

[No. 53.]

## AN ACT

To incorporate the president and managers of the Kensington and Oxford 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 John Cuckle, Thomas Rowland, Charles

Commissioners Blake, John P. Verrec, John Livzey, Kinderdon Smith, Charles Norris, Christopher Rex, John Sidney Jones, John Turner, John Golbert, Samuel H. Crawford, Robert Whittaker, Thomas J. Roberts, John Felton and Benjamin Crispin, of the county of Philadelphia, 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 twenty-fifth day of March, procure two books, and in each of them

To open books enter as follows: We whose names are hereunto subscribed, do promise to pay to the president and managers of the Kensington and Oxford 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 Kensington and Oxford turnpike road company.

Form of sub-  
scription Witness our hands the twenty-fifth day of March, in the year of our Lord one thousand eight hundred and forty-two, and thereupon shall give notice in two or more public papers, printed in the city and county of Philadelphia, for at least six days 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 or more commissioners shall attend, and permit and suffer all persons of lawful age, who shall offer to subscribe in said books, in their own names, or in the name or names of any other persons who shall duly authorize the same, for any number of shares of said stock, and the said books shall be kept open respectively for the purpose aforesaid, at least six hours in every juridical day, for the space of six days, or until the said books shall have two thousand four hundred and eighty shares of stock, at twenty-five dollars each subscribed therein. And

if at the expiration of the said six days the books aforesaid, shall not have the said number of two thousand four hundred and eighty subscribed therein, 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 two thousand four hundred and eighty, 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 commissioners the sum of two dollars and fifty cents, for every share to be subscribed, out of which shall be defrayed such incidental charges and expenses, as may be necessary for taking such subscription, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

**SECTION 2.** When twenty persons or more shall have subscribed eight hundred shares of the said stock, the said commissioners respectively may, or when the whole number of shares aforesaid, shall be subscribed, they shall certify under their hands and seals the names of the subscribers, and the number of shares subscribed by each, to the governor of this commonwealth, whereupon, it shall and may be lawful for the governor, by letters patent, under his hand and the seal of the 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 Kensington and Oxford 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 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.

Number of shares

Proviso

Letters patent

Name style and title

Privileges and liabilities

**SECTION 3.** The commissioners aforesaid as soon as conveniently may be, after the said letters patent shall be sealed and obtained, shall give notice in two or more public papers, printed in the city of Philadelphia, 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, ten managers, one treasurer and such other officers, as may be necessary to conduct the business of the 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 of 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 vote, for every share held by him under that number.

**SECTION 4.** The said company shall meet on the first Monday in 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 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 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 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 three or more of the public newspapers, printed in the city of Philadelphia, of the time and place appointed for the payment of any proportion, or dividend of the said capital stock in order to carry on the work, any stockholder shall neglect to pay any such proportion or dividend 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 dividend so called for, pay at the rate of five 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.

Instalments

Penalty for neglecting to pay

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 six members shall form a quorum, who in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions fairly entered in a book, and a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents and other artists and officers as they shall deem necessary, to carry on their intended works, and fix their salaries and wages, to ascertain the times when, and the manner and proportion in which the stockholders shall pay the moneys due on their respective shares, in order to carry on the work, to draw orders on the treasurer for all 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 order 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.

Meeting of president and managers and their duties

SECTION 8. The said road shall be made in, over or upon the bed of the present road, beginning at the place where the northern boundary line of the Kensington district crosses the Second street road, thence extending by John D. Wentz's tavern, in Bristol township, to the Pine and Middle roads, through the village of the Fox Chase, Philadelphia county: *Provided*, That the said company may extend the said road when deemed advisable by them to the Spread Eagle tavern, on the Middle road: *Provided always*, That no surveyor, superinten-

Commencement and termination of road

Proviso

2d proviso

To obtain permission before entering upon lands  
 dent, artist or other person or persons employed by said company, to lay out said road, shall enter upon or go through any land or lands belonging to any person or persons, without first obtaining permission of the owner or owners thereof, excepting where it may be found necessary for the widening of the said road.

