Provided always,* That no person shall have more votes than five, at any election or in determining any question arising at such meeting whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number.

Notice to be given of the time and place appointed for the organization of the company. Officers to be chosen. Their continuation in office.

Number of votes to be given by each stockholder.

Company to meet on the second Monday of November annually, &c.

Power to make, alter, or repeal by-laws.

How shares of stock are to be certified.

Transferable.

SECT. IV. *And be it further enacted by the authority aforesaid,* That the said company shall meet on the second Monday of November in every year, at such place as shall be fixed by their by-laws for the purpose of choosing such other officers as aforesaid for the then ensuing year, in the manner aforesaid, and at such other times as they shall be summoned by the managers in such manner and form as shall be prescribed by their by-laws, at which annual meetings they shall have full power and authority to make, alter or repeal by a majority of votes in manner aforesaid, all such by-laws, rules, orders and regulations made as aforesaid, and to do and perform any other corporate act.

SECT. V. *And be it further enacted by the authority aforesaid,* That the president and managers first chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation to each person for every share by him subscribed and held, he paying five dollars for each share, each certificate shall be transferable at his pleasure, in person or by attorney, duly authorized in the presence of the president or treasurer, subject however to all payments due and to grow due thereon, and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the corporation, and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock, and of all the estate and emolument of the company, and to vote as aforesaid, at the meetings thereof.

SECT. VI. *And be it further enacted by the authority aforesaid,* That the said president and managers shall meet at such time and places as shall be ordained by their by-laws, and when met, seven members shall form a quorum; and who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions fairly entered in a book; and a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendants and other artists and officers as they shall deem necessary, to carry on their intended works, and fix their salaries and wages; to ascertain the times when, and manner and proportion in which the stockholders shall pay the monies due on their respective shares; to draw on the commissioners for all monies as shall have been so left in their hands, necessary to pay the salaries and wages of persons by them employed, and for the materials: *Provided* such draughts shall be signed by the president, or in his absence by a majority of a quorum, and countersigned by their treasurer; and generally to do all such other acts, matters and things, as by this act and by the by-laws, rules, orders and regulations of the company, they shall be authorized to do.

Seven members shall form a quorum. Minutes to be kept.

Of the appointment of surveyors, engineers, &c.

SECT. VII. *And be it further enacted by the authority aforesaid,* That if, after thirty days notice in two of the public newspapers printed in the city of Philadelphia and Lancaster, and in the news-paper printed in Downing's town, in the county of Chester, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, any stockholder, who shall neglect to pay such proportion or dividend, at the place appointed for the space of thirty days after the time so appointed, every such stockholder, or his assignee, shall, in addition to the dividend so called for, pay after the rate of five per cent. per month, for delay of such payment; and if the same, and the said additional penalty shall remain unpaid for such space of time as that the accumulated penalties shall become equal to the sums paid before in part and on account of such shares, the same shall be forfeited to the said company, and may and shall be sold to any person or persons, willing to purchase, for such price as can be obtained for the same.

Penalty on neglecting or refusing to pay dividends.

SECT. VIII. *And be it further enacted by the authority aforesaid,* That the said road shall branch out of the Philadelphia and Lancaster turnpike road between the twenty-third milestone and the Admiral Warren tavern, from thence on the nearest and most eligible route, to John Jones' tavern, in Berks county, and from thence to a point where the Reading road intersects the Morgantown road, about one mile west of said tavern: And it shall and may be lawful to and for the said president and managers, by and with their superintendants, engineers, artists, workmen and labourers, with their tools and in-

The commencement and direction of the road.

President, &c. to have the privilege of passing

over adjacent grounds

To make a mends for any damage they may do thereto. Damages to be appraised.

struments, carts, waggons, wains and other carriages and beasts of draught or burden, to enter upon the lands in, over, contiguous and near to which the route and track of the said intended road shall pass, first giving notice of their intention to the owners or occupiers thereof, and doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making amends for any damages that may be done to any improvements thereon upon a reasonable agreement if they can agree, or if they cannot agree, then upon an appraisement to be made upon oath or affirmation by three indifferent freeholders, any two of them agreeing, mutually to be chosen, or if the owners upon due notice shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of either of the counties of Chester or Berks, not interested therein, and upon tender of the appraised value, to cut down, dig, take and carry away any timber, stone, gravel, sand, earth or other material there being most conveniently situated for making or repairing the said road.

