

No. 227.

AN ACT

To incorporate the Upper Dublin, Lewisville, Whitehallville and Nazareth 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 Jesse Shoemaker, Clement Jones, Samuel Mann, Isaac L. Shoemaker, Charles D. Jones, Henry Magee, Paul Dowlin, William W. Dunn, Frederick W. Hoover, Henry Jones, William Earnest, Adam Lutz, Isaac Mann and Robert Dunn, of Montgomery county; and Cyrus Colom, John Cox, John Barnett, Williams Stevens, Henry Fritz, senior, Jacob Funk, Henry L. Miller and Thomas Jacoby, of Bucks county, be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say: They shall, on or before the first day of May, eighteen hundred and forty-six, procure a sufficient number of books, and in each of them enter as follows: "We whose names are hereunto subscribed do promise to pay to the president and managers of the Upper Dublin, Lewisville, Whitehallville and Nazareth turnpike road company, the sum of twenty-five dollars for every share of stock set opposite to our respective names, in such manner, and in such proportions and times, as shall be determined by the president and managers of said company, in pursuance of an act of the general assembly of this commonwealth, entitled "An Act to incorporate the Upper Dublin, Lewisville, Whitehallville and Nazareth turnpike road company." Witness our hands the day of in the year of our Lord one thousand eight hundred and thereupon shall give notice in one newspaper printed in Norristown, and one in Doylestown, for twenty days at least of the time and places when and where the said books shall be opened to receive subscriptions for the stock of said company; at which time and places one at least of the said commissioners shall attend, and permit all persons of lawful age to subscribe in said books in their own name, or in the names of any other persons who shall duly authorize the same, for any number of shares of stock; and the said books shall be kept open at least six hours in every day, for the space of five days, or until the books shall have three hundred and fifty shares therein subscribed; and if at the end of the said five days the subscriptions shall not amount to three hundred and fifty shares, the 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 public notice shall be given; and when the whole number of shares as aforesaid shall be subscribed, the books shall be closed: *Provided always,* That every person offering to subscribe in said book shall previously pay to the attending commissioner the sum of two dollars and fifty cents for every share of stock to be subscribed, out of which shall be defrayed the incidental expenses necessary for taking such subscriptions, and the remainder shall be paid to the treasurer of the company, as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

Commissioners.

Form of subscription.

Notice of subscription.

Subscribers.

Proviso.

SECTION 2. When ten persons or more shall have subscribed at least two hundred shares of said stock, the said commissioners shall certify, under their hands and seals, the names of the subscribers, and the number of shares subscribed by each, to the governor of this commonwealth; whereupon, it shall and may be lawful for the governor, by letters patent, under his hand and seal of state, to create and erect the subscribers, and if the subscription be not full at the time, then those who shall afterwards subscribe to the number aforesaid, into one body politic and corporate, in deed and in law, by the name, style and title of "Upper Dublin, Lewisville, Whitehallville and Nazareth turnpike road company;" and by the said name, the said subscribers shall have perpetual succession, and all privileges and franchises incident to a corporation, and shall be capable of taking and holding the capital stock, and the increase and profits thereof, and of enlarging the same by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing, taking and holding to them and their successors and assigns, and of selling, transferring and conveying, in fee simple, or for any less estate, all such lands, tenements, 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.

Letters patent.

Name.

Privileges and franchises.

Organization.

Election.

Officers.

By-laws.

Proviso.
Votes.

Proviso.

Annual meeting.

Certificates transferable.

SECTION 3. That the commissioners aforesaid, as soon as conveniently may be, after the said letters patent are obtained, shall give notice in one newspaper printed in Norristown, and one in Doylestown, of a time and place by them to be appointed, not less than fifteen days from the first publication of said notice, at which time and place the said subscribers shall proceed to organize the corporation, and choose by ballot by a majority of the votes of the subscribers present in person, or by proxy duly authorized, one president, twelve managers, and one treasurer, and such other officers as may be necessary to conduct the business of the company, until the second Monday in January next, after such organization, and until other officers shall be chosen; and shall and may make such by-laws, rules and regulations, not inconsistent with the constitution and laws of the United States and of this commonwealth, as shall be necessary for the well ordering the affairs of said company: *Provided*, That no stockholder shall have more than ten votes at any election, or in determining any question at any meeting, no matter what number of shares he or she may hold, but each stockholder shall be entitled to one vote for every share of stock held not exceeding ten shares: *And provided also*, That no stockholder, whether the original subscriber or assignee, shall be entitled to vote at any election or meeting of said company, unless the whole sum due, and payable on the stock by him or her held at the time of such election, shall have been fully paid.

