

[No. 71.]

A N A C T

Authorizing the Governor to incorporate the Clifford and Carbondale Turnpike Road Company, and for laying out a State Road from the Virginia state line, in the county of Fayette, to Centerville, in the county of Somerset, 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 of the same,* That Jacob G. Caddeback, William Wells, William Finn, Philip J. Stewart and Orren Thatcher, of the county of Susquehanna, or a majority of them, be, and they are hereby appointed commissioners, to do and perform the duties hereinafter mentioned, that is to say, they shall procure a book and therein enter as follows: "We whose names are hereunto subscribed do promise to pay the president and managers of the Clifford and Carbondale turnpike road company, the sum of twenty-five dollars for every share of stock in said company by us subscribed, in such manner and proportions, and at such times and places as shall be determined on by the president and managers, in pursuance of an act, entitled "An act authorizing the Governor to incorporate the Clifford and Carbondale turnpike road company, witness our hands the day of Anno Domini one thousand eight hundred and ;" and shall give at least thirty days notice in a newspaper published in Susquehanna county, of the time and place when and where the said books shall be opened to receive subscriptions of stock of the said company, at which time and place two or more of the said commissioners shall attend, and receive subscriptions from all persons of lawful age, who shall offer to subscribe in said book, 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 book shall have subscribed therein two hundred shares, and the said commissioners may adjourn from time to time, and transfer the book from place to place, until the whole number of shares aforesaid shall be subscribed; of which adjournment and transfer the said commissioners shall give such notice as the occasion may require.

Commissioners
appointed to
do and per-
form certain
acts and
things'

SECTION 2. When ten or more persons shall have subscribed one hundred or more shares and the said commissioners or a majority of them shall have certified, under their hands

When letters
patent shall
be issued

Name and
title of the
company

When the
company shall
choose mana-
gers and how
they shall be
chosen

Number of
votes

and seal to the governor the names of the subscribers, and the number of shares subscribed by each, it may be lawful for the governor, by letters patent under his hand and seal of the state, to create and erect the subscribers, and also all those who may afterwards subscribe into one body politic and corporate, in deed and in law, by the name, style and title of the Clifford and Carbondale turnpike road company, and by the said name the subscribers shall have perpetual succession, and all privileges and franchises incident to a corporation, and shall be capable of taking and holding their 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 intention of the 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 estates, real and personal as shall be necessary to them in the prosecution of their work, 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 stockholders, or any two of them, named in the letters patent shall as soon as convenient may be, after issuing of the same, give notice in one or more of the newspapers published in the county of Susquehanna, of a time and place to be by them appointed, not less than twenty days from the time of the first notice, at which time and place the said subscribers, or as many of them as may be then present, shall proceed to organize the said company, and shall choose by a majority of the said subscribers by ballot, in person one president, six managers, one treasurer and such other officers as may be necessary to conduct the business of said company for one year, and from thence until the next annual election, and until such other officers shall be chosen and organized agreeably to the provisions of this act; and in case of the death removal, or resignation of any president or manager, the board of managers may choose another to supply the vacancy until the next annual election of said company; they may make and have one common seal, and the same may break, alter, or renew at their pleasure, and may make such by-laws, rules orders, and regulations not inconsistent with the constitution and laws of this state as shall be necessary for the well ordering of the affairs of the corporation: *Provided*, That each subscriber shall be entitled to one vote for every share of stock by him or her held not exceeding five, but no share or number of shares above five shall entitle the holder thereof to a vote at any election or meeting of said company: *And provided also*, That no person shall be entitled to hold

the office of president, manager or treasurer of the said company, who is not a stockholder thereof: *And provided also,* That no stockholder, whether the original subscriber or assignee, shall be entitled to a vote at any election or meeting of said company, unless the whole sum due and payable on the shares by him or her held at the time of such election or meeting shall have been fully paid and discharged.

