

No. 132.

AN ACT

Authorizing the Governor to incorporate the Berry's mountain turnpike 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 for the purpose of making a turnpike road, beginning at the top of Peter's mountain, where the present turnpike crosses the same, on the line of Middle Paxton and Halifax townships, in Dauphin county; thence through Richard's Gap of Berry's mountain, and thence a north easterly direction, until the same intersects the Lykens valley rail-road, in Lykens valley, Simon Sallade, Josiah Bowman, Leonard Reedy and Jacob Hoffman, of Lykens valley, John Forster and Jacob M. Haldeman, of Harrisburg, and William Clark, of Middle Paxton township, all of the county of Dauphin, be and they are hereby appointed commissioners to do and perform the duties hereinafter mentioned, that is to say: they shall procure a book, and enter therein as follows: "We, whose names are hereunto subscribed, do promise to pay the president and managers of the Berry's mountain turnpike road company the sum of ten dollars for every share by us subscribed, in such manner and proportions, and at such times and places, as shall be determined on by the said president and managers, in pursuance of an act entitled, 'An act authorizing the Governor to incorporate the Berry's mountain turnpike road company.' Witness our hands, the _____ day of

Commissioners appointed to receive subscriptions, &c.

Form of heading.
\$10 per share.

Anno Domini, one thousand eight hundred and _____; and shall give at least thirty days notice, in two newspapers published at Harrisburg, of the times and places when and where the said book shall be opened to receive subscriptions of stock of the said company, at which time and place some one or more of the said commissioners shall attend and receive subscriptions from all persons of lawful age, who shall offer to subscribe in said book, which shall be kept open for the purpose aforesaid, at least six hours in each juridical day, for the space of two days, or until the book shall have subscribed therein five hundred shares; and the said commissioners may adjourn from time to time, and transfer the book from place to place, until the whole number of shares aforesaid shall be subscribed, of which adjournment and transfer the said commissioners shall give such notice as the occasion may require; and every person offering to

Directions to commissioners rel. to opening books.

50 cents to be paid upon each share at the time of subscription. subscribe in any of the books aforesaid, shall previously pay to the attending commissioners fifty cents for every share to be subscribed, out of which shall be defrayed the expenses attending the taking of such subscriptions, and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized.

When 20 persons take 150 shares charter may issue. Style of corporation. Privileges and liabilities. *SECT. 2. And be it further enacted by the authority aforesaid,* That when twenty or more persons shall have subscribed one hundred and fifty shares, and the said commissioners or a majority of them, shall have certified, under their hands and seals to the Governor, the names of the subscribers and the number of shares subscribed by each, it may be lawful for the Governor, by letters patent under his hand and seal of the state, to create and erect the subscribers, and also all those who may afterwards subscribe, into one body politic and corporate, in deed and in law, by the name, style and title, of "the Berry's mountain turnpike road company," and by the said name the said subscribers shall have perpetual succession, and the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock and the increase and profits thereof, and 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 intention of this act, and of purchasing, taking, and holding, to them and their successors and assigns, and of selling, transferring and conveying, in fee simple or for any less estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their work, 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.

Provisional election of officers. President, six managers, treasurer, &c. *SECT. 3. And be it further enacted by the authority aforesaid,* That the stockholders, or any two of them named in the letters patent, shall, as soon as conveniently may be after the issuing of the same, give notice in two newspapers published at Harrisburg, of a time and place to be by them appointed, not less than twenty days from the time of the first notice, at which time and place the said subscribers, or as many of them as may be then present, shall proceed to organize the said company, and shall choose by a majority of the said subscribers, by ballot, either in person or proxy, duly authorized, one president, six managers, one treasurer, and such other officers as may be necessary to conduct the business of said company for one year, and from thence until the next annual election, and until such other officers shall be chosen and organized, agreeably to the provisions of this act, and in case of the death, removal or resignation of any president or manager, the board of managers may and shall

choose another to supply the vacancy until the next said annual election of said company, they may make and have one common seal, and the same may break, alter or renew at their pleasure, and may make such by-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this state, as shall be necessary for the well ordering of the affairs of the corporation: *Provided*, That each subscriber shall be entitled to one vote for every share of stock by him or her held, not exceeding five, but no share or number of shares above five, shall entitle the holder to more than two votes at any election or meeting of said company: *And provided also*, That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election or meeting of said company, unless the whole sum due and payable on the share or shares by him or her held at the time of such election or meeting, shall have been fully paid and discharged.

