

No. 36.

AN ACT

To incorporate the president and managers of the Elizabeth turnpike road company.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That William Shraider, Isaac Wilson, John Irwin, James McKoon, Peter Wilson, Joseph Van Kirk, of Samuel, James Hall, sen'r. Uriah Applegate, James Scott, Culbut Means, Samuel Walker, John Gamble, of the county of Allegheny, 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 September next procure two books, and in each of them enter as follows: "We, whose names are hereunto subscribed, do promise to pay the president and managers of the Elizabeth turnpike road company, the sum of twenty-five 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 act of the general assembly of this commonwealth, entitled an act to incorporate the president and managers of the Elizabeth turnpike road company. Witness our hands the day of in the year of our Lord, one thousand eight hundred and thirty- , and thereupon shall give notice in two or more public papers printed in the county of Allegheny for twenty days at least of the time and places, when and where the said books shall be opened to receive subscriptions for the stock of the said company, at which time and places, one of the said commissioners shall attend and permit and suffer all persons of lawful age who shall offer to subscribe in said books in their own names, or in the name or names of any other persons who shall duly authorize the same, for any number of shares of stock, and the said book shall be kept open respectively for the purposes aforesaid, at least six hours in every judicial day for the space of six days, or until the said books shall have six hundred shares therein subscribed. And if at the expiration of the said six days, the books aforesaid shall not have the said number of six hundred shares therein subscribed

Commissioners

To procure books

Form of subscription

To give notice when books are to be opened

Who may subscribe

Time books are to be kept open

Commissioners may adjourn from time to time

bed, the commissioners respectively may adjourn from time to time, and transfer the said books from place to place, until the whole number of shares shall be subscribed, of which adjournment and transfer, the commissioners aforesaid shall give such public notice as the occasion may require. And when the whole number of shares subscribed shall amount to six hundred, the same shall be closed: *Provided always*, That every person offering to subscribe in said books, in his own or any other name, shall previously pay to the attending commissioner or commissioners, the sum of three dollars for every share to be subscribed, out of which shall be defrayed such incidental charges and expenses as may be necessary for taking such subscription, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

SECTION 2. When twenty persons or more shall have subscribed one hundred shares of the said stock, the said commissioners respectively 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 to the governor of this commonwealth, whereupon it shall and may be lawful for the governor, by letters patent, under his hand and seal of state, to create and erect the subscribers—and if the subscription be not full at the time, then those who shall afterwards subscribe to the number 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 Elizabeth turnpike road company," and by the said name, the said subscribers shall have perpetual succession, and all privileges and franchises incident to a corporation, and shall be capable of taking and holding the 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 intent of this act, and of purchasing, taking and holding to them, 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 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.

SECTION 3. The commissioners aforesaid, as soon as conveniently may be, after the said letters patent shall be sealed and obtained, shall give public notice in two or more public papers printed in the county of Allegheny, of a time and

Proviso

Name

Three dollars to be paid

Expenses how paid

To certify to the governor

Letters patent to issue

Name, style and title

Powers and authorities of corporation

Sue and be sued

Notice to be given of time and place of organization

place by them to be appointed, not less than twenty days from the publication of the first notice, at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes of the subscribers by ballot, to be delivered in person or by proxy duly authorized, one president, seven managers, one treasurer, and such other officers as may be necessary to conduct the business of said company until the first Monday in November next, and until such other officers shall be chosen, and shall and may make such by-laws, orders and regulations, not inconsistent with the constitution and laws of the United States and of this commonwealth, as shall be necessary for the well ordering the affairs of said company: *Provided, always,* That no person shall have more than twelve votes 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 held by him under that number.

President and
managers to
be chosen

Number of
votes

SECTION 4. The said company shall meet on the first Monday of October 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 ensuing year in 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 or special meetings they shall have full power and authority to make, alter, or repeal by a majority of votes in manners aforesaid, all such by-laws, rules, orders and regulations made as aforesaid, and to do and perform any other corporate act.

Time of meet-
ing to choose
officers

By-laws

SECTION 5. The president and managers, first to be chosen as aforesaid, shall procure certificates to be written or printed for all the shares of the said 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, which certificate shall be transferable at his pleasure, in person or by attorney, in the presence of the president or treasurer, subject, however to all payments due and to become 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 that purpose, shall be a member of said corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meeting thereof.

Certificates of
stock

Stock trans-
ferable

Assignment
to be entered
in a book

SECTION 6. If after thirty days notice in two of the public newspapers printed in the county of Allegheny of the time and

Stock how to be paid 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 to pay any 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 instalments so called for, pay after the rate of two 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 before paid 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.

President and managers to meet SECTION 7. The said president and managers shall meet at such times and places as shall be ordained by their by-laws, and when met, five members shall form a quorum, 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, superintendents 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 the manner and proportion in which the stockholders shall pay the moneys due on their respective shares, in order to carry on the work, to draw orders on the treasurer for moneys necessary to pay the salaries or wages of persons by them employed, and for labor done and materials provided in the prosecution of the work, which orders shall be entered on their book of minutes, and shall be signed by the president, or in his absence by a majority of the board, and countersigned by their secretary, and generally to do all such other acts, matters and things, as by this act and the by-laws, rules, orders and regulations of the company shall be committed to them.

