No. 86.

AN ACT

Relative to the claim of Patrick O'Hagan.

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 the canal commissioners be and they are hereby authorized to examine the claim of Patrick O'Hagan, late contractor for section number forty-four of the Tioga line, North Branch extension, Pennsylvania canal, for damages alleged to have been sustained by him by reason of the abandonment and discontinuance of the work thereon, by order of the said board; and to allow him such compensation for unavoidable losses sustained, in erecting necessary buildings and purchasing tools, furniture and provisions, as to said canal commissioners shall appear just and equitable, taking into consideration only such actual damage and loss, but not allowing any thing for prospective damages, and draw their warrant in his favor upon the state treasurer, for any amount which may be found due him, to be paid out of any money in the treasury not otherwise appropriated: *Provided,* That the sum allowed by the canal commissioners shall not exceed two hundred dollars.

JAMES ROSS SNOWDEN,
Speaker of the House of Representatives.
WILLIAM BIGLER,
Speaker of the Senate.

Approved—The sixteenth day of March, one thousand eight hundred and forty-four.

DAVID R. PORTER.

No. 87.

AN ACT

To authorize the governor to incorporate a company to erect a bridge over the river Schuylkill, at Birdsborough, in the county of Berks.

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 Levi B. Smith, James Everhart, Davis Smith, Jeremiah B. Kerns, Commissioners.
Isaac Crisman, Jacob Pyle and Edward Brooke, be and they are hereby appointed commissioners to do and perform the several duties hereinafter mentioned, that is to say—They shall on or before the first day of

August next, procure one or more books for taking subscriptions of stock, and shall write therein as follows: We whose names are hereunto subscribed, do promise to pay to the president, managers and company of the Birdsborough bridge company, in the county of Berks, the sum of twenty dollars for every share of stock in said company, set opposite to our respective names, in such manner and proportions, and at such times and places as may be determined by the president and managers, in pursuance of an act of assembly, entitled "An Act to authorize the governor to incorporate a company to erect a bridge over the Schuylkill, at Birdsborough, in the county of Berks." Witness our hands and day of , one thousand eight hundred and ; and shall thereupon proceed to receive subscriptions for the stock of the said company, at such times and places as they shall think proper: *Provided*, That every person so subscribing in his own name or in the name of any other person, shall previously pay to the attending commissioners two dollars for every share so subscribed, out of which shall be paid the expenses of taking such subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation as soon as the same shall be organized, agreeably to the provisions of this act; such first payment on each share to be taken and considered as a part payment on each share subscribed.

Form of subscription.

Proviso.

SECTION 2. As soon as two hundred shares shall have been subscribed, the said commissioners or a majority of them as aforesaid named, may certify the same, together with a list of the subscribers, and the shares subscribed by each in writing to the governor, who thereupon, shall constitute the said subscribers, and also all those who may in future subscribe under the provisions of this act, a body corporate or politic, by the name and style of "the president and managers of the Birdsborough bridge company, in the county of Berks," with all the privileges incident to a corporation, who shall have perpetual succession, and shall be capable of taking and holding the said capital stock, and the increase and profits thereof, and of enlarging the same by new subscriptions, if such enlargement shall be necessary to fulfil the purposes of this act; in such manner and form as they may think proper, and of purchasing, taking and holding to them and to their successors and assigns, in fee simple, or for any less estate, all such lands, tenements or hereditaments, real and personal, as shall be necessary and convenient for them in the prosecution of their work, and the same to sell or dispose of at their pleasure, of sueing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Charter.

Name.

