

[No. 136.]

AN ACT

To authorize the Governor to Incorporate the Cherry Ridge and East Sterling Turnpike Road Company, and for other purposes.

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

Com'issioners *of the same, That William R. McLaury, Richard Lancaster, Lucius Collins, Reuben R. Purdy, and William Bortree, of Wayne county, are hereby appointed commissioners, to do and perform the several things hereinafter mentioned, that is to say—they shall on or before the first Monday of September next, procure two books or more, and in each of them enter as follows: "We whose names are hereunto subscribed do promise to pay to the president and managers of the Cherry Ridge, and East Sterling turnpike road company, the sum of twenty-five dollars, for every share of stock in said company, 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 authorize the Governor to incorporate the Cherry Ridge and East Sterling turnpike road company. Witness our hands "the _____ day of _____ in the year*

Form of sub-
scription

Notice

Who may
subscribe

of our Lord, one thousand eight hundred and _____" And thereupon shall give notice in one or more of the public papers, printed nearest the route of the said road, 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, or who shall duly authorize the same, for any number of shares of stock, and the said books shall be kept open respectively, for purposes aforesaid, at least six hours in every judicial day, for the space of six days, or until the said books shall have two hundred shares therein subscribed, and if at the expiration of the said six 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 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 seven hundred, the same shall be closed: *Provided always,* Proviso 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.

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 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, indeed and in law, by the name, style, and title, of the president and managers of the Cherry Ridge and East Sterling turnpike road company, and by the said name, the said subscribers shall Name have perpetual succession, and all privileges and franchises Privileges & franchises incident to a corporation, and shall be capable of taking and holding the said 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 estates, 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 one public paper, printed nearest the route of said road, 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 Organization

Officers authorized, one president, six managers, one treasurer, one secretary, and such other officers as may be necessary to conduct the business of said company for one year, and until such other officers be chosen, and shall and may make such By-laws by-laws, rules, 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 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 by him held under that number.

SECTION 4. It shall be lawful to and for the said president and managers, their superintendents, surveyors, artists, and chain bearers, to enter in and upon all and every the lands, tenements, and enclosures in, through, and over which the said intended turnpike road may be thought proper to pass, and examine the ground most proper for the purpose, as well as the materials in the vicinity, that may be necessary in making and constructing the said turnpike road, and to survey, lay down, ascertain, mark, and fix such route or track for the said road, as in the best of their judgment will combine shortness of distance with the most practicable ground, and generally they shall have like powers, authorities, and privileges, necessary for carrying on and completing the said turnpike road, and be subject to all the duties, qualifications, and restrictions, penalties, fines, and forfeitures, and be entitled to like tolls and profits, in proportion to the distance as are given and granted to the president, managers, and company of the Coshocton and Great Bend turnpike road company, in and by an act of assembly of this Commonwealth, passed the twenty-ninth day of March, Anno Domini, one thousand eight hundred and four, and the said Cherry Ridge and East Sterling turnpike, shall commence at the Milford and Owego turnpike road, in Wayne county, at or near the house of William R. McLaury, and terminate at the Sterling and Newfoundland turnpike in said county: *Provided*, That whenever the president and managers shall sue for and recover the penalty or penalties prescribed by law, against any person or persons evading, or attempting to evade the payment of tolls on the said road, they shall also recover the costs of suit: *Provided further*, 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 payment thereof.

SECTION 5. The president and managers of the said road shall make, or cause the same to be made, not less than forty nor more than fifty feet in width, and at least twenty feet thereof shall be made an artificial road in the following man-

Width & construction

ner, to wit: All the timber shall be taken out by the roots and removed from the road, which shall, where the original location is level, or nearly so, be at least two feet higher in the centre than at the sides; it shall be well and sufficiently ditched so as to carry off the water and keep the road in its foundation firm and dry. It shall be constructed of firm and substantial materials, composed of wood, gravel, stone, slate, sand or other hard substance, such as the nature of the ground along which the road may pass will admit of, so as to secure a solid foundation and smooth and firm surface, and a well made, permanent highway, and so nearly level in progress that it shall in no place rise or fall more than will form an angle of five degrees with a horizontal line, and the said president and managers shall erect permanent bridges, with sufficient abutments and piers over all the streams of water crossing the said road, and shall keep the said road and bridges in perfect order and repair: *Provided*, That if in ^{Provide} 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 any other hard substance, the said president and managers are hereby authorized to construct such parts of the said road without any such covering, and shall keep the said road in perfect order and repair.

