

## No. 139.

## AN ACT

Authorising the Governor to incorporate the Bald Eagle and Nittany Valley Turnpike and Rail-Road Company.

SECT. 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 William Smyth, Isaac McKinney, William A. Thomas, Joseph Harris, and Joseph Montgomery, of the county of Centre, or any two of them, be, and they are hereby appointed commissioners, to do and perform the several things hereinafter mentioned, that is to say: they shall, on or before the first day of June next, procure a sufficient number of books, one or more of which shall be opened at some convenient place in the town of Bellefonte; also in the townships of Walker and Howard, in said county, and in each of them to enter as follows: "We, whose names are hereunto subscribed, do promise to pay to the president and managers of the Bald Eagle and Nittany Valley turnpike and rail-road company, 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 president and managers of said company, in pursuance of an act of the general assembly of this commonwealth, entitled 'An act authorising the Governor to incorporate the Bald Eagle and Nittany Valley turnpike and rail-road company.' Witness our hands, this day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and thirty \_\_\_\_\_;" and shall thereupon give notice, in one or more newspapers printed in the county of Centre, for one calender month at least, of the times and places, when and where, the said books shall be kept open, to receive subscriptions for the stock of said company; at which respective times and places, one or more of the commissioners shall attend, and permit all persons of lawful age, who shall offer to subscribe in said books in their own names, or in the name of any other person who shall authorise the same, for any number of shares in the said stock; and the said books shall be kept open respectively for the purpose aforesaid, at least six hours in each juridical day, for the space of ten days, or until there shall have been subscribed the number of eighty shares; and if, at the expiration of ten days, the books aforesaid shall not have the number of shares aforesaid, or any of them therein subscribed, the said commissioners may adjourn from time to time, and transfer the books elsewhere, until the whole number of eighty shares shall be subscribed; of which adjournment and trans-

Commissioners to open books.

Form of subscription.

\$50 per share.

Notice.

Whole No. of shares 80.

fer the commissioners aforesaid shall give public notice, as the occasion may require; and when the whole number of shares shall be subscribed, then the books shall be closed: *Provided always*, That every person offering to subscribe in the said books, in his own or any other name, shall previously pay to the attending commissioner the sum of one dollar for every share to be subscribed, out of which shall be defrayed the expenses attending the taking of such subscriptions, and other incidental expenses, and the remainder shall be paid to the treasurer of the corporation, as soon as the same shall be organized and the officers chosen, as hereinafter mentioned.

Proviso.  
\$1 to be paid  
on each share  
at time of sub-  
scribing.

When stock  
is taken char-  
ter to issue.

Style.

Privileges  
and liabilities

SECT. 2. *And be it further enacted by the authority aforesaid*, That when eighty shares, or more, or the said stock shall be subscribed, and one dollar on each share paid, the commissioners, or a majority of them, may certify to the Governor, under their hands and seals, the names of the subscribers, and the number of shares subscribed by each; whereupon the Governor shall, by letters patent, under his hand and seal of the commonwealth, create and erect the subscribers, and if the subscription be not full at the time, then also those who shall thereafter subscribe to the number of shares as aforesaid, into a body politic and corporate, in deed and in law, by the name, style and title, of "the president and managers of the Bald Eagle and Nittany Valley turnpike and rail-road company;" and by the same name the subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation; and shall 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 proper, if such enlargement shall be found necessary to fulfil the intentions of this act; and of suing and being sued, and of doing all and every other matter or thing which a corporation or body politic may lawfully do.

Organization.

President, 3  
managers,  
treasurer, se-  
cretary, &c.

SECT. 3. *And be it further enacted by the authority aforesaid*, That a majority of the before named persons shall, as soon as conveniently may be, after the said letters patent shall be obtained, give at least twenty days notice, in all the newspapers hereinbefore mentioned, of the time and place by them appointed for the subscribers to meet, in order to organize the said company, and to choose, by a majority of votes of the said subscribers, by ballot, to be given in person, or by proxy duly authorised, one president and three managers, a treasurer, secretary, and such other officers as shall be deemed necessary, which proxy shall have been obtained and bear date within three months previously to the election at which such proxy shall be presented; that the president and managers aforesaid shall conduct the business of said company until the third Monday of January then

next, and until like officers shall be chosen; and may make such by-laws, rules, orders, and regulations, as do not contravene the constitution and laws of the United States and of this state, and that may be necessary for the well governing the affairs of the company.