SECTION 3. The three first named persons in the letters patent, shall, as soon as conveniently may be after the sealing of the same, give notice in one or more newspapers printed in the county of Berks, of a time and place by them to be appointed, not less than fifteen days, at which time and place the said subscribers or as many of them as may attend, shall proceed to organize the said company, and shall choose by a majority of votes of said subscribers by ballot, either in person or by proxy duly authorized, one president, six managers, and one treasurer, to conduct the business of said company, until the next annual election as hereinafter regulated; and in case of death, removal or resignation of any president, manager or treasurer, the board of managers shall choose another to supply the vacancy until the next annual election of the said company; they may make and have one common seal, and the same may alter and renew at pleasure; and may make such by-laws, rules, orders and regulations, not inconsistent with the laws of the United States or of this state, as shall be necessary for the well ordering of the

Organization.

affairs of the company: *Provided*, That the number of votes each stockholder shall be entitled to, shall be according to the number of shares he or she shall hold in the proportions following, that is to say: one vote for each share not exceeding five shares; and one vote for every three shares above five and not exceeding twenty; and one vote for every ten shares over twenty and under one hundred; but no share or number of shares over one hundred shall confer any additional right of voting; and no share shall confer a right of voting unless it be holden by the person in whose name it appears absolutely and bona fide in his own right or that of his wife, or for his or her sole use and benefit, or as an executor or administrator, trustee or guardian, or in the right and for the use and benefit of some co-partnership, corporation or society of which he or she may be a member, and not in trust for and to the use and benefit of any other person: *Provided*, That no person shall be permitted to vote at any election of said company unless he or she shall have fully paid all the instalments called for and then due on the shares by him or her subscribed: *Provided, also*, That no shares held by transfer shall be entitled to vote unless said shares shall have been transferred at least three months before the election. Votes. Proviso.

SECTION 4. That the public meeting of the said stockholders shall be held annually, at such time and place as shall be fixed by the rules and by-laws of the said company, for the purpose of choosing officers for the ensuing year, and the transaction of such business as may come before them. Annual meetings.

SECTION 5. That the president and managers shall procure certificates of stock in the said company, which shall be signed by the president and countersigned by the treasurer, and sealed with the seal of the corporation; and each stockholder shall be entitled to a certificate for each share by him subscribed or held, on paying to the treasurer in part, the sum due thereon, four dollars on each share, which certificate shall be transferable either by the owner in person or by his attorney, duly authorized, in the presence of the president or the treasurer, for the time being, subject however, to the payment due or growing due thereon; and the person to whom such transfer shall be made, shall stand in the place of the former holder, and be entitled to the same privileges and liable to the same responsibilities to the company. Certificates.

SECTION 6. That the said president and managers shall meet at such times and places, and be convened in such manner as shall be prescribed by the by-laws, at which meetings, five members shall be 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 at any such meeting, a quorum being present, they shall have full power and authority to agree with and appoint such engineers, superintendents, artists and other officers as they shall think necessary for the erection of said bridge, and to fix their salaries and wages, or at their discretion, to make contracts for the erection or construction of the same or any part thereof; they shall also determine the times, manner and proportions in which the stockholders shall pay the money due on their respective shares, draw orders on the treasurer for the money necessary to pay salaries, wages, and bills for work or materials, or on account of contract, which orders shall be signed by the president, or in his absence by a majority of the quorum, and countersigned by the clerk, and do and transact all such matters and things as by this act or the by-laws of the company shall be committed to them. Quorum. Officers. Pay. Instalments.

SECTION 7. That if any stockholder after thirty days notice in one or more newspapers printed in the said county, of the time and place ap-

Penalty on refusal to pay instalment.

pointed for the payment of any instalment of the said capital stock, shall neglect to pay such instalment at the time appointed, every such stockholder, or his assignee, shall, in addition to the proportion so called for, pay at the rate of three per cent. per month, for every delay of such payment; and if the same, and the said additional payment shall remain unpaid for such a space of time, that the accumulated penalties shall be equal to the sums before paid on account of such share, the same shall be forfeited to the company, and may be sold by them to any other person or persons willing to purchase for such price as can be obtained therefor, or the president and managers may sue for and recover the same before any justice of the peace, or before any court of competent jurisdiction.

Enlargement of stock.

