

No. 188.

AN ACT

To authorize the Governor to incorporate a company for making a turnpike road from Sumneytown to the Perkiomen and Reading turnpike road, at or near the Perkiomen bridge, in Montgomery county.

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*

Commissioners appointed to open books.

same, That John Markley, of the borough of Norristown, John Miller of Norriton, Samuel Detwiler, John Hunsecker, John Zeiler, Jacob Schwenk, Andrew Zeiber, John Guyer and Isaac Shultz, 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 October next, procure three books, and in each of them enter as follows: "We, whose names are hereunto subscribed, do promise to pay to the president and managers of the Sumneytown and Perkiomen turnpike 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 the commonwealth, entitled 'An act to authorize the Governor to incorporate a company to make a turnpike road from Sumneytown to the Perkiomen and Reading turnpike road, at or near the Perkiomen bridge, in Montgomery county.' Witness our hands, this day of , in the year of our Lord one thousand eight hundred and thirty- ;" and shall thereupon give notice

Form of heading to subscription.

Shares \$50.

Directions rel. to the receiving of subscriptions.

in one or more newspapers printed in the county of Montgomery, for one calendar 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 authorize 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 five hundred 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 trans-

Whole no. of shares 500.

fer the books elsewhere, until the whole number of five hundred shares shall have been subscribed, of which adjournment and transfer 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 upon each share at time of subscription.

SECT. 2. *And be it further enacted by the authority aforesaid*, That when five hundred shares or more of 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 one body politic and corporate, in deed and in law, by the name, style and title, of "the president and managers of the Sumneytown and Perkiomen turnpike 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 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.

When stock is taken Governor to issue letters patent.

Corporate style.

Privileges, immunities, &c.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the commissioners aforesaid, or a majority of them, as soon as conveniently may be after the said letters patent shall be sealed and obtained, give at least twenty days notice in two or more of the newspapers in the county of Montgomery of the time and place by them appointed, for the subscribers to the stock of said company to meet, in order to organize the said company, and to choose by a majority of the votes of said subscribers, by ballot, to be given in person or by proxy, duly authorized, one president and seven 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 previous to

Of the organization of company.

Officers. President, seven managers, treasurer, secretary, &c.

Provisional election.

the election at which such proxy shall be presented; that the president and managers aforesaid shall conduct the business of said company until the first Monday of January next, and until like officers shall be chosen, and may make such by-laws, rules, orders and regulations, as to not controvert 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.

Of the annual elections.

SECT. 4. *And be it further enacted by the authority aforesaid,* That the stockholders shall meet on the first Monday of January 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 two or more newspapers in the county, 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 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.

Special meetings.

Ratio of votes to shares.

General powers of the president and managers.

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 more 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 turnpike road, and to fix their salaries and wages, to ascertain the times, manner and proportion in which the said stockholders shall pay the monies 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 authorized to do: *Provided,* That such drafts or orders be signed by the president, and in his absence by a majority of the managers present.

Proviso. Orders on treasurer.

Certificates of stock.

One for each share.

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 the presence of the president or treasurer, who shall keep a book for that purpose, subject 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 or 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 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 road, as to them shall seem most expedient and consistent with economy and public interests, from Sumneytown, continuing along the Perkiomen, as near as practicable to the Perkiomen and Reading

Proviso.
Injuries to in-
dividuals.

turnpike road, at or near the Perkiomen bridge: *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.

Company au-
thorized to
take and use
materials for
road.

SECT. 9. *And be it further enacted by the authority afore-
said*, 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 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 road, satisfying the owner or owners therefor; 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 road passing through his, her or their land, which report being confirmed by the court, judgment shall be entered thereon, and an 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.

Arrangement
for the assess-
ment of da-
mages.

Jury of six to
be appointed
to view, &c.

Proviso.
Right of ap-
peal.

Upon comple-
tion of road
Governor to
appoint view-
ers.

SECT. 10. *And be it further enacted by the authority afore-
said*, That as soon as the president, managers and company, shall have perfected their turnpike 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 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, authorize the said 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 the same tolls that are allowed by law to be received by the Ridge turnpike road company: *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 sum of fifteen per centum per annum.

Same tolls allowed as to the Ridge turnpike co.

Proviso. Dividends not to exceed 15 per cent.

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 road, 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 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 road, and to receive and demand the monies for shares so subscribed, in like manner and under like penalties as herein before provided for by the original subscription, or as shall be provided for by their by-laws.

Annual statement of accounts to stockholders.

Of the increase of capital.

SECT. 12. *And be it further enacted by the authority aforesaid*, That the president, managers and company, shall 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 every year, publish the 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.

Annual declaration of dividends.

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

3 years allowed to commence work and 10 for completion.

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.

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 feet in width, and the turnpike road not less than twenty-five 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; 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.

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.

JOHN LAPORTE,

Speaker of the House of Representatives.

WM. G. HAWKINS,

Speaker of the Senate.

APPROVED—The fifth day of May, Anno Domini, eighteen hundred and thirty-two.

GEO. WOLF.

Proviso.
Reservation of
right to re-
peal.

Description of
road required
to be made.

Suits for pe-
nalties must
commence
within six
months from
time of of-
fence.