SECT. 4. *And be it further enacted by the authority aforesaid,* That the stockholders shall meet on the last Monday of December in every year, at such place as may be fixed upon by the by-laws, of which notice shall be given at least twenty days, by the treasurer, in the newspapers before mentioned, and choose, by a majority of votes present, their officers for the ensuing year, mentioned in the third section of this act, who shall continue in office for one year, and until others are chosen, and at such other times as they may be summoned by the managers in such manner and form as shall be prescribed by the by-laws; at which annual or special meetings they shall have full power and authority to make, alter, or repeal, by a majority of votes, either the whole or any part of the same, in manner aforesaid, and to do and perform any other corporate act; and each person shall be entitled to one vote for each share not exceeding twenty, by him or her held; for every five additional shares, one vote.

SECT. 5. *And be it further enacted by the authority aforesaid,* That the said president and managers shall meet, at such times and places as shall be found most convenient for the transacting of their business; and when met, three shall be a quorum, who, in the absence of the president, may choose a chairman, and shall keep such minutes of 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, superintendents, and other artists and officers, as they shall deem necessary to carry on the intended work, and to fix their salaries and wages; to ascertain the times, manner, and proportions in which the said stockholders shall pay the moneys due on their respective shares, to draw orders on the treasurer, and generally to do all such other acts, matters, and things, as by this act and by the by-laws and regulations of the company they are authorised to do: *Provided,* That such drafts or orders be signed by the president, or in his absence, by a majority of the managers present.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the president and managers first chosen, shall procure certificates or evidence of stock for all the shares 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 or her subscribed and held, which certificate or evidence of stock shall be transferable at his pleasure, in person, or by attorney duly authorized, in

Mode of  
transfer.

Assignees  
vested with  
rights, &c. of  
original stock  
holders.

Penalty on  
delay to pay  
instalments.

Company  
may forfeit  
shares, or  
bring suit for  
arrearages.

Proviso.  
Delinquents  
not to vote.

Right to  
make road.  
Route.

the presence of the president or treasurer, who shall keep a book for that purpose, subject, however, to all payments due or to become due thereon; and the assignee, holding any certificate, having first caused the assignment to be entered in the book of the company, to be kept for the transfer of stock, shall be a member of said corporation; and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock, and of all the estates and emoluments incident to one share, and to vote as aforesaid at the meetings thereof, and subject to all penalties and forfeitures, and of being sued for all the balance and penalty due or to become due on each share, as the original subscribers would have been.

SECT. 7. *And be it further enacted by the authority aforesaid,* That if after thirty days notice in the public papers aforesaid, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, any stockholder shall neglect or refuse to pay such proportion or instalment 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 instalment 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 shall remain unpaid for such space of time, as that the accumulated penalty shall become equal to the sum 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 said president and managers 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 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 instalment or arrearages may be due and payable more than thirty days previously to the said election or meeting.

SECT. 8. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said president and managers, to make a turnpike or rail-road, in whole or in part, as to them shall seem most expedient, from a point at or near Shank's bridge, on Bald Eagle creek, to a point on the Bellefonte and Great Island road, between James Hutchinson and the Blackhorse tavern, now occupied by Henry Sowers; or it may be lawful for the said president and managers to make a turnpike, and lay a track of rails on one or both sides of the same, at any time within ten

years after the company obtain their charter: *Provided*, That no injury shall be done to any individual, without just and reasonable compensation therefor, in the manner provided by the ninth section of this act. Proviso.

SECT. 9 *And be it further enacted by the authority aforesaid*, That the president, managers and company shall have power and authority, by themselves or their superintendents, engineers, artists and workmen, to enter upon any lands in any part or place thereof, which shall appear to them most convenient and best adapted for the route of said turnpike or rail-road; and to cut, break and remove and take away all trees, rocks, stones, earth, gravel and sand, or other materials or any obstruction or impediment, whatsoever, on the said route, and to use all such timber, rocks, stones, gravel and earth or other materials which may be found necessary in the prosecution of their works, satisfying the owner or owners thereof; but if the parties cannot agree upon the compensation to be made to such owner or owners, it shall and may be lawful for the parties to appoint six suitable and judicious persons, within the proper county where the land lies; or if they cannot agree on such persons, then either of the parties may apply to the court of common pleas of the proper county where the land lies; and said court shall award a venire, directed to the sheriff, to summon a jury of disinterested men, in order to ascertain and report to the said court what damages, if any, have been sustained by the owner or owners of said ground, by reason of such turnpike or rail-road passing through his or their land; which report being confirmed by the court, judgment shall be entered thereon and execution may issue, in case of non-payment, for the sum awarded, with costs, to be assessed by the court; and it shall be the duty of the jury or six appraisers, as the case may be, in valuing any lands, to take into consideration the advantages derived to the owner or owners of the premises from the said road passing through the same: *Provided*, That either party may appeal to the court, within thirty days after such report may have been filed in the prothonotary's office of the proper county, in the same manner as appeals are allowed in other cases. Right to enter upon contiguous lands.  
Settlement of damages.  
Appointment of viewers.  
Their duties specified.  
Proviso. Appeal from decision.

