

[No. 160.]

AN ACT

To incorporate the President, Managers, and company, of the Loyalsock Gap 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 Robert Porter, Robert Montgomery, Jeremiah Tallman, Jacob Hess, William Sedam, Abraham Updegraff, William Piatt, Jr., Charles Gudykuntz, and John Beyer, of the county of Lycoming, 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 July 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 Loyalsock Gap 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 an act of the general assembly of this Commonwealth, entitled 'An act to incorporate the president and managers of the Loyalsock Gap turnpike road company.' Witness our hands the day of , in the year of our Lord, one thousand eight hundred and forty;" and thereupon shall give notice in two public papers, printed in the county of Lycoming, 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 names of any other persons who shall duly authorize the same for any number of shares of stock; and the said books shall be kept open respectively for the purposes aforesaid, at least six hours in every juridical day, for the space of five days, or until the said books shall have two hundred shares therein subscribed. And if at the expiration of the said five days, the books aforesaid shall not have the said number of two hundred shares therein subscribed, the commissioners respectively may adjourn from time to time, and transfer the said books from place to place, until the whole num-

Commission-
ers.

To procure
books.

Form of sub-
scription.

Notice.

Who may
subscribe.

200 shares.

Whole No.

ber 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 two 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 one dollar 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 to the treasurer of the corporation as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

\$1. to be paid
on subscrib-
ing.

SECTION 2. When ten persons or more shall have subscribed fifty 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 Loyalsock Gap 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 subscription, 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 every other matter and thing which a corporation or body politic may lawfully do.

Letters patent

Name.

Privileges and
franchises.

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 public papers printed in the county of Lycoming, of a time and place by them to be appointed, not less than fifteen 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,

Organization.

by ballot to be delivered, in person or by proxy duly authorized, one president, five managers, and one treasurer, and such other officers as may be necessary to conduct the business of said company until the last Monday in December 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: *And provided also*, That no stockholder, whether the 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 shall have been fully paid and discharged.

SECTION 4. The stockholders of the said company shall meet on the last Monday of December 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 and form as shall be determined 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 said president and managers shall make out certificates of stock, signed by the president and countersigned by the treasurer, and sealed with the corporate seal, and deliver one certificate to each subscriber for any share or number of shares by him or her held, on him or her paying to the treasurer on each share so held the sum of one dollar, which certificate 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 share or shares so transferred.

SECTION 6. It shall be lawful for the said president and managers, their superintendents, surveyors, engineers, artists and chain bearers, to enter in and upon all and every the lands, tenements and inclosures, in, through and over which the said intended turnpike road may be thought proper to pass, and for that purpose to examine the ground and 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, beginning at or near George Porter's, thence through Loyalsock Gap to the line dividing Washington and Clinton township, at the junction of the state road leading to Muncy with the present road leading to Uniontown, through Loyalsock Gap to Williamsport, in Lycoming county.

SECTION 7. The said president and managers, five of whom shall for all purposes be a quorum, shall keep minutes of all their proceedings fairly entered in a book to be kept for that purpose, and shall have full power and authority to appoint, agree or contract with such engineers, superintendents, artists, laborers, and other persons as they may think necessary to make 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 their work, to draw orders on the treasurer for all debts contracted by them, which orders shall be signed by the president, or in his absence by a majority of the managers, and attested by their secretary, and to do and transact all other acts, matters or things as by the by-laws, orders, and regulations of the said company shall be entrusted to them.

SECTION 8. If any stockholder, whether original subscriber or assignee, after twenty days notice in two newspapers printed in Lycoming county, of the time and place appointed for the payment of any instalment or proportion of the capital stock, shall neglect to pay such proportion at the place appointed, for the space of thirty days after the time appointed for the payment thereof, any 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 sum 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 may be obtained therefor, or in default of payment by any stockholder of such instalment as aforesaid, for the space of sixty days 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 penalties aforesaid.

