

No. 203.

AN ACT

To authorize the governor to incorporate the M'Sherrystown and Hanover 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 William M'Sherry, esquire, John Busbey, esquire, Jacob Dellane, Commissioners. Joseph Sneeringer, Abraham Reiff, Jacob Wortz, and John L. Gubernator, of the county of Adams, and Jacob Wort, and Joseph G. Schmidt, of the borough of Hanover, county of York, be and they are hereby appointed commissioners to do and perform the duties hereinafter mentioned, that is to say : They shall, on or before the first day of June next, procure one or more books, and enter therein as follows, viz : " We, whose names are hereunto subscribed, do promise to pay to the Form of subscription. president and managers of the M'Sherrystown and Hanover turnpike road company, the sum of thirty-three dollars and thirty-three and one-third cents, 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, entitled 'An Act authorizing the governor to incorporate the M'Sherrystown and Hanover turnpike road company.' Witness our hands, the day of Anno Domini, one thousand eight hundred and forty-five ;" and shall, thereupon, give such public notice in one or more public newspapers, Notice of subscription. printed in the counties of Adams and York, as they shall think necessary, of the times and places when and where the said books shall be opened to receive subscriptions for the stock of said company, at which times and places one or more of said commissioners shall attend, and permit all persons of lawful age, who shall offer to subscribe in said books, in their own names, or in the name or names of any other person or persons who shall duly authorize the same, for any number of shares in said stock, and the said books shall be kept open for the purpose aforesaid, at least six hours in each juridical day for the space of ten days, or if necessary, until two hundred and seventy shares of stock shall have been subscribed therein ; and if at the expiration of the said six days, the books aforesaid shall not have the number of shares aforesaid, the said commissioners, of whom a majority shall constitute a quorum to transact business, may adjourn from day to day, or time to time, and transfer the books elsewhere, until the said number of shares shall be subscribed, of which adjournment and transfer the commissioners aforesaid, or a majority of them, shall give such public notice as the occasion may require, and when the whole number of shares subscribed in the books shall amount to the number aforesaid, and three dollars and thirty-three and one-third cents on each share shall have been paid on each share, said books shall be closed.

SECTION 2. That when one hundred or more shares shall have been subscribed, said commissioners, or a majority of them shall certify, under their hands and seals, the names of the subscribers, the sums of money actually paid in on subscription, and the number of shares sub-

Letters patent.	scribed by each, to the governor ; whereupon, he shall by letters patent, under his hand and the seal of the state, create and erect the subscribers into one body politic and corporate, in deed and in law, by the name
Name.	and style of the " M'Sherrystown and Hanover turnpike road company;" and by the same name the subscribers shall have perpetual succession, and all the 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, and 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.
Organization.	SECTION 3. That the commissioners, or a majority of them, shall, as soon as conveniently may be after the said letters patent shall be obtained, give notice, as aforesaid, of the time and place appointed for the said subscribers to meet, in order to organize the said corporation, and to choose, by a majority of votes of the said subscribers, by ballot, either in person or by proxy, duly authorized, out of their own body,
Officers.	one president, eight managers, one treasurer, and one secretary, (the treasurer and secretary to be selected from among said eight managers,) and if necessary, other officers, to conduct the business of said company until the first Monday of June then next ensuing, and until like
Annual election.	officers shall be chosen ; on which day, and annually thereafter on said day, the company shall hold their election for officers as above mentioned ; and the said company, when so organized, may make such by-laws, rules and regulations, as do not contravene the laws and constitution of the United States, or of this commonwealth, and that may be necessary for the well governing of the affairs of the said company ; and may make and have a common seal, the same may break, alter or renew at their pleasure : <i>Provided</i> , That each person shall be entitled to but one vote for all shares of stock by him or her held under three ; and for every additional three shares one vote shall be allowed, not exceeding twelve ; but no share or number of shares, above twelve, shall entitle the holder to a vote at any election or meeting of said company : <i>And provided also</i> , That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election or meeting of said company, or be entitled to a dividend of the profits of said company, unless the whole sum due and payable on the share or shares by him or her held, at the time of such election or meeting, shall have been fully paid and discharged.
Proviso.	
Votes.	
Certificates of shares.	SECTION 4. That the president and managers shall procure printed certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him, or her, or them subscribed or held, her she or they paying thirty-three dollars and thirty-three and a third cents for each share by him, her or them subscribed ; which certificates shall be transferable in person or by attorney, duly authorized, in the presence of the president and treasurer ; and the assignee holding any certificate, having first caused the copy of the assignment to be entered in a book of the company, to be kept for that purpose, and filing said certificate among the records of said company, may, if
Transferable.	

