

Fines, &c for
neglect of
duty

managers of the two companies mentioned as aforesaid, be subject to the same fines and forfeitures for every neglect of duty required of them by this act, as is imposed by law on the managers of the company of the southern district of the King-essing meadows. And the treasurer shall have such compensation for his services, as the major part of the managers chosen as aforesaid shall deem just and equitable; and in the event of his death or resignation, or if from any other cause he should be prevented from performing the duties herein required of him, the managers as aforesaid, or the major part of them, shall have power to appoint another in his stead, who shall perform all the duties the same as though he had been chosen as provided for in the second section of this act.

Frankstown
borough re-
pealed

SECTION 18. That so much of an act passed the third day of April, Anno Domini eighteen hundred and thirty-two, as relates to the incorporation of the borough of Frankstown, in the county of Huntingdon, be and the same is hereby repealed.

WM. A. CRABB,

Speaker of the House of Representatives.

JN. H. EWING,

Speaker of the Senate.

APPROVED—The twenty-second day of April, one thousand eight hundred and forty-one.

DAVID R PORTER.

[No. 107.]

AN ACT

To Incorporate the President and Managers of the Whitehaven and Lausanne Turnpike Road Company.

Commis'rs

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 Miller Horton, Thomas Morrison, of the county of Luzerne; George Fegely, John D. Bauman, William H. Cool, Samuel Wolf, Ephraim Ladd, of the county of Northampton, and John Rice, of the county of Lehigh, 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 June next, procure a book and enter as follows: We, whose names are hereunto subscribed, do promise to pay the president and managers of the

Form of sub-
scription

Whitehaven and Lausanne 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 the act of the general assembly of this Commonwealth, entitled an act to incorporate the president and managers of the Whitehaven and Lausanne 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 one or more public papers printed in the county of Luzerne and Northampton, for twenty days at least, of the times and places when and where the said book shall be opened to receive subscription for the stock of said company, at which times 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 book, in their own names or in the name or names of any other person 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 juridical day, for the space of three days, or until the said books shall have two hundred shares therein subscribed. And if, at the expiration of the said three days, the book 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 book 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 two hundred, the same shall be closed. *Provided always,* That every person offering to subscribe in said book, 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 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 five 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 the State, to create and erect the subscribers, and if the subscription be

Notice

Who may
subscribeNumber of
shares

Proviso

Letters patent

Name	<p>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 Whitehaven and Lausanne turnpike road company, and by the same name, the said subscribers shall have perpetual succession, and all the 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 the purchasing, taking and holding to them and their successors and assigns, and of selling, transferring and conveying in fee simple, or for any less estate. all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their 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.</p>
Privileges and franchises	
Organization	<p>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 one 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, four managers, one treasurer, and such other officers as may be necessary to conduct the business of said company, until the first Monday in April next then ensuing said election, 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 of the affairs of said company. <i>Provided always,</i> 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.</p>
Officers	
By-laws	
Proviso	
Ratio of votes	
Annual meeting	<p>SECTION 4. The said company shall meet on the first Monday of April, or such other day in every year, at such places as shall be fixed by their by-laws, for the purpose of choosing such 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,</p>

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, Certificate of stock 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 said stock shall be transferable at his pleasure, in person or by attorney, in the presence of the president or treasurer, on the book of said company; subject, however, to all payments due and to become due thereon; and the assignee holding such stock shall be a member of said corporation, and for every certificate of stock 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. Transferable

SECTION 6. If, after thirty days notice in one of the public 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 or 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. Penalty for neglect to pay instalments

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 three 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, superintendents and other 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 by them employed, and for labor done and materials provided in the prosecution of the work; which orders shall Quorum Surveyors, &c Salaries

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, &c

SECTION 8. It shall be lawful for the said president and managers to cause a road to be laid out sixty feet wide, and at least sixteen feet thereof to be made an artificial road, bedded with wood, stone, gravel, or other substance, well compacted together, and of sufficient depth to secure a solid foundation to the same, in such manner as to secure a firm, and as nearly as the materials will admit of, an even surface, and shall forever hereafter maintain and keep the same in good and perfect order and repair, from the town of Whitehaven, in the county of Luzerne, thence by a point at or near the Beaver Meadow rail road, at Black creek, to intersect the Berwick turnpike road at the town of Lausanne, in the county of Northampton.

Commence-
ment and ter-
mination of
road

To enter on
lands

SECTION 9. It shall be lawful to and for the said president and managers, by and with their superintendents, 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 appraisement to be made in the manner herein-after 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 damages 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, cut and take away, carry away, any stone, gravel, sand, timber 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.

Damages and
mode of as-
sessment

Proviso

SECTION 10. So soon as the said president, managers and company shall have perfected the said road from the town of Whitehaven Lausanne, 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 upon and across the said turnpike road as will be necessary and sufficient to collect the toll and duties hereinafter granted to the said company from all persons travelling on the same with horses, cattle, carts and carriages. License

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 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 turnpike until they shall respectively have paid the same; that is to say; for every five 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 coach, chariot, phaeton or chaise, with two horses and four wheels, twelve cents; for each 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 horses drawing the same; for every stage wagon with two horses, 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; and 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 Tolls

seven inches, four cents for each 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 each 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, 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 a 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 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
evading pay-
ment

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

Oxen rated

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 judge of the court of common pleas of the said county, such judge 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 nearest thereto; and the said judge 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 judge shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between

Neglect to
keep road in
repair

Mode of pro-
ceeding

which such defective place shall be; and from thenceforth the toll 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 proven to be, the aforesaid judge 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 said road as shall be so found defective, and shall proceed therein as in cases of supervisors of 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 judgement according to the nature and aggravation of the neglect, as according to right and justice would be proper in the case of supervisors of 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 14. If any person or persons whoseever, 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 gates or private bars, or along or over any private passage, way, or other ground near to or adjoining any turnpike 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 offending, shall for every such offence, respectively, forfeit and pay to the president and managers and company of the Whitehaven and Lausanne turnpike road any sum not exceeding ten dollars, to be sued for and re-

Penalty for attempting to defraud company

covered, 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.

Accounts

SECTION 15. The president and managers of 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 works; 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 affecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and the president and managers of the said company, or a majority of them, shall annually, out of the nett profits of the company, have a right to declare dividends amongst the stockholders of the company.

Dividends

Commencement & completion limited

SECTION 16. If the said company shall not proceed to carry on the said work within two years after the passage of this act, or shall not, within three 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, and privileges, and franchises hereby granted shall revert to the Commonwealth.

Luzerne and Northampton counties may purchase road

SECTION 17. That if, at any time after the completion of the said road, the counties of Luzerne and Northampton, or either of the said counties, shall pay to the said company the original cost of said road, or such part thereof as shall lie in either of the said counties, respectively, then the said road or such part thereof as shall be paid for as aforesaid, shall become a county road, subject to the laws that regulate other county roads. *Provided*, That said company shall not be compelled to accept pay for a less portion of the said road than the whole of such part thereof as may lie either in the one or the other of said counties.

Proviso

WM. A. CRABB,
Speaker of the House of Representatives.

JN. H. EWING,
Speaker of the Senate.

APPROVED—The twenty-second day of April, one thousand eight hundred and forty-one.

DAVID R. PORTER.