Width of the road.

What materials composed of.

Not to rise or fall more than will form an angle of four and an half degrees. Company may erect bridges.

SECT. IX. *And be it further enacted by the authority aforesaid,* That the said president, managers and company shall cause the road to be laid out forty-six feet wide, twenty feet whereof to be made an artificial road, bedded with wood, stone, gravel or any other hard substance well compacted together and of sufficient depth to secure a solid foundation to the same; and the said road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm and as near as the materials will admit of it, an even surface, and so nearly level in its progress as that it shall in no place rise or fall more than will form an angle of four degrees and a half with an horizontal line; and shall for ever hereafter maintain and keep the same in good and perfect order, and the said president, managers and company shall have power to erect permanent bridges over all the waters crossing the said road; and the said president and managers shall also cause to be made and kept open and in repair one or more summer roads within the said width of forty-six feet, for the accommodation of persons travelling the same.

Governor to appoint inspectors.

Who shall report, and if in the affirmative. Licence to

SECT. X. *And be it further enacted by the authority aforesaid,* That as soon as the said president, managers and company shall have perfected five miles of the said road, they shall give notice thereof to the Governor of the Commonwealth, who shall thereupon forthwith nominate and appoint three disinterested persons to view and examine the same, and report to him in writing whether the said road is so far executed in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the Governor shall by licence under his hand and lesser seal of the Commonwealth, permit and suffer the said president, managers and company to erect and fix such and so many gates or turnpikes upon

and across the said road as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons travelling on the same, with horses, cattle and carriages, except as is hereinafter excepted.

SECT. XI. *And be it further enacted by the authority aforesaid,* That the said company having perfected the said road or such part thereof from time to time as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding, leading or driving any horse, cattle, hogs, sheep, sulkey, chair, chaise, phaeton, cart, waggon, wain, sleigh, sled or other carriage of burden or pleasure from passing through the said gates or turnpikes until they shall have respectively paid the same, *that is to say*; For every space of five miles in length of the said road, the following sums of money, and so in proportion for any greater or lesser distance, or for any greater or lesser number of hogs, sheep or cattle, *to wit*: For every score of sheep, four cents; for every score of hogs, six cents; for every score of cattle, twelve cents; for every horse or mule laden or unladen with his rider or leader, three cents; for every sulkey, chair, chaise, with one horse and two wheels, six cents, and with two horses, nine cents; for every chair, coach, phaeton, chaise, stage, waggon, coachee, or light waggon, with two horses and four wheels, twelve cents; for either of the carriages last mentioned with four horses, twenty cents; for every other carriage of pleasure, under whatever name it may go, the like sums according to the number of wheels and of horses drawing the same; for every sleigh or sled, two cents for each horse drawing the same; for every cart or waggon, or other carriage of burden, the wheels of which shall be less than four inches in breadth, six cents for every horse drawing the same; for every cart or waggon the wheels of which being four inches and not exceeding seven inches in breadth, three cents for each horse drawing the same; for every cart or waggon the breadth of the wheels of which shall be more than seven inches and not more than ten inches, or being of the breadth of seven inches and shall roll more than ten inches, two cents for each horse drawing the same; for every cart or waggon the breadth of the wheels of which shall be more than ten inches and not exceeding twelve inches, or being ten inches shall roll more than fifteen inches, one cent and a half for each horse drawing the same; and for any such carriage the breadth of the wheels of which shall be more than twelve inches, one cent for each horse drawing the same; and when any such carriage as aforesaid, shall be drawn by oxen or mules in the whole or in part, two oxen shall be estimated as equal to one horse, and every ass or mule as equal

erect gates
to be granted.