SECTION 8. That whenever it shall appear to the said president and managers and company, at any general or special meeting, that the said bridge cannot be completed without extending the number of shares, the same shall be extended under the direction of such meeting, so far as may be necessary to complete the said bridge, which additional shares shall be sold by the president and managers, and shall entitle the holders to the same rights and privileges as those originally subscribed.

Power to locate bridge.

SECTION 9. That it may be lawful for the president and managers and the persons employed by them, to enter upon any lands or enclosures for the purpose of locating the said bridge, and to occupy so much of such lands as they may deem necessary for erecting the same; also, they shall have power to make such change or variation in the bed and route of the public road, as shall be necessary to connect the same with the said bridge, paying the owners of such lands as may be occupied by the said bridge, and roads leading thereto, a just compensation for the injury he or they may have sustained thereby; and if the parties cannot agree on the compensation, the injured party may obtain damages in the manner prescribed by the laws of this state for obtaining damages for opening public roads.

Procure materials

SECTION 10. That it may be lawful for the president and managers, or the persons employed by them, to enter upon any lands or enclosures, to search for, procure and take away all stone, sand, earth, or other materials suitable for constructing or repairing the said bridge and roads leading thereto, doing no unnecessary damages, and paying the owners of the land a just compensation for the materials taken and damages committed by them; and if the parties cannot agree upon the compensation, it shall be fixed as the price of materials are fixed on disagreement between supervisors and the owners of materials taken for the public roads.

Property vested.

SECTION 11. When the said bridge is completed as aforesaid, the property of the said bridge and its appendages shall be vested in the said company as aforesaid, and their successors forever; and it shall and may be lawful for the said company, and their successors, to erect a gate or gates, and such other buildings as they may deem necessary for a toll collector, and to demand and receive toll from travellers and others, at said bridge, not exceeding the following rates, to wit:

Tolls.

For every carriage of whatever description, having either two or four wheels, used for personal accommodation or pleasure, for each horse drawing the same, twelve and a-half cents; for every wagon or cart, for each horse drawing the same, six and a-quarter cents; for every sleigh or sled, for each horse drawing the same, six and a-quarter cents; for every horse or mule, with a rider, six and a-quarter cents; for every horse or mule, without a rider, three cents; for every foot passenger, one cent; for every head of cattle, one cent; for every score of hogs, ten cents; for every score of sheep, six and a-quarter cents; for every wagon or cart drawn by oxen, two oxen shall be rated as one horse: *Provided*, That the said bridge shall be so constructed as to admit any load not exceeding six tons, and drawn by not more than eight horses or oxen, at all times to cross it; the said president and managers, however, to have the power to increase the toll to be demanded for any carriage of burden crossing the said bridge, laden with more than three tons, to an amount not exceeding treble the above rates, and to grade them according to the weight of the load and the number of horses drawing the same; and in no case shall it be lawful for the owner or driver of any horses or cattle to lead or drive more than twenty-five head on the said bridge at the same time: *Provided, also*, That no toll shall be demanded from any person attending funerals, churches, or schools, or going to or returning from any militia training: *And provided, further*, That if any person or persons shall wilfully ride, drive, or lead any horse or other animal, faster than a walk, when crossing the said bridge, he, she, or they, so offending, shall, for every such offence, forfeit and pay the sum of five dollars, to be recovered for the use of the company, as fines of like amount are by law recoverable.

Proviso.

Additional tolls.

Proviso.

SECTION 12. That if the said company or their successors, or any person or persons, by their authority, shall collect or demand any greater toll for passing over said bridge, than what are herein prescribed and specified, or shall neglect to keep the same in good repair, or to keep a list of the rates of toll placed near the bridge, on six days notice given by or from any justice of the peace of said county, they so offending shall, for every such offence, forfeit and pay the sum of thirty dollars, to be recovered as debts of the same amount are by law recoverable, one moiety thereof to go for the use of the poor of the county, the other moiety for the use of the person who shall sue for the same; but no suit shall be brought unless commenced within thirty days after the offence shall have been committed.

Penalty for taking too great toll.