he choose, have a new certificate issued in his own name, and in any event shall be a member of the corporation; and for every such certificate assigned, or new one issued, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote at elections and meetings as aforesaid.

SECTION 5. That if any treasurer elected by virtue of this act shall die, resign, or refuse to give such 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 the duties of his said office, it shall be the duty of said managers, for the time being, to appoint some suitable person as treasurer; which person, when 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. Treasurer.

SECTION 6. That it shall and may be lawful for the said president and managers, or a majority of them, their superintendents, surveyors, engineers, artists and chain bearers, to enter into and upon all and every, the lands, tenements and enclosures, in and through and over which the said intended turnpike road may be thought proper to pass, and for that purpose to examine the ground, and the quarries of stone and gravel and materials, that may be necessary in making and constructing said road, and to survey, lay down, ascertain, mark, and fix such route for said road, as in their best judgment and skill will combine shortness of distance, with the most eligible ground between the west end of M'Sherrystown, and through said town in the county of Adams, and the limits of the borough of Hanover, in the county of York, at or near where the borough lines cross the Hanover and Carlisle turnpike road. Power to enter upon lands, &c.

SECTION 7. That the said president and managers, a majority of whom, for all purposes, shall 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 engineers, superintendents, artists, laborers and other persons, as they may think necessary to make and construct said road, and collect the tolls hereinafter mentioned and authorized, and to fix the 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 the 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 the secretary, to be entered by the treasurer in a book for that purpose, and all orders to be filed by him; and to do and transact all other acts, matters and things, as by the by-laws, orders, and regulations of the said company shall be entrusted to them. Quorum.
Construction.

SECTION 8. That if any stockholder, whether original subscriber or assignee, after three weeks' notice in a newspaper printed in the counties of Adams and York, of the time and place appointed for the payment of any instalment or proportion of said capital stock, shall neglect to pay such proportion at the time and place appointed, for the space of thirty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalments 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 can be obtained therefor, or in default of payment of any stockholder of Penalty for neglect to pay instalments.

any such instalment as aforesaid, for the space of thirty 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.

Damages, mode
of assessment
and payment.

SECTION 9. That 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 and burden, to enter into and upon the lands contiguous and near to which the said road shall be made or constructed, first giving notice to the occupiers thereof, and doing as little damage thereto, as possible, and making amends for damages, upon a reasonable and equitable agreement of the parties, or if they cannot agree, then upon a just and equitable assessment, to be made upon oath or affirmation, by three disinterested freeholders, or any two of them, to be mutually chosen, or if either party shall neglect or refuse to join in the choice, then to be chosen by a justice of the peace of Adams or York counties, wherever the cause of dispute arises, and who shall not be interested therein, and upon tender of the value thus assessed, to dig, take, and carry away any timber, stone, sand, earth, or other materials suitable or necessary for making said road; and to remove or cause to be removed any fences, trees, or other obstructions in any way impeding or hindering the making and construction of said road.

Moneys, ex-
penses, &c.

SECTION 10. That the said president and managers shall keep fair and just accounts, as well of all moneys received by them, as of those paid, laid out, and expended in the prosecution of said work, and shall, at least once a year, submit their books and accounts to a general meeting of the stockholders, to be held on the first Monday of June, annually, on which day, or within five days thereafter, the dividends are to be made out and declared; and whenever it shall be ascertained that the capital stock of said company is not sufficient to complete 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 said work; and to demand and receive the money subscribed for such additional shares, in like manner, and under the like penalties as are provided by this act, in the case of the original subscriptions.

Annual meeting.

Dividends.

Bridges, &c.

