

conditioned for the safe investment of the proceeds of said real estate, and the faithful application of the interest arising therefrom, to the widow of said deceased, and said Isaac Miller, as aforesaid, and for the payment of the principal after the decease of said widow, as directed by the will of said Andrew M'Cauley, deceased, or to those entitled to it by the laws of the commonwealth.

FINDLEY PATTERSON,
Speaker of the House of Representatives.

WILLIAM P. WILCOX,
Speaker of the Senate.

APPROVED—The fourteenth day of February, one thousand eight hundred and forty-five.

FRS. R. SHUNK.

No. 31.

A N A C T

Authorizing the governor to incorporate the Perkiomen and Sumneytown 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 for the purpose of making a turnpike road, beginning at the Perkiomen and Reading turnpike road, at any convenient point between the Perkiomen bridge and the first toll gate on the said last named road, in the township of Upper Providence, in the county of Montgomery, and thence to Sumneytown, in the township of Marlborough, in said county, Daniel Jacoby, John M. Neilson, John Steiner, Henry Longaker, Henry Ziegler, Jacob K. Smyth, Jonas Hildebeitel, William Schall, Commissioners. Jacob Johnson, jr., George Poley, William Worrell, Aaron Schivenk, Joseph Hunsicker, Jesse Ziegler, William Johnson, Lewis Horning, Abraham Hendricks, Jonas Boyes, John Roudenbush, and George K. Ritter, be and they are hereby appointed commissioners to do and perform the duties herein mentioned, that is to say: They shall procure a book, or books, and therein enter as follows: "We, whose Form of subscription names who are hereunto subscribed, do promise to pay the president and managers of the Perkiomen and Sumneytown turnpike road company, the sum of fifty dollars for every share of stock by us subscribed, in such manner and proportions, and at such times and places, as shall be determined on by the said president and managers, in pursuance of an act, entitled 'An Act authorizing the governor to incorporate the Perkiomen and Sumneytown 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 two newspapers published in Norristown, and one published in Sumneytown, Notice. 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 Stock. and place two or more of said commissioners shall attend and receive

subscriptions from all persons of lawful age, who, in person or by attorney, shall offer to subscribe in 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 books shall have subscribed therein seven hundred shares; and the said commissioners may adjourn from time to time, and transfer the books from place to place, until the whole number of shares shall be subscribed—of which adjournment and transfer the said commissioners shall give such notice as they may deem necessary: *Provided always*, That every person offering to subscribe in the said book, in his own name, or in any other name, shall previously pay to the attending commissioners, the sum of two dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking of 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, and the officers chosen, as hereinafter provided.

Proviso.

SECTION 2. That when forty persons or more shall have subscribed three hundred or more shares of the said stock, the said commissioners, or a majority of them, shall certify under their hands and seals the names of the subscribers, and the number of shares subscribed by each, to the governor; and thereupon 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 into one body politic and corporate, in deed and in law, by the name, style and title of “the Perkiomen and Sumneytown turnpike road company;” and by the said name the said subscribers and their assignees shall have perpetual succession, and all the privileges 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 of any lesser 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 being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Letters patent.

Name.

Notice of organization.

SECTION 3. That the commissioners above named, as soon as conveniently may be after the said letters patent shall be issued, shall give two weeks notice in the newspapers published at Norristown, and one published at Sumneytown, of the 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, who are stockholders, 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, who shall and may make such by laws, rules, orders and regulations, not inconsistent with the constitution and laws of the United States or of this state, as shall be necessary for the well ordering the affairs of the said company; they may make and have one common seal, and the same alter or renew at their pleasure; and in case of the death, removal or resignation of the president or any manager, or other officer of the company, the board of managers may and shall choose another to fill the vacancy until the next annual

By-laws.

Seal.

election of said company: *Provided always*, That each stockholder *Proviso*. shall be entitled to one vote for every share of stock held by him or her not exceeding five shares, at any election or meeting of the stockholders, but no stockholder shall be entitled to vote at any election or *Votes*. meeting of said company, unless the instalments due and payable on the shares held by him or her shall have been fully paid and discharged.

SECTION 4. If any treasurer, elected by virtue of this act, shall die, *Treasurer*. resign or refuse to act, or shall 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 him and perform all duties of said office, it shall be the duty of the said managers for the time being to appoint some suitable person treasurer, who shall hold the office until the next election by the stockholders, on his giving the security which may be required by the managers, and until a successor shall be duly elected and qualified.