SECTION 4. If any treasurer elected by virtue of this act shall die, resign, or refuse to act, or neglect to give security for the faithful discharge of the duties of his office as the board of managers may direct and require, or having given the security required, shall neglect or refuse to take upon himself, and perform all the duties of said office, it shall be the duty of the said managers for the time being to appoint some suitable person treasurer, which person so appointed shall hold the office to which he shall have been appointed until the next election by the stockholders, on his giving the requisite security, and until a successor shall be duly elected and give the security required.

SECTION 5. The stockholders shall meet on the first Monday in January in each year, at such place as shall be fixed by the by-laws of said company, for the purpose of choosing in manner aforesaid, such other officers for the year ensuing the term of service of those previously elected.

SECTION 6. The said president and managers shall make out certificates of stock, signed by the president, and countersigned by the treasurer, and sealed with their corporate seal and deliver one such certificate to each subscriber for any share or number of shares by him or her held, on him or her paying to the treasurer on each share so held the sum of five dollars, which certificate shall be transferable in person or by attorney on the books of the said company, only subject to the sum due, or to become due on the share or shares so transferred.

SECTION 7. It shall and may be lawful for the said president and managers, their superintendents, surveyors, engineers, artists and chain bearers, to enter in and upon all and every the lands, tenements and enclosures, in, through and over which the said intended turnpike road may be thought proper to pass, and for that purpose to examine the ground and quarries of stone and gravel, and other materials that may be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark and fix, such route for said road as in the best of their judgment and skill, combine shortness of distance with the most eligible ground, beginning on the Milford and Owego turnpike road, in the township of Clifford, and county of Susquehanna, between the houses of William Jackson and Michael West, and thence the nearest

and best route to the Carbondale township line in the county of Luzerne, near school house No. 4, in said township.

SECTION 8. The said president and managers, five of whom shall for all purposes be a quorum, shall keep minutes of all their proceedings, fairly entered in a book to be kept for that purpose, and shall have full power and authority to appoint, agree or contract with such engineer, superintendents, artists, laborers and other persons, as they may think necessary to make and construct said road, and collect the tolls hereinafter authorized, and to fix their compensation; to ascertain the times, manner and proportions, in which the stockholders shall pay the amount of their respective shares, in order to carry on their work, to draw orders on the treasurer for all debts contracted by them, which orders shall be signed by the president, or in his absence by a quorum of the managers, and attested by their secretary, and to do and transact all other acts, matters or things, as by the by-laws, orders and regulations of the said company shall be entrusted to them.

Minutes of the proceedings of managers to be kept

Penalty for the neglect to pay instalments

SECTION 9. If any stockholder, whether original subscriber or assignee, after thirty days notice in two newspapers, one printed in Susquehanna county, the other in Luzerne county, of the time and place appointed for the payment of any instalment, or proportion of the capital stock, shall neglect to pay such proportion, at the place appointed for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of two per centum per month for every delay of such payment; and if the same and additional penalty shall become equal to the sums before paid, in part, on account of such share, the same may be forfeited by and to the said company, and may be sold by them for such price as may be obtained therefor, or in default of payment of any stockholders of such instalments as aforesaid, for the space of sixty days as aforesaid, the president and managers may at their election cause suit to be brought in the same manner as debts of like amount are now recoverable for the recovery of the same, together with the penalty aforesaid.

Damages to be paid for entering upon land near the road

SECTION 10. It may be lawful for the said president and managers, by and with their superintendents, engineers, artists, workmen and laborers, their tools and instruments, carts, wagons, and other carriages and beasts of draught or burden, to enter in and upon the lands contiguous, and near to which the said road shall be made or constructed, first giving notice of their intentions to the occupiers thereof, and doing as little damage thereto as possible, and making amends for damages upon a reasonable and equitable agreement by the parties, or if they cannot agree thereupon, a just and equitable assessment to be made upon oath or affirmation, by three disinter-

ested freeholders, or any two of them, to be mutually chosen, or if either party upon due notice, shall neglect or refuse to join in the choice, then to be chosen by a justice of the peace of the county wherein the said land lies, who shall not be interested therein, and upon the tender of the assessed value to dig and carry away any timber, stone, sand, earth, or other materials necessary or suitable for making said road.

