

CHAPTER MMDCCCII.

A SUPPLEMENT TO AN ACT ENTITLED "AN ACT AUTHORIZING THE GOVERNOR TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD FROM THE BANK OF THE RIVER SUSQUEHANNA OPPOSITE THE BOROUGH OF HARRISBURG TO PITTSBURGH." (2)

Section I. (Section I, P. L.) 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 for the purpose of making an artificial or turnpike road from Harrisburg to Pittsburgh, it shall and may be lawful for the governor, and he is hereby authorized and required to incorporate six companies on the terms and conditions in this act provided: viz. One company for making so much of said road as may lie in the county of Cumberland, one for making so much of said road as may lie in the county of Franklin, one for making so much of said road as may lie in the county of Bedford, one for making so much of said road as may lie in the county of Somerset, one for making so much of said road as may lie in the county of Westmoreland, and one for making so much of said road as may lie in the county of Allegheny; and said companies when incorporated as hereinafter provided for, shall, in conjunction by delegation or otherwise, view and lay down the route by which said road shall pass; combining shortness of distance with suitable ground and other conveniences, from the river Susquehanna opposite Harrisburg, through Carlisle, Shippensburg, Chambersburg, M'Connelstown, Bedford, Somerset and Greensburg to Pittsburgh; but in all other cases said companies shall be considered separate and independent of each other to all intents and purposes.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That John Wormley, James Duncan, John Bowman, John Carothers, Samuel Weakley, Alexander Sharp, John M'Kee, Jacob Raum and John Simpson, for Cumberland county; Andrew Dunlap, Jacob Heiser, Thomas Greer, Jacob Snyder, John R. Campbell, and Patrick

M'Dowell, for Franklin county; John Davis, Benjamin Martin, John Anderson and Henry Wertz, junior for Bedford county; Adam Miller, Ludwick Baker, Michael Rheem, John Kimmel, John Shull, Peter Kimmel, Frederick Neff, Alexander Ogle and John Campbell, for Somerset county; Thomas Jones, William Jack, John Irwin, Hugh Martin and John M. Snowden, John Edger, Joshua Budd, John Daley and John Lobingier, for Westmoreland county; Nathaniel Irish, Thomas Beard, James O'Hara, Adamson Tannehill, John Woods and George Robeson for Allegheny county; be and they are hereby appointed commissioners to do and perform the several duties hereinafter mentioned: that is to say, each board of commissioners shall procure two books, 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 Harrisburg and Pittsburgh turnpike road company, within _____ county the sum of fifty dollars for every share set opposite to our respective names in such manner and proportions and at such times and places as shall be determined by the said president and managers, in pursuance of an act of the general assembly of this commonwealth entitled "A supplement to an act entitled, 'An act authorizing the governor to incorporate a company for making an artificial road from the bank of the river Susquehanna opposite the borough of Harrisburg to Pittsburgh,'" Witness our hands the _____ day of _____ in the year of our Lord, one thousand eight hundred and _____ ;" and shall give notice in at least one of the public papers printed in Philadelphia, Lancaster, Harrisburg, Carlisle, Chambersburg, Bedford, Somerset, Greensburg and Pittsburgh, for one calendar month, of the times and places, when and where the said books will be open to receive subscriptions of stock for the proper company; at which respective times and places some three of the commissioners shall attend, and shall permit and suffer all persons of lawful age who shall offer to subscribe in the said books, which shall be kept open for the purpose aforesaid at least six hours in each juridical day for the space of six days; or until the said

books for Cumberland county company, shall have subscribed in them nine hundred shares; those for Franklin county company eight hundred shares; those for Bedford county company eight hundred shares; those for Somerset county company four hundred shares; those for Westmoreland county company seven hundred shares; and those for Allegheny county company nine hundred shares; and if at the expiration of the said six days the books aforesaid, or any of them, shall not have the respective number of shares as aforesaid therein subscribed, the said commissioners respectively may adjourn from time to time, and transfer the said books from place to place, until the whole number of shares for such company as aforesaid shall be subscribed; of which adjournments and transfers the commissioners aforesaid shall give such public notice as the occasion may require; and every person offering to subscribe in any of the aforesaid books, in his or her own or any other name, shall previously pay to the attending commissioners three dollars for every share to be so subscribed; out of which shall be defrayed the expenses attending the taking such subscriptions, and all other incidental charges, 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 III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That when fifty persons or more, shall have subscribed one third of the number of shares aforesaid to each of the aforesaid companies, the proper commissioners 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; and 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 to each particular company, into one body politic and corporate, in deed and in law, by the name, style, and title of "The President, managers, and company of the Harrisburg and Pittsburgh turnpike road;" and by the said name the said subscribers shall have perpetual succession, and all the privi-