Company to
appoint toll
gatherers.

Rates of toll.

Certain persons exempt from paying toll. to one horse in charging the aforesaid toll: *Provided always*, That no toll shall be demanded or taken from any person or persons passing from one part of his or her farm to another, or going to or from a funeral or place of worship, or any militia man on days of training, going to or from the place of training.

Persons offending against this act how punished.

SECT. XII. *And be it further enacted by the authority aforesaid*, That if any person or persons owing, riding in or driving any carriage of burden or pleasure as aforesaid, or owning, riding, leading or driving any horse, mule, hogs, sheep or cattle as aforesaid, shall with an intent to defraud the said company, or to evade the payment of any of the tolls or duties aforesaid, pass therewith through any private gate or bar, or along or over any private passage, way, or along or over any other ground or land near to or adjoining any turnpike or gate which shall be erected in pursuance of this act, or if any person or persons shall with the intent aforesaid take off, or cause to be taken off, any horse or other beast, or cattle of draught or burden, from any carriage of burden or pleasure, or shall practice any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending in manner aforesaid, shall for every such offence respectively forfeit and pay to the president, managers and company of the Little Conestoga Turnpike Road, any sum not exceeding ten dollars, to be sued for and recovered with costs of suit before any justice of the peace, in like manner and subject to the same rules and regulations, as debts of equal amount may be sued for and recovered.

How the bad repair of the road is to be ascertained,

SECT. XIII. *And be it further enacted by the authority aforesaid*, That if the said company shall neglect to keep the said road in good order and repair, for the space of fifteen days, and information thereof shall be given to any justice of the peace of the proper county, such justice shall issue a precept to be directed to any constable, commanding him to summon three judicious freeholders to meet at a certain time in the said precept, to be mentioned at the place in the said road which is complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto, and the said justice shall at such time and place by the oaths or affirmations of the said freeholders, enquire whether the said road or any part thereof is in such good order and repair as aforesaid, and shall cause an inquisition to be made under the hands and seals of himself and a majority of the said freeholders, and if the said road shall be found by the said inquisition to be out of order and repair according to the true intent and meaning of this act, he shall so certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be in, and from thenceforth the tolls thereby granted to be collected at such turnpikes or gates for the intermediate distance between

them shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good order and repair as aforesaid, and if any of the keepers of the gates aforesaid, shall take or attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveller during the time the road shall continue out of repair, such keeper shall forfeit and pay to the person who shall prosecute for the same, the sum of five dollars, to be recovered before any justice of the peace, as debts of equal amount are by law recoverable, but if the same road shall not be put into good order and repair before the next ensuing court of quarter sessions of the proper county, the said justice shall certify and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue and bring in the bodies of the person or persons entrusted by the company with the care and superintendance of such part of the said road as shall be found defective as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest against the person or persons entrusted as aforesaid, and upon conviction, shall give such judgment according to the nature and aggravation of the neglect as the said court in their discretion shall judge proper: *Provided*, The fine in no instance shall be less than twenty dollars, nor exceeding one hundred dollars, and the fines so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said county, and shall be paid to the supervisors of the highways of the township wherein the offence was committed, to be applied to repairing such highways as the township or county is bound to repair at the public expence thereof.

No toll to be collected until the deficient parts of the road are repaired. Penalty on the gate-keeper for receiving toll when the road is out of repair. How to be recovered.

SECT. XIV. *And be it further enacted by the authority aforesaid*, That the president and managers of the said company shall keep fair and just accounts of all monies which shall be received by them from the said commissioners and from the subscribers for the stock of the said company, on account of their several subscriptions, and of all penalties for the delay in the payment thereof, and of the amount of the profit on the shares which may be forfeited as aforesaid, and also of all monies by them to be expended in the prosecution of their said work, and shall once at least in every year submit such accounts to a general meeting of the stockholders until the said road shall be completed, and until all the costs, charges and expences of effecting the same shall be fully paid and discharged, and the aggregate amount of such expences shall be liquidated and ascertained, and if upon such liquidation or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at

The president, &c. to keep fair and regular accounts, &c.