Width of road SECTION 8. It shall be lawful for the said president and managers, to cause a road to be laid out forty feet wide, and at least sixteen feet thereof to be made an artificial road, bedded with wood, stone, gravel or 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 nearly as the materials will admit of, an even surface rising towards the middle by a gradual arch, 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 with an horizontal line, and shall forever hereafter maintain and keep the same in good

How to be made
Angle of ascent and descent

and perfect order and repair, from the borough of Elizabeth, including the same to low water mark, to the tavern of John Torrence, on the Williamsport turnpike.

SECTION 9. It shall be lawful to and for the said president and managers, by and with their superintendents, engineers, artists, workmen and laborers, with their tools and instruments, carts, wagons, wains and other carriages, and beasts of draft 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 thereof, or their representatives, and doing as little damage thereto as possible, and repairing any breeches they may make in the enclosures thereof, and making amends for any damages that may be done to any improvements thereon, and also, for the value of the materials by appraisements to be made, in the manner hereinafter directed, or upon reasonable agreement, if they can agree, if they cannot agree, then upon an appraisement to be made upon oath or affirmation, by three disinterested and reputable freeholders, to be mutually chosen, whose award or the award of any two of them shall be final; and if either the said president and managers, or the said owners, shall upon due notice, neglect or refuse to join in the choice, then it shall and may be lawful for any justice of the peace, of the county where the said damage may be done, not interested on either side, to appoint the said freeholders, and upon tender of the value so appraised as aforesaid, it shall and may be lawful for the said president and managers, or for any person or persons, by his or their directions, to dig, take and carry away stone, gravel, sand or earth, then being most conveniently situated for making or repairing the said road. *Provided*, That no part of this act shall authorize the taking of any property by said company, unless the same be previously paid for, or adequate security given to the owner, for the payment thereof.

SECTION 10. So soon as the said president, managers and company, shall have perfected the said road, from Elizabeth to the tavern of John Torrence, 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 in either case be in the affirmative, then the governor shall by license under his hand and the lesser seal of this commonwealth, permit and suffer the said president, managers and company, to erect and fix so many gates and turnpikes, upon and across the said road as will be necessary and sufficient to collect the toll and

May enter upon lands, &c.

Notice to owners of lands

Damages how assessed

Tender how made

Proviso

Notice to be given govern'r

Governor to appoint viewers

Gates to be erected

duties hereinafter granted to the said company, from all persons travelling on the same with horses, cattle, carts and carriages.

Toll how col-
lected

Rates of

SECTION 11. When the said company is licensed in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll gatherers as they may 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 horses, cattle, hogs, sheep, coach, coachee, sulkey, chair, chaise, phaeton, cart, wagon, train, sleigh, sled or any other carriage of burden or pleasure, from passing through the said turnpikes, until they shall respectively have paid the same, that is to say, for every three miles in length of the said road completed and licensed as aforesaid, the following sums of money, and so in proportion for any lesser distance or for any greater or lesser number of sheep, hogs or cattle, to wit: For every score of hogs, six cents, for every score of sheep, six cents, for every score of cattle, twelve cents, for every horse and his rider, or led horse, three cents, for every sulkey, chair or chaise, with one horse and two wheels, six cents, and with two horses, nine cents, for every chariot, coach, phaeton or dearborn, with one horse and four wheels, nine cents, for every chariot, coach, phaeton or chaise, 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 hroses drawing the same, for every stage wagon with two hoses, twelve cents, and for every such wagon with four horses, twenty cents, for every sleigh, three cents for each horse drawing the same; and for every sled, two cents for each horse drawing the same; for every cart or wagon, whose wheels shall not exceed four inches, six and a quarter cents for each horse drawing the same; and for every cart or wagon whose wheels shall exceed four inches and not exceed seven inches four cents, for every horse drawing the same, for every cart or wagon, the breadth of whose wheels shall be more than seven inches, and not more than ten inches and being of the breadth of seven inches, shall roll more than ten inches, three cents, for every horse drawing the same; for every cart or wagon the breadth of whose wheels, shall be more than ten inches and not exceeding twelve inches, or being ten inches, shall roll more than fifteen inches, two cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than twelve inches, two cents for every horse drawing the same. And if any person or persons, shall

represent to the said company or any of their officers, that he or she or they have travelled a less distance than he or she or they have actually travelled along said road, with intent to defraud said company of its toll, or any part thereof, such person or persons shall for every such offence, forfeit and pay to the use of said company, the sum of five dollars. And if any toll gatherer shall demand and receive toll for a greater distance than the person of whom such toll is demanded, shall have travelled along said turnpike road, or shall demand and receive greater toll from any person or persons, than such toll gatherer is authorized to demand and receive, by virtue of this act, such toll-gatherers shall forfeit and pay the sum of ten dollars for every such offence, to the supervisors of the township in which the forfeiture is incurred, to be expended in repairing township roads, and for the payment of which the said company shall be responsible.