Width of road and materials of  
 SECTION 9. The president and managers and company, shall cause a road to be laid out of not less than fifty feet, in such manner as that the present buildings on said road be not injured, and at least twenty feet thereof, to be made an artificial road, bedded with wood, stone, or gravel, or any 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 near as the materials will admit of, an even surface, and so nearly level in its progress, as that it shall in no place raise or fall more than will form an angle of four degrees, with a horizontal line, and shall forever after maintain and keep the same in good and perfect order, from the northern line of the Kensington district, to the Pine and Middle roads, at the village of the Fox Chase aforesaid, and also to have power to extend said road to the Spread Eagle tavern, on the middle road, at any time if said company deem the same necessary, and the said president and managers and company, shall have power to erect permanent bridges over all the waters crossing the said road: *Provided*, That if the said road be faced with stone, the stones shall be none of them larger in size than will pass through a circular ring of two inches in diameter.

Erection of bridges  
 Proviso

Governor to ap't viewers  
 SECTION 10. So soon as the said president, managers, and company, shall have perfected the said road from the northern limits of Kensington district, the distance of two miles, and also when they shall have completed the remainder of the distance to the Pine and Middle roads, 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 hereinafter 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

To license company to receive tolls  
 Proviso

of worship, their horses and carriages, shall be exempt from the payment of tolls in going to, and returning therefrom.

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 or 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, cochee, 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, eight cents; for every chariot, coach, phaeton, or chaise, with two horses and four wheels, twelve cents; for either of the carriages last mentioned, with four horses, twenty cents; for every other carriage of pleasure, under whatever name it may go, the like sums according to the number of wheels and 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; for every cart or wagon whose wheels shall not exceed four inches, six cents for each horse drawing the same; and for every cart or wagon whose wheels shall exceed four inches, and not exceed seven inches, three cents for every horse drawing the same; for every cart or wagon the breadth of whose wheels shall be more than seven inches, and not more than ten inches, and being of the breadth of seven inches, shall roll more than ten inches, two cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches, and not exceeding twelve inches, or being ten inches, and shall roll more than fifteen inches, one cent for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than twelve inches, one cent 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 and receive greater toll from any person or persons than such toll gatherer is authorized to demand and receive by virtue of this act, such toll gatherers shall forfeit and pay the sum of ten dollars for every such offence, to the use of the poor of the township in which the forfeiture is incurred, and for the payment of which the said company shall be responsible.

Penalty for evading payment

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

Tolls

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 the said road which shall be complained of, which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto, within the said county, and the said justice shall at such time and place, on the oaths or affirmations of the said persons, inquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid, 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 en-

Penalty for neglecting to keep road in order

trusted by the company with the care and superintendence of such part of the said road as shall be 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 aforesaid, shall be convicted of the offence by the said inquisition charged, the said court shall give judgment according to the nature and aggravations of the neglect, as according to right and justice, would be proper in the case of supervisors of the highways for neglect of their duty, and if the person or persons entrusted by the said company aforesaid, shall be convicted of the offence by the said inquisition charged, the said court shall give judgment according to the nature of the aggravations of the neglect, as according to right and justice would be proper in the case of supervisors of the highways neglecting their duties. 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 the repairing of the public roads within such township.

SECTION 14. If any person or persons, whosoever owning, riding in or driving any sulkey, chair, 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, 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 Kensington and Oxford 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 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

Penalty for  
evading tolls

Proviso

not be sustained on the part of the prosecutors, then, in that case, the person or persons prosecuted as aforesaid, shall receive from the company the sum of ten dollars in lieu of damages arising from delay, and a vexatious prosecution recoverable as other fines under this act.