SECTION 5. The stockholders of the company shall meet on the *Meetings*. first Monday in December next following their organization, and on the first Monday in December of every year thereafter, at such place as shall be fixed by the by-laws, for the purpose of choosing managers and officers for the ensuing year, in manner aforesaid, and at such other times as they shall be notified by the managers in such manner as shall be prescribed by the by-laws; at which annual and special meetings they shall have full power and authority to make, alter or repeal such by-laws, rules, orders and regulations as may be necessary for managing the affairs of the company, and to do and perform any other corporate act.

SECTION 6. The president and managers shall procure certificates, to *Certificates of* be written or printed, and, upon the payment of the instalments due stock. thereon, shall deliver one certificate, signed by the president and countersigned by the treasurer, and attested by the seal of the corporation, to each stockholder, for the number of shares held by him or her, which certificate shall be transferable at his, or her, or their pleasure, in person or by attorney, duly authorized, in presence of the president or treasurer, on the book or books of the company, subject, however, to the payment of all instalments due and to become due thereon; and such transferee thenceforth shall be a member of the corporation.

SECTION 7. The president and managers shall meet at such times and places to transact the business of the company, and in such manner as shall be ordained by the by-laws; and seven members shall form a quorum, who, in the absence of the president, may choose a president *Quorum*. pro tem; and shall keep minutes of all their transactions, fairly entered in a book; and shall have full power and authority to make contracts, appoint surveyors, superintendents, artists and officers, as they shall *Officers, &c.* judge necessary to carry on the intended work, and to fix their salaries or wages, which shall be signed by the president, or, in his absence, by a majority of a quorum, and countersigned by their secretary, a minute of which shall be kept; and generally to do all such acts, matters and things, as by the laws, rules, orders, and regulations of the company shall be committed to them.

SECTION 8. If any stockholder, whether original subscriber or as- *Forfeiture of* signee, after notice inserted once a week for four weeks in succession in shares. two newspapers published at Norristown, and in one newspaper published at Sumneytown, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, shall neglect to pay such proportion at the time and place appointed, and 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 after the expiration of the said sixty days; 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 shall 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 said instalments as aforesaid, for the space of sixty days, the president and managers may, at their election, cause suit to be brought in the same manner as debts of a like amount are now recoverable, for the recovery of the same, together with the penalty aforesaid.

Route of road.

SECTION 9. It shall and may be lawful for the president and managers of said company, to lay out the route or track of the said road, beginning on the northern side of the Perkiomen and Reading turnpike road, at some point at or near the Perkiomen bridge, in the township of Upper Providence, in the county of Montgomery, and thence by such route as shall appear to the said managers to be advisable to such point as they shall select for its termination in or near the village of Sumneytown, in the township of Marlborough in said county; and for this purpose it shall and may be lawful for the said president and managers, their superintendents, surveyors or engineers, artists, workmen and laborers, to enter in and upon the lands, tenements and enclosures through and over which the said intended road may be laid out, to examine the ground and quarries of stone and gravel, and other materials that may be necessary in constructing said road; and to survey, ascertain, mark, and fix the route of said road between the limits aforesaid, and to take and occupy for the bed of the said road, such public roads and bridges, not being the property of any other company.

Width, construction, &c.

SECTION 10. It shall be lawful for the president and managers, their superintendents, engineers, artists and workmen, to cause a road to be laid out and opened not less than forty feet in width, nor more than fifty, unless the same would interfere with buildings or houses; and shall cause twenty feet thereof in breadth, at least, to be made an artificial road, which shall be bedded with stone, gravel, or other proper materials, well compacted together, of 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 so nearly level in its progress as not to rise nor fall more than four degrees from a horizontal line, with a good and sufficient summer road at the side thereof at such places as will admit of the same; and shall forever thereafter maintain and keep the same in perfect order and repair.

Damages, assessment and compensation.