SECTION 4. The stockholders of the said company shall meet on the second Monday in January, in every year, after the organization of the company, at such place as shall be fixed by their by-laws, for the purpose of choosing officers for the ensuing year, in the manner aforesaid, and at such other times as they shall be notified by the managers, in such manner and form as shall be prescribed by their by-laws, at which annual or special meetings they shall have full power to make, alter or repeal, by a majority of votes in manner aforesaid, all such by-laws, rules and regulations, made as aforesaid, and to do and perform any other corporate act.

SECTION 5. The president and managers, first to be chosen as aforesaid, shall procure certificates for all the shares of stock of the company,

and shall deliver one such certificate, signed by the president and treasurer, and sealed with the seal of the corporation, to each subscriber, for the number of shares by him or her held, which certificates shall be transferable at the pleasure of the holder, in person or by attorney, in the presence of the president or treasurer on the books of the company, only subject, however, to all payments due and to become due thereon.

SECTION 6. If any stockholder, whether original subscriber or assignee, after twenty days notice in one newspaper printed in Norristown, and one in Doylestown, of the time and place appointed for the payment of any instalment, or proportion of the capital stock, shall neglect or refuse to pay such proportion at the place appointed, for the space of thirty days after the time required 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 the delay of such payment; and if the same and additional payments or penalties shall become equal to the sum before paid in part on account of such share or shares, 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 stockholder of such instalments, 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 recoverable for the recovery of the same, together with the penalties aforesaid.

SECTION 7. The said president and managers shall meet at such times and places as shall be ordained by their by-laws, and when met, five shall be a quorum, and the managers present, in the absence of the president, may choose a president pro tem; they 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 and 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 authorized, and fix their compensation, to determine the time, manner and proportion, in which the stockholders shall pay the amount of their respective shares, 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 majority of a quorum of the managers, and attested by the secretary; and to do and transact all other acts, matters or things, as by this act and the by-laws of the company may be entrusted to them.

SECTION 8. The said turnpike road shall commence and connect with the Springhouse, Northampton town and Bethlehem turnpike road, at or near Andrew Gilkeson's store, in Upper Dublin township, Montgomery county, and where the Butler road intersects said turnpike, and proceed on the bed of the Butler road, as near as may be, by Lewisville, Prospectville, Pleasantville, Whitehallville and Fritze's mill, to the old Bethlehem road, at or near the Eight Cornered school house, or Schwenk's store, in Bucks county, and thence by Hellertown to Nazareth, in Northampton county, if such extension shall be deemed necessary.

SECTION 9. The said road shall be laid out not exceeding fifty feet in width, at least eighteen feet thereof to be a good and substantial turnpike road, to be composed of stone or gravel, to secure a firm, and as near as the materials will admit of, an even surface, and so nearly level in its progress, that it shall in no place rise or fall more than will form an angle of five degrees, with a horizontal line; and the said company shall forever after maintain and keep the same in good order, and have authority to erect suitable bridges over all the streams of water crossing said road.

Power to enter
upon lands.

SECTION 10. It shall be lawful for the said president and managers, by their agents, engineers and workmen, with 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, first giving notice of their intentions to the occupiers thereof, and doing as little damage thereto as possible, and making amends for damages, upon an equitable agreement by the parties, or if they cannot agree, then a just assessment to be made upon oath or affirmation by three disinterested citizens, 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, who shall not be interested therein; and upon the tender of the assessed value, to dig and carry away any timber, stone, gravel, sand, earth, or other materials necessary or suitable for making the road: *And provided*, That said managers or their workmen under their supervision, shall have full power to enter upon any lands lying near to or adjoining said road, and to cut or open such drains through the same, as they shall judge necessary to drain the water from the turnpike road, with the same rights and under the same penalties as the supervisors of highways: *And provided also*, That the said company shall not be authorized to take or remove any property beyond the boundaries of the aforesaid Butler road, as laid out by law, as far as their road may be laid on the same, unless the same be previously paid for, or adequate security given to the owners for the payment thereof.

Increase of shares

SECTION 11. The said president and managers shall keep fair and just accounts of all moneys received by them, and of those paid out and expended in the prosecution of the work, and shall at least once in every year submit their books and accounts to a general meeting of the stockholders; and whenever it shall be ascertained that the capital stock of the company is not sufficient to complete the said road according to the true intent and meaning of this act, it shall be lawful for the president and managers, at a stated or special meeting, convened according to the provisions of this act, or their by-laws, to increase the number of shares to such an 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 original subscriptions.