SECTION 11. The said president and managers shall keep fair and just accounts, as well of all the moneys received by them, as of those paid out and expended in the prosecution of the work, and shall at least once in every year, submit their books and account to a general meeting of the stockholders; and whenever it shall be ascertained that the capital stock of the said company is not sufficient to complete the said road according to the true intent and meaning of this act, it shall and may be lawful for the president and managers at a stated or special meeting, convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as they shall deem sufficient to accomplish the work, and to demand and receive the moneys subscribed for such additional shares in like manner and under like penalties as are provided by this act in the case of the original subscriptions.

An account of all moneys received to be kept by the company

SECTION 12. The said president and managers shall have power to erect good and sufficient bridges, over all the streams of water crossed by said route, wherever the same shall be found necessary, and shall cause a road to be laid out, not exceeding fifty feet in width, and shall cause at least twelve feet of said width to be made an artificial road of wood, stone, gravel or other proper and convenient materials, such as the nature of the ground may require and will afford, to be constructed in such manner as will admit an even surface, and in no place in said road shall there be an elevation of more than five degrees from a horizontal line, and shall forever thereafter maintain and keep the same in good order and repair: *Provided*, That it shall and may lawful for the president and managers, whenever they may deem it necessary, to cut, deaden and prostrate the timber on each or either side of the said road, within a distance not exceeding one hundred feet from the centre of the said road, they making just and equitable compensation to the owners.

Power to erect bridges
Power to prostrate timber

SECTION 13. Whenever and as often as the said company shall have finished five miles or more of the road, the president thereof may give notice to the Governor, who shall thereupon, forthwith, appoint three skilful, judicious and disinterested persons, to view and examine the same, report on oath or affirmation to him whether the said road is so far executed in a competent and workmanlike manner, according to

When five miles of the road are finished view-ers to be appointed

Gates to be
erected

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 seal of the state, permit and suffer said company to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect from all persons otherwise than on foot the same tolls which are hereinafter authorized: *Provided*, That all persons attending funerals, military parades and trainings, or divine worship on the Sabbath day, shall at all times be exempted from payment of any toll on said road.

When road is
completed toll
gatherers to be
appointed

SECTION 14. The said company having perfected the said road, or such part thereof from time to time as aforesaid, and 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, collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned, and stop any person riding, or leading any horse, or driving any cattle, hogs or sheep, or driving any coach, coachee, sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriages of burthen or pleasure, from passing through the said turnpike or gates, until they shall have respectively paid the same, that is to say: for every five miles in length of the said road completed and licensed as aforesaid, the following sum of money, and so in proportion for any lesser or greater distance actually travelled, or for any greater or less number of sheep, hogs or cattle, to wit: For every score of hogs, six cents; for every score of sheep, six cent; for every score of cattle, twelve and a half 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 chaise, with four wheels and two horses, twelve and one half cents; for either of the carriages last mentioned with four horses twenty cents; for every other carriage of pleasure under whatsoever name it may go, the like sums, according to the number of wheels and horses drawing the same; for every sled, two cents for each horse drawing the same; for every cart or wagon the wheels of which do not exceed the breadth of four inches, six cents for each horse the drawing same; for every cart or wagon the wheels of which shall exceed in breadth four inches and not exceeding 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, 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 exceeding twelve inches,

Amount of
tolls that may
be charged

or being ten inches shall roll more than fifteen inches, one cent for each horse drawing the same; for every cart or wagon the breadth of the wheels of which shall be more than twelve inches, one cent for every horse drawing the same; and all carriages aforesaid, which shall 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; 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 the said company of their toll, or any part thereof, such person or persons, shall for every such offence, forfeit and pay to the use of the said company, any sum not exceeding five dollars; and if any toll gatherer shall demand and receive greater or other 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 twenty dollars for every such offence, to the supervisors of the highways of the township in which the forfeiture, is incurred, for the repairs of the roads in the said township, and for the payment of which the said company shall be responsible: *Provided always*, That it shall and may be lawful for the said company by their by-laws to regulate the burden on carriages to be drawn along the said road, in such manner as shall be found from experience, to be most conducive to the public convenience and the advantage of said company.