SECTION 13. That the said president and managers shall keep a correct and true account of all the moneys received as toll for crossing said bridge, or otherwise, and shall make and declare a dividend of the profits and income, after deducting costs, charges and expenses, and shall, on the fourth Monday of December and June, of every year, publish the dividend to be made of the clear profits thereof among the stockholders, and the time and place, when and where the same shall be paid, and shall cause it to be paid accordingly: *Provided*, That it shall be lawful for the said president and managers, in making and declaring any dividend, to reserve such sum or proportion of the clear semi-annual income, not exceeding one per cent. on the capital stock, as they may think proper, to form a contingent fund for the purpose of repairing and rebuilding the said bridge, in case of decay or injury, and the same to invest on such security, or in such stock as they shall deem safe and productive, and the interest arising from the same again to invest, and the same stock to sell or transfer at any time, when the funds may be required for the purposes aforesaid.

Account of moneys.

Proviso.

SECTION 14. That it shall be lawful for the president and managers aforesaid, to cause the toll collector or toll collectors and watchman, or watchmen of said bridge, to take and subscribe an oath or affirmation before a justice of the peace of said county, that he or they will faithfully conduct themselves, in his or their respective stations, and honestly account to the treasurer of the company for all the money collected by him or them, and diligently attend to the discharge of his, or their duty, by watching with vigilance, over the interests of the company, and

Oath.

safety of the bridge; and generally to execute with care and fidelity, whatever lawful engagements he or they may enter into with the president and managers of said bridge.

Penalty for injuring bridge.

SECTION 15. That if any person shall wilfully pull down, break, injure, or destroy any part or parts of said bridge, or of any toll house, gates, bars, or other property of said corporation, appurtenant to, or erected for the use and convenience of said bridge, or of the persons employed in attending to the same, or shall wilfully, without the consent or orders of said corporation, deface or destroy any list of the rates of toll affixed in any place, or places, for the information of travellers, and others, or who shall wilfully or maliciously obstruct or impede the passage on, or over the said bridge, or any part or parts thereof, he, she or they, so offending, shall each of them forfeit and pay for every such offence, to said corporation, the sum of twenty dollars, to be recovered before any justice of the peace, as debts of a like amount are recoverable; and if any person shall be guilty of carrying a lighted segar or pipe, or of carrying fire in any manner over said bridge, except in a lantern, or in some vessel secured so that the possibility of its setting fire to the bridge shall be fully prevented, or who shall fire any squib, cracker, rocket, or other fire works, or who shall discharge any gun, pistol, or other fire arms on or near said bridge, so that the said bridge might, by possibility, be fired or injured thereby, he or they so offending shall forfeit and pay to said corporation, the sum of five dollars for every such offence, to be recovered as aforesaid; but no suit shall be brought for any of the aforesaid offences unless commenced within thirty days after such offence shall have been committed; and he or they so offending shall remain liable to actions at the suit of said corporation for such wrongs, if the sum or sums herein mentioned be not sufficient to repair and satisfy said damages.

Commissioners of Berks county to subscribe to stock.

SECTION 16. That the county commissioners of the county of Berks, are hereby authorized and empowered to subscribe to the capital stock of said company, such number of shares as they may deem right and proper, in which event the commissioners of said county shall have the right to vote at the elections of said company, under the same provisions as private individuals.

Commencement and completion limited.

SECTION 17. That if the said company shall not proceed to carry on the said work within three years after they shall have been incorporated, or shall not within the space of five years thereafter complete the said bridge, it shall, and may be lawful for the legislature of this commonwealth to resume all and singular the rights, liberties and privileges hereby granted to the said company: *Provided*, That the said company shall not enjoy any banking privileges, and shall not issue any bills or notes in the form of a currency.

Proviso.

JAMES ROSS SNOWDEN,
Speaker of the House of Representatives.

WILLIAM BIGLER,
Speaker of the Senate.

APPROVED—The sixteenth day of March, one thousand eight hundred and forty-four.

DAVID R. PORTER.