Accounts  
how kept

SECTION 15. The president and managers of the said company shall keep fair and just accounts of all moneys received by them from the said commissioners, and from the subscribers to the said undertaking, on account of the several subscriptions, and of all penalties for the delay of payment thereof; and of the amount of profits on the shares which may be forfeited as aforesaid; also all moneys by them expended in the prosecution of their 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 the 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, and if upon such liquidation, or when the capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company, at a stated or special meeting to be convened according to the provisions of this act, or their own by-laws, to increase the numbers of shares to such an extent as shall be deemed sufficient to accomplish the work, and to receive and demand the moneys subscribed for such shares in like manner and like penalties as are hereinbefore provided for the original subscription, or as shall be provided for by their by-laws.

Accounts of  
collectors of  
tolls

SECTION 16. The said president, managers and company shall also keep a just and true account of all and every of the moneys received by their several and respective 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 shall exceed twelve per cent. per annum, then one half of the surplus exceeding twelve per cent., to be paid into the state treasury for the benefit of the education fund, which abstract shall be verified by the oath or affirmation of the president or treasurer of said company, the clear profits and income thereof, all contingent costs and charges being first deducted among all the subscribers to the said company's stock, and shall on the first Monday in November and May in every year publish the half yearly dividend 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.

**SECTION 17.** The said company shall cause mile stones to be placed on the side of the said road, beginning at the distance of one mile from the northern limits of the Kensington district, and extending thence to the termination of the turnpikes aforesaid, whereon shall be marked in plain legible characters, the respective number of miles which each stone is distant from the commencement of the said turnpike road, and at every gate or turnpike by them to be fixed on the said road, shall cause the distance from Philadelphia, and the distance from the nearest gates or turnpikes in each direction to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates or some other conspicuous place, for the information of travellers and others using the said road. Mile stones

**SECTION 18.** All wagoners, and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass, and if any driver shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars, to any person who shall be obstructed in his passage, as will sue for the same, to be recovered with costs before any justice in the same manner as debts of like amount are by law now recoverable; and no wagoner or driver of carriages of any kind, whether of burden or pleasure, using said road, shall pass any other vehicle going in the same direction at a faster gait than a trot at a rate not exceeding eight miles per hour, under a penalty of twenty dollars for every offence, recoverable before any justice of the peace, one half to the use of the said company, and the other half to the use of the informant. Passing carriages

**SECTION 19.** That when the said company shall have constructed two miles of the said turnpike road in a good and workmanlike manner, so as to pass inspection, then the said company may erect a toll gate and receive toll in proportion to the distance, whether at the lower or upper section of said turnpike road. When tolls may be received

**SECTION 20.** 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 five years afterwards complete the said road to the Pine and Middle roads, near the village of Fox Chase, according to the true intent and meaning of this act, then in either of those cases all and singular the rights, liberties and Commencement & completion limited

## LAWS OF PENNSYLVANIA

privileges and franchises hereby granted to the company, shall revert to this Commonwealth.

JAMES ROSS SNOWDEN,  
*Speaker of the House of Representatives.*

JOHN STROHM,  
*Speaker of the Senate.*

APPROVED—The seventeenth day of March, one thousand eight hundred and forty-two.

DAVID R. PORTER.

[No. 54.]

## A N A C T

To authorize Richard U. Morgan to receive certain moneys.

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 Richard U. Morgan of the borough of Reading, and county of Berks, be and he is hereby authorized to ask, demand, sue for and receive of John Zeiber, executor of, and trustee appointed by the last will and testament of John Markley, late of the borough of Norristown, and county of Montgomery deceased, or from any other person or persons in whose hands the same may be, a certain pecuniary legacy given and bequeathed in the said will, and thereby directed to be secured by mortgage on real estate, and the interest arising therefrom, to be paid to his daughter Sarah, (now Sarah Morgan, wife of the said Richard U. Morgan,) during the term of her natural life, and after her decease to be paid to her surviving child or her children.

Assignment  
how secured

SECTION 2. It shall be lawful for the said Richard U. Morgan, and he is hereby invested with the right and authority to make an assignment or transfer of the mortgage, by which the said legacy is secured, or to execute any other instrument of writing by which the said bequest, and all interest whatsoever therein, shall pass to the person or persons to whom such assignment or transfer may be duly made: *Provided nevertheless,* That before the said Richard U. Morgan shall receive

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