SECTION 11. In case the said president and managers and the owner or owners of any land, tenement or enclosure through which the said road may be laid out, cannot agree upon the compensation to such owner or owners, the same shall be determined by three disinterested freeholders, to be chosen by the parties, or if they cannot agree, to be appointed by the court of quarter sessions of said county, who, before entering on their duties, shall take an oath or affirmation to perform their duties with fidelity; and in determining the amount of damages, shall take into consideration the advantages as well as disadvantages of the road, and the amount of such damages or compensation so assessed,

shall be paid by said company, or adequate security therefor, to be approved by the said court, for the payment thereof in one year, shall be given, before the lands of such owner shall be taken or occupied by said company; and if either party shall be dissatisfied with the assessment of damages made as aforesaid, in any case, it shall be lawful for such party to appeal from the award at the next court of common pleas, upon entering into security, and in such form as the court may direct, in which cases the owner of the land shall be plaintiff and said company defendant, and the same shall thereon be proceeded in and tried in all respects as an appeal from an award of arbitrators, and the costs shall abide the event of the appeal, in the same manner as in an appeal from an award of arbitrators: *Provided*, That in case of an appeal by either party, upon security being given as aforesaid, for the amount of compensation or damages assessed as aforesaid, it shall be lawful for the said president and managers, their superintendents, artists, laborers, with horses, carts and wagons, tools and implements, to enter upon all such lands so assessed and secured, to make, construct, grade and finish said road, and do all other matters necessary for carrying out the objects of this act, as freely and as uninterruptedly as if full compensation had been made for all such lands. Proviso.

SECTION 12. As soon as the company shall have perfected two miles and a half of the said road, and so from time to time, when any distance, not less than two and a half miles, shall be completed, they shall give notice thereof to the governor, who shall thereupon 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; and if their report shall be in the affirmative, then the governor shall, by license under his hand and seal of state, permit and suffer the said president, managers and 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 the tolls and duties hereinafter granted to the said company, from all persons travelling in the same, with horses, cattle, carts, and other carriages; and it shall be lawful for the said company to erect, within the limits of their road, at each of their gates or turnpikes, a toll house or dwelling house for the use and accommodation of the toll gatherer at such gate: *Provided*, That such building shall not extend into the said road, from the edge thereof, more than eighteen feet, and shall not be erected immediately in front of or within one hundred feet of any building which may be on the adjoining land, on the same side of the road with such toll house. Viewers.
License.

SECTION 13. When the said road or any part thereof is completed from time to time, and approved as aforesaid, it shall and may be lawful for the company 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, that is to say: For every mile of the said road one cent for every horse with a rider or leader, or carrying or hauling a burden; and for every mile of said road two cents for every horse hauling a pleasure carriage or sleigh for the carriage of persons; and for every mile of said road passed, two cents for every horse of three or more horses attached to a vehicle of burden when laden, when empty one cent for each horse as above; for every head of horned cattle one cent for every five miles; and for every sheep or swine one cent for every ten miles, and proportionately for shorter distances; and in the cases of carriages drawn in whole or in part by oxen, mules or asses, two oxen, mules or asses, shall be estimated as one horse; and for all fractional parts of toll, not equal in value to any denomination of coin in circulation, the said com- Proviso.
Toll gatherers.
Rates.

LAWS OF PENNSYLVANIA,

Proviso.	pany may take and receive the next highest circulating denominations : <i>Provided</i> , That the said company may, at their discretion, regulate the tolls so as to reduce them below the sums herein specified, and raise them again to the amount permitted by this act, during such times and seasons, and with such discrimination as the said company may think most expedient; and the toll gatherers may stop any horse or vehicle, carriage, mule, oxen, cattle, sheep or swine, from passing through any toll gate until the toll shall be paid : <i>And provided further</i> , That no toll shall be exacted from any person passing from one part of his, her or their farm to another, nor from persons attending funerals or riding in military procession.
Exempts.	
Penalty for evading tolls.	SECTION 14. If any person or persons riding in or driving any carriage of burden or pleasure as aforesaid, shall, with an intent to defraud the said company, 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 burden or draught, 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, every such person or persons shall, on conviction before any justice of the peace of the proper county, for every such offence, forfeit and pay to the president and managers of said company any sum not exceeding ten dollars, for the use of said company.
Penalty for neglect to keep road in repair.	SECTION 15. If the said company shall neglect to keep the said road in good and perfect order and repair for the space of thirty days, and information thereof shall be given to any justice of the peace of the said county of Montgomery, 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 complained of in the said road, 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, he shall certify and send one copy of said inquisition to each of the keepers of the turnpikes or gates next to such defective place, 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 order and repair as aforesaid ; and if any of the keepers of the gates aforesaid, shall take or attempt to exact tolls for the intermediate distance aforesaid, such keeper shall forfeit and pay, on conviction before any justice of the peace of said county, for the use of the person prosecuting for the same, the sum of five dollars ; but if the same shall not be put into good order and repair before the next ensuing court of quarter sessions of said county, the said justice shall certify and send a copy of the said inquisition to the judges of the said court, and the court shall thereupon direct a bill of indictment to be sent to the grand inquest against the president and managers of the said company, and upon conviction shall give such judgment as the said court in their discretion shall judge proper : <i>Provided</i> , That the fine in no instance shall be
When tolls shall cease.	
Proviso.	

less than five dollars nor more than fifty 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 county, and shall be paid to the supervisors of the highways of the place or township where such offence was committed, to be applied to repairing the highways in such township.

