

bit his books, accounts and vouchers, as aforesaid, shall forfeit the sum of forty dollars, to be recovered as debts of a refusal similar amount are now by law recoverable in any action, (brought by a person qualified to vote for trustees) in the name of said corporation, one half to be recovered for the use of the academy, and the other half for the use of the prosecutor.

SECTION 4. The legislature reserves the right to repeal, alter or amend the privileges hereby granted, in such manner that no injustice be done to the corporators. Right to repeal by legislature

SECTION 5. That the said corporation shall not be entitled to receive the annual appropriation made to academies, by the fourth section of an act passed the twelfth day of April, one thousand eight hundred and thirty-eight, entitled "a supplement to an act to consolidate and amend the several acts relative to a general system of education by common schools," passed the thirteenth of June, one thousand eight hundred and thirty-six. Not to receive annual appropriation

WM. HOPKINS,
Speaker of the House of Representatives.

CHARLES B. PENROSE,
Speaker of the Senate.

APPROVED—The twenty-fifth day of June, eighteen hundred and thirty-nine.

DAVID R. PORTER.

NO. 180.

AN ACT.

To incorporate the president and managers of the Whites Haven and Clifton 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 Henry W. Drinker, Joseph Wragg, Henry Colt, Samuel Shouse, Lewis S. Coryell, Joseph D. Murray, Matthew C. Jenkins, John C. Parry, Eli R. Price, Charles L. Terwilliger, of the county of Luzerne, 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 May next procure two books, and in each of them enter as follows: Commissioners
To procure books

Form of sub- whose names are hereunto subscribed do promise to pay the
 scription president and managers of the Whites Haven and Clifton
 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 com-
 pany, in persuance of an act of the general assembly of this
 commonwealth, entitled an act to incorporate the president
 and managers of the Whites Haven and Clifton turnpike
 road company. Witness our hands, the _____ day of
 _____ in the year of our Lord, one thousand
 eight hundred and _____; and thereupon, shall
 give notice, in two or more public papers printed in
 Notice the county of Luzerne, 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 com-
 missioners shall attend and permit and suffer all persons of
 Who may lawful age, who shall offer to subscribe in said books, in
 subscribe their own names, or in the name or names of any other per-
 sons, who shall duly authorize the same, for any number of
 shares of stock, and the said books shall be kept open respec-
 tively, for the purposes, aforesaid, at least six hours in every
 juridical day, for the space of six days, or until the said
 books shall have two thousand shares therein subscribed;
 and if at the expiration of the said six days, the books afore-
 said, shall not have the said number of two thousand shares
 therein subscribed, the commissioners, respectively, may ad-
 journ 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 com-
 missioners, aforesaid, shall give such public notice as the
 occasion may require; and when the whole number of
 shares subscribed, shall amount to two thousand, the same
 shall be closed: *Provided always*, That every person offer-
 ing to subscribe in said books, in his own, or any other
 name, shall previously pay to the attending commissioner or
 commissioners, the sum of two 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 men-
 tioned.

SECTION 2. When twenty persons or more shall have
 subscribed one thousand shares of the said stock, the said
 commissioners, respectively, may, or when the whole num-
 ber of shares, aforesaid, shall be subscribed, they shall cer-

tify, 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 Whites Haven and Clifton 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 Luzerne, of a time and 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 ten 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.

Letters patent

Name, style and title

Privileges and franchises

Organization of company, how and when

Officers

By-laws

Provido

Ratio of votes

SECTION 4. The said company shall meet on the first 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 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 manner, as aforesaid, all such by-laws, rules, orders, and regulations made, as aforesaid, and to do and perform any other corporate act.

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.

SECTION 6. If after thirty days notice, in two of the newspapers printed in the county of Luzerne, 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 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, of his assignee, shall, in addition to the instalments so called for, pay at 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.

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 chair-

Annual meet-
ing of com-
pany, &c.

Certificates of
stock, how is-
sued

Transferrable,
and how

Penalty for
neglect to pay
instalments

Meeting of
president and
managers, and
their duties

man, 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 a quorum, 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.

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 eighteen 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 and perfect order and repair.

Width of road and mode of construction

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 other 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 breaches 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 hereafter 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

Authority to enter upon lands

Of damages and mode of settling claims

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 direction, to dig, take, and carry away any 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 or owners, for the payment thereof.

Proviso

Governor to
appoint view-
ers

SECTION 10. So soon as the said president, managers, and company, shall have perfected the said road from Whites Haven, the distance of five miles, and, also, when they shall have completed the remainder of the distance to Clifton, 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 duties herein-after granted to the said company, from all persons travelling on the same with horses, cattle, carts, and carriages: *Provided*, That all persons attending funerals, or places of worship, their horses and carriages, shall be exempt from the payment of tolls in going to, and in returning therefrom.

To license
company

Tolls

Proviso

Toll gather-
ers

Penalty for
fraud

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 shall think proper, to collect and receive of, and from all and every person and persons using the said road, the same tolls and rates, as charged on the Philadelphia and Great Bend turnpike; 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, 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 or 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.

SECTION 12. All such carriages, as aforesaid, to be drawn by oxen in the whole, or partly by horse, and partly by 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.

SECTION 13. If the said company shall neglect to keep the said road in good and perfect order, for the space of ten 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; of which meeting, notice shall be given to the keepers 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 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 superintendence 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 misdemeanor 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.

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 Whites Haven and Clifton 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 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

Penalty for attempt to defraud company out of tolls

How to be recovered

Proviso

of ten dollars, in lieu of damages arising from delay, and a vexatious prosecution, recoverable as other fines under this act.

SECTION 15. The president and managers of the said ^{President and} company, shall keep fair and just accounts of all moneys ^{managers to} received by them from the said commissioners, and from the ^{keep just ac-} subscribers, to the said undertaking, on account of the ^{counts} 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.

SECTION 16. The said president and managers and com- ^{Of money re-} pany, shall also keep a just and true account of all and every ^{ceived by col-} of the moneys received by their several and respective ^{lectors of tolls} collectors of tolls, at the several and respective gates or turnpikes on the said road, from the beginning to the end thereof, and shall make and declare a dividend, and when such ^{Dividends} dividends shall exceed twelve per cent. per annum, then one-half of the surplus, exceeding twelve per cent., to be paid ^{Surplus how} into the state treasury for the benefit of the education fund; ^{disposed of} which abstract shall be verified by the oath or affirmation of the president or treasurer of the said company, of the clear profits and income thereof, all contingent costs and charges being first deducted among all the subscribers, to the said ^{Yearly divi-} company's stock, and shall, on the first Monday in Novem- ^{dend to be,} ber and May, in every year, publish the half yearly dividend, ^{published} made of the said 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.

WM. HOPKINS,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—The twenty-fifth day of June, eighteen hundred and thirty-nine.

DAVID R. PORTER.