SECTION 9. It may be lawful for the said president and managers, by and with their superintendents, engineers, artists, workmen, 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 intentions 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 wherein the land lies, who shall not be interested therein, and upon the tender of the assessed value, to dig and carry away any timber, stone, sand, earth or other materials necessary or suitable for making 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 owners for the payment thereof.

SECTION 10. The said president and managers shall keep fair and just accounts, as well of all moneys received by them as of those paid out and expended in the prosecution of the 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 the 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 an extent as they shall deem sufficient to accomplish the work, and to demand and receive the moneys subscribed for such additional shares, in like manner and under like penalties as are provided by this act, in the case of the original subscriptions.

SECTION 11. 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 fifty 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 so nearly level in its progress that it shall in no place raise or fall more than will form an angle of five and a half degrees from a horizontal line: *Provided*, That if in the opinion of the said president and managers, any part of the ground on the route of said road shall be so hard and compact as to make a good road without any covering of wood, gravel, stone, slate or other hard substance, the said president and managers are hereby authorized to construct such part of said road without any such covering, and shall forever thereafter maintain and keep the same in good order and repair.

SECTION 12. Whenever the said company shall have finish-

ed five miles or more of 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, report on oath or affirmation to him, whether the said road is so far executed in a competent and workmanlike manner, according to the true intent and meaning of this act, and if this report shall be in the affirmative, then the Governor shall, by license, under his hand and the 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 otherwise than on foot, the same tolls as are hereinafter authorized and granted.

Viewers-

License to collect tolls.

SECTION 13. 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 toll 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, waggon, 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 four 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, cattle, or hogs, to wit: For every score of hogs, six cents; for every score of cattle, twelve cents; for every horse and his rider, or led horse, five cents; for every sulkey, chair, or chaise, with one horse and two wheels, eight cents, and with two horses, ten cents; for every chariot, coach, phaeton or dearborn with one horse and four wheels, ten cents; for every coach, chariot, phaeton or chaise with two horses and four wheels, fifteen cents; for either of the carriages last mentioned with four horses, twenty-five cents; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and horses drawing the same; for every stage waggon with two horses, twelve cents; and for every such waggon with four horses, twenty cents; for every sleigh, four cents, for each horse drawing the same; and for every sled, three 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 waggon whose wheels shall exceed four inches and not exceed seven inches, four cents for every horse drawing the same; for every cart or waggon the breadth of whose wheels shall be more than seven inches, three cents for every horse drawing the same. And if any person or persons shall represent to the said company, or

Toll gathering.

any of their officers, that he, 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 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-gatherer shall forfeit and pay the sum of five 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 14. If the said company shall neglect to keep the said road in good travelling order and repair for the space of thirty days, and information thereof shall be given to any justice of the neighborhood within the county where the repairs 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 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 travelling 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 turnpike 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 travelling order and repair, as aforesaid; and if the same shall not be so put in good travelling 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 justice shall certify and send a copy of the inquisition aforesaid to the judges of the said court, and the said judges 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 highways for neglect of their duty, and if the

Penalty for defrauding the company.

Penalty for extorting unlawful tolls.

Road when out of repair. Proceedings.

Powers of justice peace.

Inquisition.

Justice to certify proceedings to court.

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 supervisors of the highways of the township wherein the offence was committed, to be applied to repairing the public roads within such township.

SECTION 15. If any person or persons whosoever, owning, riding in, or driving any sulkey, chair or chaise, phaeton, cart, waggon, 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 gates or private 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, mare or gelding, or other cattle, from any sulkey, chair, chaise, phaeton, cart, waggon, 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 offending, shall for every such offence respectively forfeit and pay to the president and managers of the Loyalsock 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.

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 same, according to the true intent and meaning of this act, then, or in either of those cases all and singular, the rights, liberties, privileges and franchises hereby granted shall revert to the commonwealth.

WM. HOPKINS,

Speaker of the House of Representatives.

EBEN'R. KINGSBURY, Jr.

Speaker of the Senate.

APPROVED—The sixteenth day of April, one thousand eight hundred and forty.

DAVID R. PORTER.