SECTION 11. That the president and managers shall have power to erect good and sufficient bridges over all the streams of water crossed by said routes, and to build culverts whenever the same may be necessary, and to use any bridge or bridges now constructed over any streams crossed by said route, and shall cause a road to be laid out, not exceeding forty feet in width, and shall cause at least eighteen feet of said width to be made an artificial road, with shoulders of eight inches deep, well filled with pounded stone, gravel, or other proper and durable materials, pounded sufficiently fine to pass through a four inch ring, as the nature of the ground will require; to be constructed in such manner that there will be a gradual rise to the centre, by a gradual arch to the height of fourteen inches from the level, and in no place of 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 also*, That it shall and may be lawful for the said president and managers, whenever they may deem it necessary, to cut down and prostrate any timber or trees of any kind on each or either

Proviso.

side of the said road, within a distance not exceeding thirty-feet from the centre of said road.

SECTION 12. That whenever, and as soon as the said company have finished one mile or more of said 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, and report, on oath or affirmation 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 the like proceedings to be had whenever said road is finished,) and if their report 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 one gate or turn-pike upon and across said road, and to collect from all persons travelling the same, otherwise than on foot, the tolls hereinafter authorized and granted: *Provided*, That all persons attending funerals, militia parades and trainings, divine worship, academies or schools, shall at all times be exempt from the payment of any toll on said road. License.

SECTION 13. 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 may be necessary for two gates, which, when said road is finished, they are hereby authorized to erect upon and across said road to collect and receive of and from all and every person or persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person or persons riding, leading, or driving any horse, cattle, hogs, sheep, sulkey, chair, chaise, phaeton, buggy, barouche, cart, wagon, wain, sled, sleigh, or other carriage of burden or pleasure from passing through the said gates, until they shall have respectively paid the same, that is to say: For persons travelling, driving, or going the whole distance and returning the same day, the following sums of money, and for any part less than the whole distance and returning the same day, one-half of said sums of money, or for any greater or less number of sheep, hogs or cattle, in proportion, to wit: For every score of hogs, three cents; for every score of sheep, two cents; for every score of cattle, eight cents; for every horse or mule, laden or unladen, with his rider or leader, two cents; for every sulkey, chair, chaise, with one horse and two wheels, four cents; and with two horses, six cents; for every buggy, barouche, coach, phaeton, chaise, stage, empty wagon, coachee or light wagon, with one horse and four wheels, six cents; for either of the carriages last mentioned, with two horses, eight cents; for either of the carriages last mentioned, with four horses, twelve 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 loaded cart, wagon, or other carriage of burden, whose wheels do not exceed four inches in breadth, for every such cart three cents; and for every such wagon or other carriage of burden, six cents; and two cents additional for every horse; and when any such carriage as aforesaid shall be drawn by oxen or mules, in the whole or in part, two oxen shall be estimated as equal to one horse, and every ass or mule as equal to one horse, in charging the aforesaid tolls: *Provided*, That the said company are hereby authorized, if they deem it expedient, to exempt all wagons having wheels or tires of six inches in breadth, from one-half of the rates or tolls to be taken by said company. Toll gatherers. Tolls. Proviso.

Powers, authorities, rights, &c. SECTION 14. That the said company shall have all the powers, authorities, rights and privileges, and be subject to all the penalties which are given by sections thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three and twenty-four of an act, entitled "An Act authorizing the governor to incorporate a company for making an artificial road from the borough of Easton, in the county of Northampton, to the town of Wilkesbarre, in the county of Luzerne, passed the eleventh day of February, A. D. one thousand eight hundred and three," so far as they are not inconsistent or incompatible with, or altered or amended by this present act, as fully as if they were here recited and passed section by section: *Provided*, That after a lapse of a number of years, as provided in the seventeenth section of this act of one thousand eight hundred and three, said tolls should yield a dividend of six per centum, a majority of the stockholders, at a stated or special meeting, shall be at liberty to decide whether to apply the surplus to an extension of said road in the direction of the borough of Gettysburg, in the said county of Adams; and if a majority shall so decide, the fact shall be certified by the president to the next session of the legislature, and said decision shall be taken as of full force, in lieu of the concluding provisions of said seventeenth section of said act of one thousand eight hundred and three, and subject to the further action of the legislature.