SECTION 6. If the said company shall not proceed to carry on the said work within five years after the passage of this act, ^{Commence-} or shall, within ten years thereafter, complete the same ^{ment & com-} according to the true intent and meaning of this act, then, or ^{pletion} in either of those cases, all and singular the rights, liberties, privileges and franchises hereby granted shall revert to the Commonwealth.

SECTION 7. The election of president, treasurer, secretary ^{Annual elec-} and managers of said company shall be held annually on the ^{tion} second Monday of January.

SECTION 8. That John Robinson, of Lancaster county, Bernard Way and James King Grier, of Chester county, be ^{State road} and they are hereby authorized to view and lay out a ^{from Salsbu-} road, beginning at the public road at or opposite the house of ^{Lancaster} the late Hugh Robinson, deceased, in Salsbury township, ^{co to Honey-} Lancaster county, eastward, along the line between the lands ^{brook in} of said deceased, Jacob Blank and John Miller, senior, on one ^{Chester co} side, and lands of William Buchanan, outlots of the village of Cambridge, and George Emery, of the other side, to intersect a private road leading from the mill of the said J. Miller, senior, about ten perches north from the house of William Compton; thence along said private road to said Miller's mill, in the township of Honeybrook, Chester county.

SECTION 9. It shall be the duty of the said commissioners, ^{Duty of com-} or a majority of them, appointed to view as aforesaid, having ^{missioners}

been sworn or affirmed before some justice of the peace, who shall file and preserve the same in his office, to perform the duties enjoined on them by this act with impartiality and fidelity, carefully to view the ground over which the road by them laid out may pass, and lay out the same as near to a straight line between the aforesaid points as the nature of the ground and circumstances will permit; and farther, it shall be the duty of the said commissioners to have due regard to the crossing of the waters, the nature of the ground and damages to private property, and all other circumstances that may affect the route, so that by a judicious combination of them the route adopted may best promote the public good, and that they shall clearly and distinctly mark upon the ground the route agreed upon, in such a manner as to enable the supervisors readily to find the same; and for the purpose of fulfilling the duties in this act enjoined, the commissioners herein mentioned shall receive a per diem allowance of one dollar and fifty cents each for every day they shall be necessarily employed in performing the duties of this act, and in case any of the said commissioners shall perform the duties of surveyor he shall receive fifty cents per diem in addition, and the said commissioners are hereby authorized to employ one surveyor, at two dollars per diem, two chain bearers and one axeman, at a per diem allowance not exceeding one dollar.

Mark route

Pay

Surveyor

Draft

Where deposited

SECTION 10. It shall be the duty of the said commissioners to make out a fair and accurate draft of the location of said road, noting thereon the courses and distances as they occur, the improvements passed through, and also the crossing of county and township lines, roads and waters, with such other matter as may serve for explanation, one copy whereof shall be deposited in the office of the secretary of the commonwealth, on or before the first day of January next, and one copy in the office of the clerk of the court of quarter sessions of the respective counties through which said road may pass, on the day aforesaid or as much sooner as practicable, which shall be a record thereof, and from thenceforth the said road shall be to all intents and purposes a public highway, and shall be opened and repaired in all respects as roads are opened and repaired, which are laid out by orders of courts aforesaid, and the damages sustained by the owners of private property assessed and paid in the same manner.

SECTION 11. The accounts of the said commissioners for their own pay, and for the pay of surveyors, chain carriers and markers, shall be adjusted by the commissioners, if the respective counties through which said road shall pass, and paid by the treasurers thereof, on warrants drawn in the usual way, in proportion to the length of road in such counties respectively.

Commissioners' accounts—how paid

SECTION 12. The said commissioners shall meet on or

before the first Monday in August next, or as soon thereafter as practicable, at such places as a majority of them shall agree upon, and complete the location of said road as soon as practicable, and if any vacancy or vacancies shall happen by resignation or any other cause, the court of quarter sessions of the proper county, as the case may be, are hereby authorized to fill the vacancy or vacancies by a suitable appointment.