SECT. 4. *And be it further enacted by the authority aforesaid*, That if any treasurer elected by virtue of this act, shall die, resign, or refuse to act, or neglect to give such security for the faithful discharge of the duties of his office as the board of managers may direct and require, or having given the security required, shall neglect or refuse to take upon him and perform all the duties of said office, it shall be the duty of the said managers, for the time being, to appoint some suitable person treasurer, which person so appointed, shall hold the office to which he shall have been appointed, until the next election by the stockholders, on his giving the requisite security, and until a successor shall be duly elected and give the security required.

SECT. 5. *And be it further enacted by the authority aforesaid*, That the stockholders shall meet on the second Monday in July, in each succeeding year, at such place as shall be fixed by the by-laws of said company, for the purpose of choosing in manner aforesaid, such officers as aforesaid, for the year ensuing the terms of services of those previously elected.

SECT. 6. *And be it further enacted by the authority aforesaid*, That the said president and managers shall make out certificates of stock, signed by the president and countersigned by the treasurer, and sealed with their corporate seal, and deliver one such certificate to each subscriber, for any share or number of shares by him or her held, on his or her paying to the treasurer on each share so held, the sum of five dollars, which certificates shall be transferable in person or by attorney, on the books of the said company, only subject to the sum due or to become due on the shares so transferred.

SECT. 7. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the said president and managers, their superintendents, surveyors, engineers,

Supply of vacancies.

Seal.

By-laws, &c.

Proviso.

Ratio of votes to shares.

2d proviso.

Delinquents precluded from voting.

Supply of vacancies in office of treasurer, &c.

Annual election of officers.

Stock certificates to be issued.

Transferable.

Right of com- artists and chain bearers, to enter in and upon all and every;
pany to enter the lands, tenements and enclosures, in, through and over
enclosures, which the said intended turnpike road may be thought prop-
&c. for mate- er to pass, and for that purpose to examine the ground and
rials, and to the quarries of stone and gravel, and other materials that
locate road. may be necessary in making and constructing the said road,
and to survey, lay down, ascertain, mark and fix such route
for said road, as in the best of their judgment and skill will
combine shortness of distance with the most eligible ground
within the points aforesaid.

General pow- *SECT. 8. And be it further enacted by the authority afore-*
ers and duties *said,* That the said president and managers, five of whom
of president shall for all purposes be a quorum, shall keep minutes of all
and managers. their proceedings, fairly entered in a book to be kept for
that purpose, and shall have full power and authority to ap-
point, agree or contract with such engineers, superintendents,
artists, laborers and other persons, as they may think nec-
essary, to made and construct said road, and collect the
tolls hereinafter authorized, and to fix their compensation,
to ascertain the times, manner and proportions in which the
stockholders shall pay the amount of their respective shares,
in order to carry on the work, to draw orders on the treas-
urer for all debts contracted by them, which orders shall be
signed by the president, or in his absence, by a quorum of
the managers, and attested by their secretary, and to do and
transact all other acts, matters and things, as by the by-
laws, orders and regulations of the said company shall be
entrusted to them.

Penalty on *SECT. 9. And be it further enacted by the authority afore-*
delay in pay- *said,* That if any stockholder, whether original subscriber or
ing instal- assignee, after thirty days notice, in two newspapers printed
ments. at Harrisburg, of the time and place appointed for the pay-
ment of any instalment or proportion of the capital stock,
shall neglect to pay such proportion at the place appointed,
for the space of sixty days after the time appointed for the
payment thereof, every such stockholder shall, in addition
to the instalment so called for, pay at the rate of two per
centum per month for every delay of such payment, and if
the same and additional penalty shall become equal to the
sums before paid in part on account of such share, the same
may be forfeited by and to the said company, and may be
sold by them for such price as can be obtained therefor,
or in default of any stockholder of any such instalments
as aforesaid, for the space of sixty days as aforesaid,
the president and managers may at their election, cause suit
to be brought, in the same manner as debts of like amount
are now recoverable, for the recovery of the same, together
with the penalty aforesaid.