leges and franchises incident to a corporation; and shall be capable of taking and holding their said 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 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 of being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the commissioners of each of the companies aforesaid, shall as soon as conveniently may be, after the said letters patent shall be sealed and obtained, give notice in the public papers most suitable, 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 said subscribers by ballot, to be delivered in person or by proxy, duly authorized, one president, twelve managers, one treasurer, and such other officers as they shall think necessary to conduct the business of the said company for one year, and until such other officers shall be chosen; and shall and may make such by-laws, rules, orders and regulations not inconsistent with the constitution and laws of this commonwealth, as shall be necessary for the well ordering the affairs of the said company: Provided, always, that no person shall have more than five 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 the said number.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said companies respec-

tively shall meet on the first Monday of January, in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing 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 as aforesaid, and to do and perform any other corporate act.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of each company first to be chosen as aforesaid, shall procure certificates to be written or printed, for all the shares of the stock of their 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; he paying to the treasurer in part of the sum due thereupon, the sum of ten dollars for each share; 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 grow 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 the purpose, shall be a member of the 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 meetings thereof.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of each company shall meet at such time and places, and be convened in such manner as shall be agreed on for transacting business; at which meetings seven 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 met, they shall have full power and authority to agree with and appoint

all such surveyors, superintendents, artists and officers as they shall judge necessary to carry on the intended works, and to fix their salaries or wages; to ascertain the times, manner and proportions when, and in which the stockholders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the treasurer for all monies necessary to pay the salaries or wages of persons by them employed, and for the labor done and materials provided in the prosecution of the work; which orders shall be entered or registered in their book of minutes, and shall be signed by their 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 the by-laws, rules, orders, and regulations of the company shall be committed to them.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder, whether original subscriber or assignee, after thirty days notice in one of the public papers printed in the city of Philadelphia, and each county as directed by the second section of this act, of the time and place appointed for the payment of any proportion or installment of the said capital stock in order to carry on the work, shall neglect to pay such proportion at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall in addition to the installment so called for, pay at the rate of five per centum per month for every 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 penalty shall become equal to the sums before paid in part and on account of such share, the same may be forfeited by and to the said company, and may be sold by them to any person or persons willing to purchase for such price as can be obtained therefor; or in default of payment by any stockholder of any such installment as aforesaid, for the space of sixty days as aforesaid, the said president and managers may at their election cause suit to be brought before a justice of the peace, or in any court having competent jurisdiction

for the recovery of the same, together with the penalty aforesaid: Provided always, that the recovery in any such suit shall in no case exceed the amount of such installments as may be due on such share, together with such accumulated penalty, at the rate aforesaid, as shall equal the sums before paid on the same share: And provided also, that no stockholder whether original subscriber or assignee, shall be entitled to vote at any election or at general or special meetings of the said company, unless the whole sum due and payable as aforesaid, on the share or shares by him held at the time of such election or general or special meeting of the said company, shall have been fully paid and discharged as aforesaid.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said president and managers, their superintendents, surveyors, engineers, artists and chain-bearers, to enter into 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 to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel and other materials in the vicinity, that will be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark and fix such route or track for the same road, as in the best of their judgment and skill, will combine shortness of distance with the most eligible ground within the bounds of their proper district or county.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the president and managers of each of the aforesaid companies, by and with their superintendents, engineers, artists, workmen and laborers, with their tools and instruments, carts, wagons, wains and other carriages and beasts of draught 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 or occupiers thereof, and doing as little damage

thereto as possible, and repairing any breaches they may make in the inclosures thereof; and making amends for any damages that may be done to any improvements thereon; upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made upon oath or affirmation, by three disinterested freeholders, or any two of them mutually to be chosen; or if the owners upon due notice shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of the proper county not interested therein, and upon tender of the appraised value to cut down, dig, take, and carry away any timber, stone, gravel, sand, earth, or other material there being most conveniently situated for making or repairing the said road.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers of the respective companies shall have power to erect permanent bridges over all the waters crossed by said route or track, wherever the same shall be found necessary; and shall cause a road to be laid out not exceeding fifty feet in width, unless in such places where the nature of the ground may render a greater width expedient, and then only with the consent of the owners of the contiguous land; and shall cause twenty feet thereof in breadth at least to be made an artificial road, which shall be bedded with wood, stone, gravel, or other proper and convenient materials, well compacted together, and of a sufficient depth to secure a solid foundation for the same; and the said artificial road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm, and as nearly as the nature of the country and the materials will admit, an even surface, rising towards the middle by a gradual arch, and shall forever hereafter maintain and keep the same in perfect order and repair.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That as soon as the said companies shall have perfected the said road from Harrisburg to Pittsburgh, they shall, or when any ten miles thereof