Penalty for misrepresenting distance travelled

Penalty on toll gatherer

To be paid to supervisors

SECTION 12. All such carriages as aforesaid, to be drawn by oxen, in the whole or partly by horses and partly by two oxen, two oxen shall be estimated as equal to one horse, in charging all the aforesaid tolls, and every mule as equal to one horse.

Carriages drawn by oxen, &c. how to be estimated

SECTION 13. If the said company shall neglect to keep the said road in good and perfect order for the space of thirty days, and information thereof shall be given to any justice of the peace of the neighborhood, within the county where the repair ought to be made, such justice shall issue a precept to be directed to any constable, commanding him to summon three disinterested persons to meet at a certain time, in said precept to be mentioned; at the place in said road which shall be complained of, which meeting, notice shall be given to the keeper of the gate, or turnpike nearest thereto, within the said county; and the said justice shall, at such time and place, on the oaths or affirmations of the said persons, inquire whether the said road, or any part thereof, is in such good and perfect order and repair, as aforesaid; and shall cause an inquisition to be made, under the hands of himself, and a majority of the said persons; and if the said road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall 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, and from thenceforth, the tolls hereby granted to be collected, at such turnpikes or gates, shall cease to be demanded, paid, or collected, until the said defective part or parts of the said road shall be put in good and perfect order and repair, as aforesaid; and if the same shall not be so put into good and perfect order and repair, before the next general court of quarter sessions of the peace, to be held for the

Road to be kept in good order, on neglect

Justice to issue precept

Notice to keeper of the gate

Inquisition

Justice to certify a copy to keepers of gates

Payment of tolls to cease until road is put in order

If road is not repaired copy of inquisition to be certified to Court of Quarter Sessions

Proceedings thereon

Penalty to be paid to supervisors

county in which the defect is proved to be, the aforesaid justices shall certify and send a copy of the inquisition aforesaid to the justices of the said court; and the said justices shall thereupon cause process to issue, and bring in the body or bodies of the person or persons entrusted by the company, with the care and suprintendence of such part of the said road as shall be so found defective, and shall proceed thereon, as in cases of supervisors of the highways, for neglect of their duty; and if the person or persons entrusted by the said company, as aforesaid, shall be convicted of the offence by the said inquisition charged, the said court shall give judgment according to the nature and aggravation of the neglect, as according to right and justice would be proper in the case of supervisors of the highways neglecting their duties; and the fines and penalties so to be imposed, shall be recovered in the same manner, as fines for misdemeanors are usually recovered in the said court, and shall be paid to the supervisor of the highways of the township wherein the offence was committed, to be applied to repairing the public roads within such township.

Penalty for fraud on company

SECTION 14. If any person or persons, whosoever, owning, riding in, or driving any sulkey, chair, or chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure, riding or leading any horse, mule, mare, or gelding, or driving any hogs, sheep, or other cattle, shall therewith pass through any private gates or bars, or along or over any private gates or bars, or along or over any private passage, way, or other ground near to, or adjoining any turnpike or gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the company, and avoid the payment of the toll or duty for passing through any such gate or turnpike, or if any person or persons shall with such intent take off, or cause to be taken off, any horse, mule, mare, or gelding, or other cattle, from any sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure, or practice any other fraudulent means or device, with the intent that the payment of any such toll or duty may be evaded or lessened, all and every person or persons, in all or every, or any of the ways or manners aforesaid offending, shall, for every such offence, respectively, forfeit and pay to the president and managers and company, of the Elizabeth 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 a similar amount are by law sued for and recovered: *Provided always*, That if any person or persons shall be prosecuted under this section

Amount of fine, and how recoverable

Proviso

of this act, and the said prosecution shall not be sustained on the part of the prosecutors, then in that case, the person or persons prosecuted, as aforesaid, shall receive from the company the sum of ten dollars, in lieu of damages arising from delay and a vexatious prosecution, recoverable as fines under this act. Company to pay \$10 in case of non-conviction

SECTION 15. The president and managers of the said company shall keep fair and just accounts of all moneys received by them from the said commissioners, and from the subscribers, to the said undertaking, on account of the several subscriptions, and of all penalties for the delay of payment thereof, and of the amount of profits on the shares which may be forfeited, as aforesaid, and also, all moneys by them 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 complete, and until all costs, charges, and expenses, of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained. To keep just accounts of moneys received, &c To submit accounts to stockholders

SECTION 16. If the said company shall not proceed to carry on the said work within three years after the passage of this act, or shall not, within six years afterwards, complete the said road, according to the true intent and meaning of this act, then, in either of those cases, all and singular the rights, liberties, and privileges, and franchises hereby granted to the company, shall revert to this commonwealth. When to commence—and time of completion of road

WM. HOPKINS,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—The thirteenth day of March, eighteen hundred and thirty-nine.

DAVID R. PORTER.