License.

SECTION 12. Whenever the said company shall have finished two miles or more of turnpike road, the president thereof may give notice to the governor, who shall thereupon forthwith appoint three skillful, judicious and disinterested persons to view and examine the same, and report, on oath or affirmation, to him, whether the said road is so far executed in a competent and workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall by license, under his hand and the seal of the state, permit said company to erect and place such and so many gates or turnpikes upon and across the said road as will be necessary and sufficient to collect from all persons such tolls as are hereinafter authorized to be collected: *Provided*, That no toll shall be demanded from any person or persons passing or re-passing from one part of his, her or their farm or farms, to any other part of the same; and all persons, with their horses or vehicles, going directly to or from funerals or places of public worship, shall be exempt from the payment of tolls when travelling on the said road.

Proviso.

Toll gatherers.

SECTION 13. When the said company is licensed in manner aforesaid, it shall be lawful for them to appoint such and so many toll gatherers as they shall think proper, to collect and receive of, and from all and every

person and persons using the said road, the toll and rates hereinafter mentioned; and to stop any person leading, driving or riding any horses, cattle, hogs, sheep, or vehicle of burden or pleasure, of whatsoever kind, from passing through the said gates or turnpikes, until they shall have respectively paid the same, that is to say: For every five miles of the said road completed and licensed as aforesaid, or in proportion for any less distance, the following sums of money, to wit: For every Tolls. score of hogs, six cents; for every score of sheep, six cents; for every score of cattle, twelve cents, and in proportion for any greater or less number; 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 for every such carriage, with two horses, nine cents; for every chariot, coach, phaeton or dearborne, with one horse and four wheels, ten cents; and for every such carriage, with two horses and four wheels, twelve cents; and for every other carriage of pleasure, under whatsoever name it may be known, the like sums, according to the number of wheels and horses drawing the same; for every stage wagon, with two horses, twelve cents; for every stage wagon or coach, with four horses, twenty cents; for every sleigh, three cents for each horse drawing the same; for every cart, wagon or carriage of burden, the breadth of the wheels of which shall not exceed four inches, five cents for each horse drawing the same; and for every such cart, wagon or carriage, the breadth of the wheels of which shall exceed four inches, three cents for each horse drawing the same; two oxen, or one mule, to be estimated as equal to one horse. And if any person shall represent to the said company, or any of its officers or agents, that he or she has travelled a less distance than he or she has actually travelled along said road, with intent to defraud the company of any toll, such person shall, for every such offence, forfeit and pay to the use of the company the sum of five dollars; and if any toll gatherer shall demand and receive toll for a greater distance than the person of whom such toll is demanded shall have travelled along said turnpike road, or shall demand and receive from any person greater toll than is authorized by this act, such toll gatherer shall forfeit and pay the sum of five dollars for every such offence to the supervisors of the township in which the forfeiture is incurred, for the use of the same, to be expended in repairing the public roads, and for the payment of which the said company shall be responsible.

SECTION 14. If any person or persons owning, riding in, or driving any vehicle of burden or pleasure, or riding, leading or driving any horse or horses, or driving any hogs, sheep or cattle, shall therewith pass through or over any private gates or bars, or along or over any private passage way, or other ground adjoining or near to any gate or turnpike erected by said company, with intent to defraud the company, and avoid the payment of the toll for passing through any such gate or turnpike; or if any such person or persons shall, with such intent take off or cause to be taken off, any horse or cattle from any vehicle or carriage of pleasure or burden, or practice any other fraudulent means or device, with the intent that the payment of any such toll may be evaded or lessened, every such person or persons shall, for every such offence, forfeit and pay to the said company any sum not exceeding ten dollars, to sued for and recovered with costs of suits, before any justice of the peace, in like manner as debts of a similar amount are recoverable. Penalty for evading tolls.