SECTION 16. If any toll gatherer shall demand and receive toll for a greater distance than the person from whom such toll is demanded, shall have actually travelled along said turnpike road, or may actually travel between any gate, and the gate next thereto, less than the whole distance, or shall demand and receive a greater toll than he is authorized to receive by this act, such toll gatherer shall, upon conviction thereof, before any justice of the peace of said county, forfeit and pay the sum of ten dollars for every such offence, to the use of the directors of the poor and house of employment of said county. Penalty for receiving too great toll.

SECTION 17. The said company shall cause posts to be erected at the intersection of every public road falling into and leading out of the said turnpike road, with index boards and hands, pointing the direction of said road, whereon shall be inscribed in legible characters the name of the town or place to which such road leads, and the distance thereof in computed miles; and shall also cause milestones to be placed on the side of the said turnpike road, beginning at the distance of one mile from the junction of the said road, with the Perkiomen and Reading turnpike road aforesaid, on which milestones 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 erected on the said road, shall cause the distance from the point of beginning to the point of termination of the said Perkiomen and Sumneytown turnpike road, to be marked in legible characters on the said gates, or some other conspicuous place near thereto; and also shall cause to be affixed at such place a printed list of the rates or toll, which, from time to time may be lawfully demanded, for the information of travellers and others using said road. Index boards.

SECTION 18. If any person or persons shall wilfully break, deface, pull up or prostrate any milestone, 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, or if any person shall wilfully break, pull down, deface, destroy or injure, any direction post at the intersection of any road, or the index board or hand affixed thereto, or shall destroy, deface or obliterate the letters, figures or other characters marked thereon, or at any turnpike or gate, he or they so offending shall on conviction before a justice of the peace of the said county, for every such offence severally and respectively forfeit and pay to the said company ten dollars. Penalty for injury done to roads, &c.

SECTION 19. The drivers of all wagons, carts, and drivers of carriages of all kinds using the said road, shall, except when overtaking and passing by a carriage of slower motion, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the said road free and clear for other carriages to pass and repass; and if any wagoner or carter or driver shall offend against this provision, he shall on conviction forfeit and pay any sum not exceeding ten dollars, to any person who will sue for the same before any justice of the peace of the said county, to be recovered with costs of suit. Regulations for passing carriages.

SECTION 20. No suit or action shall be brought or prosecuted for any penalty incurred under this act, unless such suit shall be commenced within three months after the offence, and the defendant in such suit may Actions limited.

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

Accounts.

SECTION 21. The president and managers of the said company shall keep fair and just accounts of all moneys which may be received or paid by them, or 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; and whenever 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 number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the moneys subscribed for such shares, in like manner and under the like penalties as are hereinbefore provided for the original subscription.

Increase shares.

Dividend.

SECTION 22. As soon as the annual profits of the said work shall enable them to make such dividend, the president and managers shall, on the first Monday in February in every year, declare a dividend of the clear profits among the stockholders, and give notice of the time and place, when and where, the same will be paid.

Report to legislature.

SECTION 23. The said president and managers shall, at the end of five years from the date of the incorporation of the said company, 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 period; and at the end of three years after the said road shall be completed, and at the end of every period of three years thereafter, the said president and managers shall render to the general assembly, a like abstract of their accounts for the three preceding years.

Commencement and completion limited.

SECTION 24. If the company shall not commence the said work within five years after the passing of this act, or shall not, within ten years thereafter, complete the same according to the true intent and meaning of this act, in either of these cases it shall and may be lawful for the legislature to resume all and singular the rights, liberties, privileges and franchises, hereby granted to the said company.

FINDLEY PATTERSON,

Speaker of the House of Representatives.

WILLIAM P. WILCOX,

Speaker of the Senate.

APPROVED—The fourteenth day of February, one thousand eight hundred and forty-five.

FRS. R. SHUNK.