Which shall be submitted to a general meeting of the stockholders.

If the capital stock be not sufficient the president, &c.

may increase the number of shares. And shall have like power as in the case of original subscriptions.

a stated or special meeting to be convened according to the provisions of this act, or by their own by-laws to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares in like manner and under the like penalties as are herein before provided for the original subscriptions, or as shall be provided by their by-laws.

Number of gates to be erected.

SECT. XV. *And be it further enacted by the authority aforesaid,* That the said president, managers, and company shall also keep a just and true account of all and every the monies to be received by their several and respective collectors of tolls, at the several gates or turnpikes on the said road; which shall not exceed one for every five miles after the road is completed from the beginning to the end thereof, or such part thereof as shall from time to time be completed as aforesaid; and after the said road shall be completed or so much thereof as it may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved among all the subscribers, to the stock of the said company; and shall on the first Monday in February and August in every year, publish the half-yearly dividend, to be made of the clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Dividend to be declared.

And published.

SECT. XVI. *And be it further enacted by the authority aforesaid,* That the said president and managers shall, at the end of every third year from the date of the incorporation until two years next after the whole road shall be completed, lay before the General Assembly of this Commonwealth, an abstract of their accounts, shewing the whole amount of their capital expended in prosecution of the said work, and of the income and profits arising from the said toll for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be known and ascertained; and if at the end of two years after the said road shall be completed from the beginning to the end thereof, it shall appear from the average profit of the said two years, that the said clear income and profits thereof will not bear a dividend of six per cent. per annum on the whole capital stock of said company so expended, then it shall and may be lawful for the said president, and managers, and company to increase the tolls herein before allowed, according to such rate upon the same, as will raise the dividend up to six per cent. per annum; and at the end of every three years after the said road shall be fully completed as aforesaid, they shall render

Accounts of the company to be submitted to the general assembly.

After two years, the tolls may be raised so as to afford a dividend of six per cent.

to the General Assembly a like abstract of their accounts for the three preceding years ; and if at the end of any such triennial period, it shall appear from such abstract that the clear profits and income of the said company will bear a dividend of more than nine per cent. per annum, then the surplus above that amount, when sufficient shall arise, shall be appropriated by the said president and managers, to the purchase of such share or shares of said stock as the money arising from the said surplus as aforesaid, will be found adequate to purchase until all the said shares shall be so purchased. And the said subscribers shall determine by lot from time to time, whose share or shares shall be paid off by the money arising as aforesaid, for which shares the said company shall pay the sums which were originally paid for each respective share, and when the whole number of shares shall be purchased as aforesaid, then the said road shall be free, and no toll whatever shall be exacted.

In case the dividends exceed nine per cent. How the surplus is to be employed.

SECT. XVII. *And be it further enacted by the authority aforesaid,* That the said company shall cause mile-stones to be placed on the side of the said road, to designate the distances to and from the principal places thereon, and also shall cause to be fixed on the gate-posts to be erected for the information of travellers and others using the said road, a printed list of the rates or toll which from time to time may lawfully be demanded.

When all the shares are purchased, no further tolls to be collected. Mile stones to be erected, and direction boards and rates of toll affixed.

SECT. XVIII. *And be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully break, deface, pull up, or prostrate any mile-stone which shall be placed in pursuance of this act, on the side of the said road, or shall obliterate the letters or figures inscribed thereon, or destroy, deface, or obliterate the letters, figures, or other characters marked at any turnpike or gate which shall be erected in pursuance of this act, for all or any of the purposes therein mentioned, or the whole or any part of any printed list of the rates of tolls which shall be affixed in pursuance of the directions of this act, at any such gate or turnpike, he or they so offending in the premises shall, and each of them shall for every such offence, severally and respectively forfeit and pay to the said president, managers, and company, the sum of twenty dollars, to be sued for and recovered with costs of suit before any justice of the peace, in manner aforesaid.

Penalty for breaking or defacing them.