SECTION 15. For collecting and receiving tolls, for every attempt to evade the payment thereof; for every neglect to keep the said road in good repair, for the increase, diminution and application of tolls, the erection of index posts, and for injuring and defacing the same; for the regulation of the travelling on the said road, and for limitation of actions, and for the recovery and application of fines and penalties; for offences against this act, the said company shall have all the powers, authorities, right and privileges, and be subject to all the penalties which are given and granted by the act 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 Pittsburg.

SECTION 16. That Thomas Brown sen. and Samuel Rush, of Fayette county, and Abraham Colburn, of Somerset, are hereby appointed commissioners to view and lay out a state road beginning where the Brandonville and Fishing creek Virginia state road intersects the Pennsylvania state line, in Henry Clay township, Fayette county, from thence by the

Power to collect tolls &c
Penalties for injuring the road
Com'issioners to lay out a state road in Clay tp Fayette co

nearest and best route to the national road at or near the house of Thomas Brown, in Fayette county, and from thence by the nearest and best course to the town of Centreville in the county of Somerset.

SECTION 17. That it shall be the duty of said commissioners respectively, after taking and subscribing an oath or affirmation before a justice of the peace, to perform the duties enjoined upon them by this act, with impartiality and fidelity, to carefully view the ground over which said road may pass, and to lay out the same as near to a straight line between the aforesaid points, as the nature of the ground and other important circumstances will permit, so that the vertical departure from a horizontal line shall at no point exceed five degrees, except only at crossing ravines and streams, when by a moderate filling or bridging the declination of the said road, it may be preserved within that limit.

SECTION 18. That it shall be the duty of said commissioners respectively, plainly and distinctly to mark the ground on the route agreed upon for the road aforesaid, in such manner as to enable the supervisors readily to find the same, for the purpose of fulfilling the duties in this act enjoined. The commissioners respectively are hereby authorized to employ one surveyor at a per diem allowance not exceeding two dollars, and two chain carriers and one axe man, at per diem allowance, not exceeding seventy-five cents to each, and the said commissioners respectively shall receive a per diem allowance of one dollar and fifty cents for each and every day necessarily spent in discharge of the duties enjoined by this act, to be paid in manner and form as hereinafter directed.

SECTION 19. That it shall be the duty of the said commissioners, to make out fair and accurate drafts of the location of said road, noting thereon the courses and distances as they occur, the improvements passed through, and also the crossing of township lines, roads and waters, with such other matters as may serve for explanation, one copy whereof shall be deposited in the office of the Secretary of the Commonwealth, on or before the twentieth day of January next, and one copy in the office of the clerk of the court of quarter sessions of each of the counties in which any portion of the said road may be located, on or before the said twentieth day of January next, 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 to the breadth, and repaired in all respects as roads are opened and repaired, which are laid out by order of the courts of quarter sessions aforesaid.

SECTION 20. That the accounts of said commissioners for their own pay and the pay of surveyors, chain carriers, and so forth, shall be made out and returned to the commissioners of the respective counties in which any portion of the said road may be located, in proportion to the time spent by them in each of the respective counties in locating said road, and that they be paid out of the treasury of each of the counties on warrants drawn in the usual way.

SECTION 21. That said commissioners shall meet at the house of Thomas Brown, in Fayette county, on or before the first Monday of September next, or as soon thereafter as practicable, and complete the location of said road as soon as practicable, and if any vacancy or vacancies shall happen by resignation or otherwise, the court of quarter sessions of Fayette county, shall fill said vacancy or vacancies, by the appointment of suitable persons who shall perform said duty.

JAMES ROSS SNOWDEN,

Speaker of the House of Representatives.

JOHN STROHM,

Speaker of the Senate.

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

DAVID R. PORTER.