May amount *SECT. 10. And be it further enacted by the authority afore-*
to forfeiture. *said,* That it may be lawful for the said president and man-
Or suit may *agers,* to enter in and upon all and every;
be brought. the lands, tenements and enclosures, in, through and over
which the said intended turnpike road may be thought prop-
er to pass, and for that purpose to examine the ground and
the quarries of stone and gravel, and other materials that
may be necessary in making and constructing the said road,
and to survey, lay down, ascertain, mark and fix such route
for said road, as in the best of their judgment and skill will
combine shortness of distance with the most eligible ground
within the points aforesaid.

agers, by and with their superintendents, engineers, artists, workmen and laborers, their tools and instruments, carts, wagons and other carriages, and beasts of draught or burden, to enter in and upon the lands contiguous and near to which the said road shall be made or constructed, first giving notice of their intention to the occupiers thereof, and doing as little damage thereto as possible, and making amends for damages, upon a reasonable and equitable agreement by the parties, or if they cannot agree thereupon, a just and equitable assessment, to be made upon oath or affirmation, by three disinterested freeholders, or any two of them, to be mutually chosen, or if either party upon due notice, shall neglect or refuse to join in the choice, then to be chosen by a justice of the peace of the county of Dauphin, who shall not be interested therein, and upon the tender of the assessed value, to dig, take and carry away any timber, stone, sand, earth or other materials necessary or suitable for making said road.

Arrangements relative to obtaining materials for road from contiguous ground.

SECT. 11. *And be it further enacted by the authority aforesaid,* That the said president and managers, shall keep fair and just accounts, as well of all monies received by them, as of those paid, laid out and expended, in the prosecution of said work, and shall at least once in every year, submit their books and accounts, to a general meeting of the stockholders, and whenever it shall be ascertained that the capital stock of said company, is not sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the president and managers, at a stated or special meeting, convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as they shall deem sufficient to accomplish the work, and to demand and receive the monies subscribed, for such additional shares in like manner, and under the like penalties as are provided by this act in case of the original subscriptions.

Annual statement of accounts.

Increase of capital stock.

SECT. 12. *And be it enacted by the authority aforesaid,* That the said president and managers, shall have power to erect good and sufficient bridges over all the streams of water, crossed by said route, whenever the same shall be found necessary, and shall cause a road to be laid out not exceeding thirty feet in width, and shall cause at least eighteen feet of said width to be made an artificial road, of wood, stone, gravel, or other proper and convenient materials, such as the nature of the ground may require, and will afford to be constructed in such manner as will admit an even surface, and in such place where the road shall not be made of stone, to rise towards the centre by a gradual arch to the height of eighteen inches, and in no place in said road shall there be an elevation of more than five degrees, from a horizontal line, and shall forever thereafter maintain and keep the same in good order and repair:

Description of bridges required to be erected.

Proviso.
Cutting of
timber
authorized.

Provided, That it shall and may be lawful for the president and managers, whenever they may deem it necessary, to cut and prostrate the timber on each or either side of the said road, within a distance not exceeding fifty feet from the centre of the said road.

Upon comple-
tion of 4 miles
so much may
be inspected
and tolls taken
thereon.

SECT. 13. *And be it further enacted by the authority aforesaid*, That whenever, and as often as the said company, shall have finished four miles or more of said road, the president thereof, may give notice to the Governor, who shall thereupon forthwith appoint three skilful, judicious and disinterested persons, to view and examine the same, and report on oath or affirmation to him, whether the road is so far executed in a competent 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 license, under his hand and seal of the state, permit and suffer said 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 from all persons travelling the same, otherwise than on foot, the same tolls which are hereinafter authorized and granted: *Provided*, That all persons attending funerals, military parades or trainings, divine worship, shall at all times be exempted from the payment of any tolls on said road.

Proviso.
Who shall
pass toll free.

Company in-
vested with
the same ge-
neral powers
as granted to
the Harris-
burg and
Pittsburg
company by
act of 31st
March, 1807.

SECT. 14. *And be it further enacted by the authority aforesaid*, That for collecting and receiving tolls, and for every attempt to evade the payment thereof, for every neglect to keep the said road in good repair, for the increase, diminution and application of tolls, the erection of index posts and for injuring and defacing the same, for the regulation of the travelling on the said road, and for limitations of actions, and for the recovery and application of fines and penalties, for offences against this act the said company shall have all the powers, authorities, rights and privileges, and be subject to all the penalties which are given and granted by the act, entitled "A supplement to an act, entitled 'An act authorizing the Governor to incorporate a company, for making an artificial road, from the bank of the river Susquehanna, opposite the borough of Harrisburg, to Pittsburg,'" passed the thirty-first day of March, eighteen hundred and seven.

Three years
allowed to
commence, &
six to com-
plete road.

SECT. 15. *And be it further enacted by the authority aforesaid*, That if the said company, do not commence making the said road, within three years after the passing of this act, and complete the same within six years thereafter, then this act shall be void.

JOHN LAPORTE,

Speaker of the House of Representatives.

WM. G. HAWKINS,

Speaker of the Senate.

APPROVED—The sixth day of April, Anno Domini, eight-
teen hundred and thirty-two. GEO WOLF.