SECT. XIX. *And be it further enacted by the authority aforesaid,* That all waggoners, carters, and drivers of carriages of all kinds, whether of burden or pleasure, using the said road shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the said road free and clear for the other carriages to pass and repass ; and if any waggoner, carter, or driver shall offend against this provision, he shall forfeit and pay any sum not exceeding six

Drivers to keep the right side of the road.

Penalty, in case they disobey.

dollars, to any person who shall by reason thereof, be obstructed in his passage, and will sue for the same before any justice of the peace, to be recovered with costs in like manner as aforesaid.

Penalty on toll-gatherers exacting illegal tolls.

How recovered.

SECT. XX. *And be it further enacted by the authority aforesaid,* That if any toll-gatherer on the said road shall demand and receive from any person or persons using the said road, any greater or higher rate of toll than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offence, one half to the use of the poor of the township or county in which the forfeiture shall be incurred, and the other half to the use of the person suing for the same, to be recovered before any justice of the peace of the county where such offence shall have been committed.

Penalty in case of a vexatious prosecution.

SECT. XXI. *And be it further enacted by the authority aforesaid,* That if in the case of any suit or prosecution, which shall be commenced under the directions of this act for any penalty incurred under the same, whether by or against the said company, their officers or agents, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case, the person or persons prosecuted as aforesaid, shall recover by the judgment of the justice before whom such suit or prosecution shall be depending, or by action before the court of the common pleas of the proper county (if such prosecution had been instituted before the court of general quarter sessions of the peace) such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

No actions to be brought for offences against this act, after six months subsequent to the cause of action.

Powers hereby granted to the company, to be resumed in case they do not begin and complete the road within a given time.

Legislature may take possession of the road by

SECT. XXII. *And be it further enacted by the authority aforesaid,* That 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 six months next after the fact committed; 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.

SECT. XXIII. *And be it further enacted by the authority aforesaid,* That if the said company shall not proceed to carry on the said work within three years after the passing 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 the Commonwealth to resume all and singular the rights, liberties, privileges and franchises by this act granted to the said company.

SECT. XXIV. *And be it further enacted by the authority aforesaid,* That if the Legislature should at any time after the year one thousand eight hundred and twenty-eight, think proper to take possession of the said road, three persons shall be appointed by

the governor, and three by the president and managers of said company, and three by the judges of the supreme court, who are hereby required to appoint the same, who or any six or more of them not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor of this commonwealth, who shall cause the same to be laid before the Legislature at their next session. And whenever the amount so certified, shall be paid by the State to the said company, their right to take toll on the said road, together with all their right, title, claim, and interest therein, shall cease and determine.

purchasing the stock of the company.

How the value of it is to be ascertained.

Interest of the company then to cease and determine.

JAMES ENGLE, *Speaker*
of the House of Representatives.

P. C. LANE, *Speaker of the Senate.*

APPROVED—the sixteenth day of March, one thousand eight hundred and nine.

SIMON SNYDER.

CHAPTER XXXVIII.

An ACT to incorporate the Marine Insurance Company of Philadelphia.

WHEREAS an association of citizens hath heretofore been formed in the city of Philadelphia, under the title of "The Marine Insurance Company of Philadelphia," for the purpose of making insurances upon maritime and other risks; and the objects of the said association meriting legislative encouragement and aid, inasmuch as they are calculated to promote the security and independence, as well as to alleviate the losses and misfortunes of commerce and navigation, and to enable the citizens to guard against the consequences of accident by fire. Therefore, to facilitate the transactions of the said association by the aid of an act of incorporation,

SECTION I. 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 all and every the persons who shall at the time of the passing of this act, be members of the said association, and proprietors of the capital stock thereof, shall be, and they are hereby created and declared to be one body politic and incorporated, by the name, style and title of "The Marine Insurance Company of Philadelphia," and by the same name shall have succession, and shall be able to sue and be sued, implead and be impleaded in all courts of record or elsewhere; and to purchase, receive, have, hold and enjoy to them and their successors, lands, tenements and hereditaments, goods and

Marine insurance company of Philadelphia, incorporated.