is made by one company, such company may give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three skilful and judicious persons to view and examine the same, and report to him whether the road is so far executed in a competent and workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall by license under his hand and the less seal of the commonwealth, permit and suffer the president and managers of such company to erect and fix such and so many gates or turnpikes upon and across the said roads as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company from all persons traveling in the same with horses and carriages.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the said company having perfected the said road or such part thereof from time to time as aforesaid, and the same being examined, approved and licensed as 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 horse, sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure from passing through the said gates or turnpikes until they shall respectively have paid the same: that is to say, For every space of five miles in length of the said road, the following sums of money, and so in proportion for any greater or less distance; for every horse or mule ladened or unladened with his rider or leader, three cents; for every sulky, chair, or chaise with two wheels and drawn by one horse, six cents, and with two horses nine cents; for every chair, coach, phaeton, chaise, stage, wagon, coachee or light wagon, having four wheels and drawn by two horses, twelve and a half 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 of horses drawing the same; for every sleigh or sled, two cents for each horse drawing the same: for every cart or wagon or other carriage of burden, the wheels of which do not in breadth exceed four inches, four cents for every horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth four inches, and shall not exceed seven inches, three cents for each horse drawing the same; for every cart or wagon the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches and shall roll more than ten inches, two cents for each horse drawing the same; for every cart or wagon the breadth of the wheels of which shall be more than ten inches and not exceed twelve inches, or being ten inches, shall roll more than fifteen inches, one cent and a half for each horse drawing the same; and for any such carriage the breadth of the wheels of which shall be more than twelve inches, one cent for each horse drawing the same; and when any such carriage aforesaid shall be drawn by oxen or mules, in the whole or in part, two oxen shall be estimated equal to one horse and every ass or mule as equal to one horse in charging the aforesaid tolls.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons owning, riding in or driving any carriage of burden or pleasure as aforesaid, or owning, riding, leading or driving any horse or mule as aforesaid, shall with an intent to defraud the said companies, or to evade the payment of any of the tolls or duties aforesaid, pass therewith through any private gate or bar, or along, or over any private passage-way or along or over any other ground or land near to or adjoining any turnpike or gate, which shall be erected in pursuance of this act; or if any person or persons shall with the intent aforesaid, take off or cause to be taken off any horse or other beast or cattle of draught or burden from any carriage of burden or pleasure; or shall practice any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending in manner aforesaid; shall for every such