SECTION 15. If the said company shall neglect to keep the said road in good travelling order and repair, for the space of ten days, and information thereof shall be given to any justice of the peace, in the vicinity of where the repair ought to be made, such justice shall issue a precept, Mode of vacating road.

directed to any constable, commanding him to summon three disinterested persons to meet at a certain time in said precept to be mentioned, at the place on the said road which shall be complained of, of which meeting notice shall be given to the keeper of the gate nearest thereto; and the said justice shall, at such time and place, on the oaths or affirmations of the said persons, inquire whether the said road, or any part thereof, is in such good order and repair as aforesaid, and shall cause an inquisition to be made under the hands of himself, and a majority of the said persons; and if the said road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify, and send one copy of the said inquisition to each of the keepers of the gates or turnpikes, between which such defective place shall be, and from thenceforth the tolls hereby authorized to be collected at such gates shall cease to be demanded or collected, until the said defective part or parts of the road shall be put in good order and repair as aforesaid; and if the same shall not be in good order before the next court of quarter sessions, to be held for the county in which the defect is proved to be, the justice shall certify and send a copy of the inquisition aforesaid to the judges of the said court, and the court shall, thereupon, cause process to issue, and bring in the body or bodies of the person or persons entrusted by the company with the care and superintendence of such part of the road as shall be found defective, and shall proceed thereon, as in cases of supervisors of the highways for neglect of duty; and if the person or persons entrusted by the company as aforesaid, shall be convicted of the offence in and by the said inquisition charged, the said court shall give judgment, as in the case of supervisors of the highways neglecting their duties; the penalties so to be imposed, shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said court, and shall be paid to the supervisors of the township wherein the offence was committed, to be used for repairing the public roads in the said township.

Rules for passing
carriages.

SECTION 16. All drivers and conductors of wagons, and carriages of all kinds using the said road, shall, except when passing by a vehicle of slower draught, keep their horses and carriages on the right hand side of the road in the passing direction, leaving the other side free and clear for other carriages to pass and repass, and if any driver shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars to any person who shall be obstructed in his passage, who will sue for the same, to be recovered with costs in the usual manner; and no driver of a carriage of any kind shall pass any other vehicle going in the same direction at a faster gait than a trot, at a rate not exceeding eight miles per hour, under a penalty of twenty dollars for each offence, recoverable before any justice of the peace, one-half to the use of said company, and the other half to the use of the informant.

Penalty for in-
juring works.

SECTION 17. If any person or persons shall wilfully injure or destroy any gates, posts, buildings, or other fixtures of the company, or shall, without permission from the acting superintendent of the said road, throw out upon the road, or within the limits thereof, any wood, stone, dirt, or rubbish of any kind, and shall suffer the same to remain for the space of one day after notice thereof shall have been given to the person offending, such person or persons so offending, shall, for each and every such offence, on conviction thereof, by the evidence of one or more creditable witnesses, before any justice of the peace of the county in which the offence shall have been committed, pay a fine not exceeding five dollars, with costs, to be recovered as debts of a like amount are recoverable for the use of the said company.

SECTION 18. In the adjustment of claims for damages for taking or using land or other property by the company, it shall be the duty of the persons appointed according to this act, to take into consideration the advantages, as well as disadvantages, to be derived by the claimant from the making of said turnpike road. Damages.

SECTION 19. The president, managers and company, shall, in the month of May in each and every year, after the organization thereof, on a day to be named in their by-laws, proceed to examine and ascertain the income of the company, and after deducting all costs and charges incurred by the same, shall, out of the net profits, if any there be, declare a dividend to and among the stockholders, notice of which, and of the time and place shall be given, and the same shall be paid accordingly: *Provided*, That if it shall be ascertained that the net profits of the company will not produce a dividend on the capital stock of six per cent. per annum, then it shall be lawful for the president and managers to add to the tolls herein authorized by this act, so as to produce that per centage; and if the tolls shall at any time produce a net income exceeding ten per cent. per annum, then the tolls shall be reduced, so that the net income shall not exceed that amount. Dividends.
Proviso.

SECTION 20. The supervisors of the highways of the townships through which the said turnpike road shall pass, shall, in addition to the powers vested in them by the act of assembly, approved April fifth, A. D., one thousand eight hundred and forty-two, authorizing subscriptions to be made to turnpike roads, on behalf of townships through which said roads may pass, be authorized and empowered to borrow money to pay the instalments on the stock so subscribed, and to issue certificates for the same, bearing an interest not exceeding six per cent. per annum, and payable at any time not exceeding ten years, which certificates shall be binding on the said townships. Supervisors authorized to subscribe for stock.

SECTION 21. If the said company shall not proceed to carry on the said work within five years, or shall not, within ten years from the passing of this act, complete the said road to Pleasantville, according to the true intent and meaning of this act, then, and in either of those cases, all and singular the rights, privileges, liberties and franchises hereby granted to the said company, shall revert to this commonwealth. Commencement and completion limited.

FINDLEY PATTERSON,
Speaker of the House of Representatives.

WILLIAM P. WILCOX,
Speaker of the Senate.

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

FRS. R. SHUNK.