SECTION 13. That the time for the performance of the duties required of the supervisors elected on the nineteenth day of March, eighteen hundred and forty-one, for the township of Middletown in the county of Delaware, by the twentieth section of an act entitled an act granting certain powers to the authorities of the cities of Lancaster and Philadelphia, and for other purposes, passed the sixteenth day of April, eighteen hundred and thirty-eight, be and the same is hereby extended to the first day of June, eighteen hundred and forty-one, and all contracts made under the provisions of said section, shall continue until ten days after the next annual election for township officers and so much of any act as is hereby altered, be and the same is hereby suspended until the aforesaid next annual election.

SECTION 14. That the streets, roads, lanes and alleys in the town of Heidleburg, in the county of Adams, are hereby declared public highways, subject to all the provisions of the general road laws regulating the same.

SECTION 15. That the several provisions of the seventh, eighth and ninth sections of the act entitled an act relating to roads, highways and bridges, passed the thirteenth day of June, one thousand eight hundred and thirty-six, relative to the assessment of damages on public roads, be and the same is hereby extended to state roads, laid out and opened in the county of Luzerne: *Provided*, That the one year therein limited for presenting petitions to the court of quarter sessions in the case of public roads, shall be extended to one year from the passage of this act, as to all state roads opened within five years immediately preceding the act, and all state roads hereafter opened the period of one year from said opening.

SECTION 16. That the time fixed for the settlement of the account of the commissioners appointed to expend an appropriation on the state road from Beaver bridge to the Ohio state line, near Petersburg, is hereby extended to the tenth day of January, one thousand eight hundred and forty-two.

SECTION 17. That the provisions of the eighty-seventh section of the act relating to counties and townships, and county and township officers, passed the fifteenth day of April, eighteen hundred and thirty-four, shall not be construed to authorize the county commissioners to appoint a person to fill the office of assessor or assistant assessor in consequence of

Meeting

Vacancy

Delaware co.
Middletown
supervisors'
time for per-
formance of
certain duties
extendedHeidleburg
street, &c
declared public
highwaysLuzerne co—
assessment of
damages on
state roadsRelative to
appropriat'ns
to Beaver and
Ohio state
roadCertain omis-
sions by As-
sessor's not to
cause their
removal

any omission in the assessors or assistant assessors heretofore elected, to produce a copy of their oaths or affirmations as provided in the eighty-eighth section of said act; and the period in the said eighty-eighth section mentioned is hereby extended for the period of twenty days from the passage of this act.

SECTION 18. That from and after the passage of this act, the Union Greys of Clearfield county, shall be exempt from parading or drilling with any regiment or battallion of Militia, except at the discretion of the members of said company: *Provided*, That the above named company shall meet the proper number of days required by law, in their company capacity.

SECTION 19. That John Pfoutz surviving trustee of Susanna Sennet, under the last will and testament of John Pfoutz, senior, deceased, be and he is hereby authorized to sell at public or private sale, and convey, discharged of any trust, a certain messuage and tract of land, situated in Warwick township in the county of Lancaster, containing thirty-six acres and eighty-seven perches strict measure, which was conveyed to him as trustee aforesaid, by Henry Herchilroth and Anna his wife, on the first day of March, eighteen hundred and thirty: *Provided nevertheless*, That before the said John Pfoutz, shall execute any deed for the aforesaid tract of land, he shall give bond to the Commonwealth, with such security as the orphans' court of Lancaster shall direct, conditioned for the proper investment of the money arising from such sale, and the application of the proceeds thereof, for the uses and purposes mentioned in the said last will and testament of John Pfoutz, senior, deceased.

SECTION 20. That the third section of the act passed the twenty-first of April, eighteen hundred and forty-one, entitled an act to authorize S. B. Young, guardian of Emanuel and William Bowser, minor children of Mathias Bowser, late of Armstrong county, deceased, to sell and convey certain real estate, and for other purposes, 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 seventh day of May, one thousand eight hundred and forty-one.

DAVID R. PORTER.