offense respectively forfeit and pay to the president, managers, and company of the proper district, fifteen 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 equal amount may be sued for and recovered.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if the said companies or either of them, shall neglect to keep their part of the said road in good and perfect order and repair, for the space of fifteen days, and information thereof shall be given to any justice of the peace of the proper county, such justice shall issue a precept, to be directed to any constable, commanding him to summon three judicious freeholders to meet at a certain time, in the said precept to be mentioned at the place in the said road complained of; of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto, and the said justice shall at such time and place by the oaths or affirmations of the said freeholders, 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 and seals of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order and repair according to the true intent and meaning of this act, he 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 for the intermediate distance between them shall cease to be demanded, paid or collected; until the said defective part or parts of the said road shall be put into good and perfect order and repair as aforesaid; but if the same shall not be put into good and perfect order and repair, before the next ensuing court of quarter sessions of the proper county, the said justice shall certify and send a copy of the said inquisition to the justices of the said court; and the said court shall thereupon cause process to issue, and bring in the 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 found defective as aforesaid; and shall direct a bill of indictment to be sent to the grand inquest against the person or persons entrusted as aforesaid, and upon conviction shall give such judgment, according to the nature and aggravation of the neglect, as the said court in their discretion shall judge proper: Provided, the fine in no instance shall be less than ten dollars, nor exceeding one hundred dollars; and the fines so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said counties; and shall be paid to the supervisors of the highways of the place where the offense was committed, to be applied to repairing such highways as the township or county is bound to repair at the public expense thereof.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of each of the said companies shall keep fair and just accounts of all monies which shall be received by them from the said commissioners, and from the subscribers for the stock of the said company on account of their several subscriptions, and of all penalties for the delay in the payment thereof, and of the amount of the profit on the shares which may be forfeited as aforesaid, and also all monies by them to be expended in the prosecution of their said work; and shall at least once in every year submit such accounts to a general meeting of the stockholders, until their part of the said road shall be completed, 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 whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete their part of 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 number of shares to such extent as shall be deemed sufficient to accomplish the work; and to demand and receive the monies subscribed for such shares, in like manner and under the like penalties as are hereinbefore provided for the original subscriptions, or as shall be provided by their by-laws.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of each of the said companies, shall also keep a just and true account of all the monies to be received by their several and respective collectors of tolls, at the several gates or turnpikes on the said road, from the beginning to the end thereof, or such part thereof, as shall from time to time be completed as aforesaid; and shall after the said road is completed or so much thereof as it may from time to time be deemed expedient to make and finish, make and declare a dividend of the clear profits and income thereof; all contingent costs and charges and a reasonable fund for repairs and for the progressive improvement and accomplishment of the said work, being first deducted and reserved, among all the subscribers to the stock of the said company; and shall on the first Monday in February and August in every year, publish the half yearly dividend, to be made of the 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 XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers of each of the aforesaid companies shall at the end of every third year from the date of their incorporation until two years next after their portion of said road shall be completed, lay before the general assembly of this commonwealth, an abstract of their accounts; showing the amount of their capital expended in prosecution of the said work, and of the income and profits arising from the said toll, for and during the said respective periods; together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges; to the end

that the clear annual income and profits thereof may be known and ascertained; and if at the end of two years after the said road shall be completed, from the beginning to the end thereof, it shall appear from the average profits of the said two years, that the said clear income and profits thereof, will not bear a dividend of six per centum per annum, on the whole capital stock of the said company so expended, and on the interest accrued on such expenditure during the time wherein the work shall have been prosecuting before the receipt of toll, then it shall and may be lawful for the president and managers of such company, to increase the tolls hereinbefore allowed according to such rate upon the same, as will raise the dividend up to six per centum per annum as aforesaid; and at the end of every ten years after the said road shall be fully completed as aforesaid, they shall render to the general assembly a like abstract of their accounts for the three preceding years; and if at the end of any such decennial period, it shall appear from such abstract, that the clear profits and income of any of the said companies will bear a dividend of more than nine per centum per annum, then the said toll shall be so reduced as will reduce the said dividend down to nine per centum per annum.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to erected at the intersection of every [public] road leading out of the said turnpike road; with boards and index-hands pointing to the direction of such roads on both sides of which boards shall be inscribed in legible characters, the names of the towns or places to which such roads respectively lead, and the distance thereto in measured or computed miles; and shall also cause milestones to be placed on the side of the said road, beginning at the distance of one mile from the river Susquehanna, and extending thence to Pittsburgh, on which stones shall be marked in plain legible characters, the respective number of miles which each stone is distant from the city of Philadelphia; and at every gate or turnpike by them to be erected on the said road, shall cause the distances from the city of Philadelphia and Pittsburgh, and the distances from

the nearest gate or turnpike 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 near thereto; and also shall cause to be affixed at such places a printed list of the rates of toll which from time to time may lawfully be demanded, for the information of travelers and others using the said road.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall wilfully break, deface or prostrate any milestones which shall be placed in pursuance of this act on the side of the said road, or shall obliterate the letters or figures inscribed thereon; and if any person or persons shall wilfully break, pull down, deface, destroy or injure any direction-post which shall be erected in pursuance of this act at the intersection of any road as aforesaid; or the board or index-hand affixed thereto in conformity with the directions of this act; or shall obliterate the letters or figures, inscribed or marked thereon; or if any person or persons shall destroy, deface or obliterate the letters, figures, or other characters, marked at any turnpike or gate which shall be erected in pursuance of this act, for all or any of the purposes therein mentioned; or the whole or any part of any printed list of the rates of tolls, which shall be affixed in pursuance of the directions of this act at any such gate or turnpike; he or they so offending in the premises and each of them shall for every such offense, severally and respectively, forfeit and pay to the said president, managers and company, any sum not exceeding twenty dollars, to be sued for and recovered with costs of suit, as debts of equal amount are or may be by law recoverable.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That all wagoners, carters, and drivers of carriages, of all kinds, whether of burden or pleasure using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriage on the right hand side of the said road in the passing direction, leaving the other side of the said road free and clear of other carriages to pass; and if any wagoner,