SECT. 10. *And be it further enacted by the authority aforesaid*, That as soon as the president, managers and company shall have perfected their turnpike or rail-road, they shall give notice thereof to the governor, who shall thereupon nominate and appoint three disinterested persons, to view and examine the same, and to make report to him in writing, whether the said turnpike or rail-road is executed in a workmanlike manner, according to the true intent and meaning of this act; and if at any time their report shall be in the affirmative, then the governor shall, by license, under his hand and the lesser seal of this commonwealth, authorise the said Appointment of viewers on completion of work.

License to  
take toll. president, managers and company, or such person or persons as they shall from time to time appoint toll collectors or their deputies, to demand and receive for that part of the road which is turnpike, the same tolls that are allowed by law, to be received by the Centre and Kishacoquillis turnpike company; and for that part which may be rail-road, they may demand and receive not exceeding three cents per ton per mile: *Provided*, That if at any time hereafter, they may demand and receive not exceeding three cents per ton per mile: *Provided*, That if at any time hereafter, the tolls should enable the company, after all repairs and other necessary expenses, to divide more than fifteen per centum per annum, on the capital stock expended, then, and in such case, the tolls shall be so reduced that the dividend shall not exceed the said sum of fifteen per centum per annum.

Rates of toll.  
Proviso.  
Dividend not  
to exceed 15  
per cent. per  
annum.

Annual state-  
ment of ac-  
counts to  
stockholders. **SECT. 11.** *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 received by them from the said commissioners, and from the subscribers to the said undertaking, on account of the several subscriptions; and also, all monies by them expended in the prosecution of the said works; and shall in every year submit such accounts to the stockholders at their annual meeting; and the aggregate amount of such receipts and expenditures shall be ascertained, and if upon such liquidation or when the capital stock shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said turnpike or rail-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 a stated or special meeting, to be convened for that purpose, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to receive and demand the monies for shares so subscribed in like manner, and under like penalties as hereinbefore provided for by the original subscription, or as shall be provided for by their by-laws.

Increase of  
capital stock.

Semi-annual  
declaration of  
dividends. **SECT. 12.** *And be it further enacted by the authority aforesaid*, That the president, managers and company, shall also keep a just and true account of all the monies received by their several and respective collectors of tolls, and shall make and declare a dividend, of the clear profits and income thereof, among all the stockholders, all contingent costs and charges being first deducted; and shall on the first Monday in January and July every year, publish the half yearly dividends, made of the clear profits, and the time when and where the same will be paid to the stockholders, not exceeding twenty days thereafter, and shall cause the same to be paid accordingly.

Time of com-  
mencement  
and comple-  
tion.

**SECT. 13.** *And be it further enacted by the authority aforesaid*, That if the president, managers and company shall not proceed to carry on the work within three years from the passage of this act, and shall not complete the same within ten years, according to the true intent and meaning of this act,

then and in either case all and singular the rights, liberties, privileges and franchises, hereby granted to said company, shall revert to the commonwealth: *Provided*, That if the said company shall at any time hereafter, misuse or abuse, any of the chartered privileges hereby granted, the legislature may at any time thereafter, resume all and singular the rights, privileges and franchises, hereby granted to the said company.

*Proviso.*

Right to re-peal.

SECT. 14. *And be it further enacted by the authority aforesaid*, That the president and managers of said road, shall make or cause the same to be made not less than fifty, nor more than sixty feet in width, including the tracks of rail road; and the turnpike part thereof, not less than sixteen feet wide, constructed in the following manner, to wit: All the timber shall be taken out by the roots, and removed from the road, it shall be well and sufficiently ditched, so as to carry off the water, and to keep the road in its foundation firm and dry; it shall be constructed of firm and substantial materials, such as the nature of the ground along which the road may pass, will admit of, so as to secure a solid foundation, a smooth and firm surface, and a well made permanent highway, and so nearly level in its progress, that it shall at no place rise or fall more than will form an angle of five degrees from a horizontal line; the same restriction in the degree of gradation, to be observed in the construction of the rail road, as well as turnpike; and the said president and managers shall erect permanent bridges, with sufficient abutments, over all streams of water crossing the said road, and shall keep the said road and bridges in perfect order and repair.

*Dimensions, construction, &c. of road.*

*Bridges.*

SECT. 15. *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 penalty incurred under this act, unless such suit or action shall be commenced within six months, next after the fact charged is said to have been 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 the authority of this act.

*Suits for penalties to be brought within six months.*

FREDK. SMITH,

*Speaker of the House of Representatives.*

WM. G. HAWKINS,

*Speaker of the Senate.*

APPROVED—The thirtieth day of March, A. D. one thousand eight hundred and thirty-one.

GEO. WOLF.