Proviso.

Penalty for cattle running at large. SECTION 15. That no cattle, hogs or sheep shall be suffered by the owners thereof to run at large on said turnpike road or any part thereof, excepting droves when their owners are driving them to market, or such as may be driven by their owners to pasture, after notice given to the owner or owners of the same, under the penalty of one dollar for every such offence, to be recovered as debts of like amount are recoverable before a justice of the peace; and the owner of any farm, where a gate may be erected, may drive his horses, cattle, sheep or hogs to and from pasture where of necessity he must pass through said gate from his dwelling to any other part of his said farm, and may also pass and repass with his team for farming purposes as aforesaid free of any toll; but in driving his cattle, sheep or hogs, and passing or repassing to or from any other field, tract, or lot of land, disconnected from or not lying, adjoining and contiguous to his farm, shall not be allowed to pass free of toll.

Commissioners and supervisors of Adams and York counties, to subscribe stock. SECTION 16. That the commissioners of Adams and York counties, and the supervisors of the townships of Conewago, Mount Pleasant, Berwick, and Union, in Adams county, and the supervisors of the township of Heidelberg, and the burgess of the borough of Hanover, in the county of York, shall be at liberty to subscribe stock in the books of said company, which stock, so taken, shall be the exclusive properties of said counties, townships and borough, and paid for by orders drawn by the commissioners on their county treasurers, by the supervisors out of their road taxes and to be allowed by the township auditors, and by orders of the burgess on the borough treasurer, and to be allowed by the town council, and they shall respectively be entitled to the number of votes stated in section three of this act.

Commencement and completion. SECTION 17. That if the said company do not commence making the said road within five years after the passage of this act, and complete the same within ten years thereafter, then this act shall be void.

Business. SECTION 18. That the company hereby authorized to be incorporated shall not at any time do, perform, or engage in any other business

than such as shall properly belong to the functions of a turnpike company.

FINDLEY PATTERSON,
Speaker of the House of Representatives.

WILLIAM P. WILCOX,
Speaker of the Senate.

APPROVED—The second day of April, one thousand eight hundred and forty-five.

FRS. R. SHUNK.

No. 204.

AN ACT

Conferring on George P. Heller, and Phineas Marsden, the rights and privileges of children born in lawful wedlock.

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 George P. Heller, of the town of Milford, in the county of Pike, son of Geo. P. Heller. John M. Heller and Margaret Heller, shall have and enjoy all the rights, benefits and advantages of a child born in lawful wedlock; and shall be able and capable in law to inherit and transmit any estate whatsoever, as fully and completely, to all intents and purposes, as if he had been born in lawful wedlock.

SECTION 2. That all the rights and privileges of a child born in law- Phineas Marsden ful wedlock, are hereby conferred on Phineas Marsden, a natural son of Margaret Marsden, late of Mount Pleasant township, Adams county, deceased.

SECTION 3. That Catharine Kelso, and Mary Jane Kelso, daughters Catharine and of Henry B. Kelso, late of the territory of Wisconsin, deceased, shall Mary Jane Kelso. have and enjoy all the rights, benefits and advantages of children born in lawful wedlock; and shall be able and capable in law to inherit and transmit any estate whatsoever, as fully and completely, to all intents and purposes, as if they, the said Catharine and Mary Jane, had been born in lawful wedlock.

SECTION 4. That Jefferson Sousser, a son of Joel Sousser and Ann Jefferson Sousser. Sousser, (late Ann Kline,) of Berks county, and born some time before the marriage of the said Joel Sousser and Ann Sousser, shall have and enjoy all the rights, benefits, and advantages of a child born in lawful wedlock; and shall be able and capable in law, to inherit and transmit any estate whatsoever, as fully and completely to all intents and purposes, as if he had been born subsequent to the intermarriage of his said parents.

FINDLEY PATTERSON,
Speaker of the House of Representatives.

WILLIAM P. WILCOX,
Speaker of the Senate.

APPROVED—The third day of April, one thousand eight hundred and forty-five.

FRS. R. SHUNK.