carter or driver shall offend against this provision, he shall forfeit and pay any sum not exceeding ten dollars, to any person who shall by reason thereof be obstructed in his passage, and will sue for the same, to be recovered with costs in manner aforesaid.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That if any toll-gatherer on the said road shall demand and receive from any person or persons using the said road, any greater or other toll than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offense, one-half to the use of the poor of the proper township, or county as the case may be, the other half to the use of the person or persons suing for the same; to be recovered before any justice of the peace of the county in which the forfeiture shall be incurred.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That if in the case of any suit or prosecution which shall be commenced under the directions of this act, for any penalty incurred under the same, whether by or against the said company or agents, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor; then, and in such case the person or persons prosecuted as aforesaid, shall recover by the judgment of the justice before whom such suit or prosecution shall be depending, such sum, not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall by such justice be deemed a reasonable retribution for the vexation of such suit or prosecution.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That no suit or action shall be brought or prosecuted, by any person or persons for any penalty incurred under this act, unless such suit or action shall be commenced within six months next after the fact charged is said to have been committed; and the defendant or defendants in such suit or action, may plead the general

issue and give this act, and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if the said companies shall not proceed to carry on the said work within three years after the passing of this act; or shall not within twenty years thereafter complete the said road, according to the true intent and meaning of this act; then in either of those cases, it shall and may be lawful for the legislature to resume all and singular the rights, liberties, privileges and franchises by this act granted to the said companies, or any of them.

Section XXVI. (Section XXVI, P. L.) And be it further enacted by the authority aforesaid, That until the whole of the said road from Harrisburg to Pittsburgh shall be completed, the said companies respectively shall have power to receive and appropriate the tolls herein granted to the proprietors of the fractional parts of the said road, from which the said tolls shall respectively arise in proportion to their stock therein; and as soon as the whole of the said road shall be completed from Harrisburg to Pittsburgh, the said companies respectively shall deliver up to the governor to be cancelled, their respective charters of incorporation; and the said companies shall thereafter become one body politic, or corporation in law; and the whole stock of the said companies shall be consolidated agreeably to the intention of the act to which this is a supplement, which shall thereafter be and continue in full force and virtue; and the governor shall, by a new charter incorporate the said companies respectively into one corporation or body politic, as is directed in the act to which this is a supplement, on the terms and conditions therein provided.

Section XXVII. (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That the company to be incorporated for the county of Franklin, shall begin to make the road apportioned to the said company, at the line of the county of Cumberland leading from Shippensburg to Chambersburg and not elsewhere; and shall not receive toll on any

part of the road to be made by them, until the road shall be completed from the Cumberland county line to Chambersburg, any thing in this act to the contrary notwithstanding.

Section XXVIII. (Section XXVIII, P. L.) And be it further enacted by the authority aforesaid, That until the whole of the said road from Harrisburg to Pittsburgh shall be completed, the operation of the act to which this is a supplement, shall be and the same is hereby suspended.

Approved March 31, 1807. Recorded in L. B. No. 10, p. 491.
Note (c) Chapter 2647; Supra this volume, p. 73.

CHAPTER MMDCCCIII.

AN ACT TO ENABLE THE GOVERNOR TO INCORPORATE A COMPANY FOR MAKING AN ARTIFICIAL ROAD BY THE BEST AND NEAREST ROUTE, FROM THE BOROUGH OF YORK TO THE MARYLAND LINE, AT THE PLACE THE PRESENT YORK ROAD PASSES THE SAME, OR AS NEAR THERETO AS THE COMMISSIONERS SHALL FIND EXPEDIENT.

Section I. (Section I, P. L.) 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 Adam Hendrix, George Lotman, George Bard, Caleb Kirk, Philip Frederick, Robert Hamersly, Jacob Louks, Isaac Kirk, and John Brillinger, from the county of York, 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 Monday in May next, procure two books, and in each of them enter as follows, "We whose names are hereunto subscribed, do promise to pay to the president, managers and company of the York and Maryland Line Turnpike Road, the sum of one hundred dollars for every share of stock in said company set opposite our respective names, in such manner and proportions and at such times, as shall be determined by the president and managers of the said company, in pursuance of an act of the general assembly of this commonwealth, entitled "An act to enable the governor to incorporate a company for making an artificial road by the best and nearest route from