

No. 268.

AN ACT

To authorize the governor to incorporate the Delaware county 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

Commissioners.

George Smith, Oborn Levis, James Ogden, William Hay, Charles Kelly, Nathan H. Baker, William W. Clement, Abraham Powell, Robert Plumstead, George Lewis, Isaac Newton, and Joseph Gibbons, of Delaware county, and David Snyder and Jacob Hoffman, of Philadelphia 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 August next, procure a book and enter therein as follows: "We whose names are hereunto subscribed, do promise to pay to the president and managers of the Delaware county turnpike road company, the sum of twenty-five dollars for every share of stock set opposite to our respective names, in such manner and proportions, and at such 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 authorize the governor to incorporate the Delaware county turnpike road company.' Witness our hands this day of in the year of our Lord

Duties.

Form of subscription.

Shares.

Notice.

Subscriptions.

When adjourned.

When closed.
Proviso.

one thousand eight hundred and ;" and thereupon shall give notice in one or more public papers printed in the city and county of Philadelphia, and in all the papers printed in Delaware county, for twenty days at least, of the time and place when and where the said books shall be open to receive subscriptions for the stock of the said company; at which time and place one of the said commissioners shall attend, and permit and suffer 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 persons who shall duly authorize the same, for any number of shares of said stock; and the said books shall be kept open respectively for the purpose aforesaid, at least six hours in every juridical day, for the space of six days, or until the said books shall have four hundred shares therein subscribed; and if at the expiration of the said six days, the books aforesaid shall not have the said number of four hundred shares therein subscribed, the commissioners respectively may adjourn from time to time, and transfer the said books from place to place, until the whole number of shares shall be subscribed, of which adjournment and transfer the commissioners aforesaid shall give such public notice as the occasion may require; and when the whole number of shares subscribed shall amount to four hundred shares, the same shall be closed: *Provided, always,* That every person offering to subscribe in said books in his own or any other name, shall previously pay to the attending commissioner or commissioners, the sum of five dollars for every share to be subscribed, out of which shall be defrayed such incidental charges and expenses, as may be necessary for taking such subscription, and the remainder shall be paid over to the treasurer of the incorporation, as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

SECTION 2. That when fifteen persons or more shall have subscribed Letters patent. one hundred shares of the said stock, the said commissioners, or a majority of them may, or when the whole number of shares shall be subscribed, they 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 the 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 "The president and managers of the Delaware county turnpike road company;" and by the said name the said subscribers shall have perpetual succession, and all the 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 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, their successors and assigns, and of selling, transferring and conveying, in fee simple, or for any less estate, all such lands, tenements, hereditaments and estates, real and personal, as shall be necessary to them in the prosecution of their 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.

SECTION 3. That the commissioners aforesaid, as soon as conveniently may be, after the said letters patent shall be sealed and obtained, shall give public notice in one or more public papers printed in the city of Philadelphia, and all the papers printed in the county of Delaware, of a 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 subscribers, by ballot, to be delivered in person or by proxy, duly authorized, one president, six managers, one treasurer, and such other officers as may be necessary to conduct the business of the said company, until the first Monday in January next, and until such other officers be chosen; and shall and may make such by-laws, rules, orders 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 always*, That no person shall have more than ten votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share held by him under that number. Organization.

SECTION 4. That the said company shall meet on the first Monday in January, in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such other officers as aforesaid for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned 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 and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations made as aforesaid, and to do and perform any other corporate act. Annual meetings.

SECTION 5. That the president and managers first to be chosen as aforesaid shall procure certificates, to be written or printed, for all the shares of the said stock of the said company, and shall deliver one such Certificates.

Assignments of. 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 subscribed and held, which certificate shall be transferable at his pleasure, in person or by attorney, in the presence of the president or treasurer, subject, however, to all payments due and to become due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for that purpose, shall be a member of said corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meeting thereof.

Penalty for non-payment of dividends, &c. SECTION 6. That if after thirty days notice in one of the public newspapers, printed in the city of Philadelphia, and one in the county of Delaware, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay any such proportion or dividend at the place appointed, for the space of thirty days after the time so appointed, every such stockholder, or his assignee shall, in addition to the dividends so called for, pay at the rate of five per cent per month, for delay of such payment; and if the same, and the said additional penalty shall remain unpaid for such space of time, as that the accumulated penalties shall become equal to the sums before paid in part, and on account of such shares, the same shall be forfeited to the said company, and may and shall be sold to any person or persons willing to purchase, for such price as can be obtained for the same: *Provided*, That the service of personal notice on the stockholders, shall always supersede the necessity of publishing the same in the papers.

Forfeitures. Proviso.

Quorum. Minutes. Powers. SECTION 7. That the said president and managers shall meet at such times and place, as shall be ordained by their by-laws, and when met, four members shall form 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 a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents, and other artists and officers as they shall deem necessary to carry on their intended works, and fix their salaries and wages; to ascertain the times when, and manner and proportion in which the stockholders shall pay the moneys due on their respective shares, in order to carry on the work; to draw orders on the treasurer for all moneys necessary, to pay the salaries or wages of persons by them employed, and for labor done, and materials provided in the prosecution of the work, which orders shall be entered on their book of minutes, and shall be signed by the president, or in his absence, by a majority of a quorum, and countersigned by their secretary, and generally to do all such other acts, matters and things as by this act, and the by-laws, rules, orders and regulations, of the company shall be committed to them.

Orders.

Location. SECTION 8. That the said road shall be made in, over and upon the bed of the present road, beginning at a point in the southern road, near the "Woodlands," and terminating at Thompson's bridge, in Delaware county, as the same was laid out by orders of the courts of Philadelphia and Delaware counties: *Provided always*, That no surveyor, superintendent, artist or other person or persons employed by said company, to construct the said road, shall enter upon, or go through any land or lands belonging to any person or persons, without first obtaining permission of the owner or owners thereof, excepting where it may be found necessary for the widening the said road, to the width of fifty feet.

Proviso.

SECTION 9. That the president, managers and company shall cause Construction.
at least twenty feet in width of said road to be made an artificial road,
bedded with wood, stone or gravel, or any other hard substance well
compacted together, and of sufficient depth to secure a solid foundation
to the same; and the said road shall be faced with gravel or stone,
pounded, or other small hard substance, in such manner, as to secure a
firm, and as near as the materials will admit of, an even surface, and so
nearly level in its progress as that it shall in no place rise or fall more
than will form an angle of four degrees, with a horizontal line, and shall
forever after maintain and keep the same in good and perfect order,
from the eastern termination thereof, westward, so far as the number of
shares subscribed will enable the company to finish the same; and the
said president, managers and company, shall have power to erect per- Bridges.
manent bridges over all the waters crossing the said road: *Provided*, Proviso.
That if the said road be faced with stone, the stones shall be none of
them larger in size than will pass through a circular ring of three inches
in diameter.

SECTION 10. That so soon as the said president, managers and com- Notice of com-
pany shall have perfected the said road from the eastern termination to pletion of whole
the distance of five miles, and also when they shall have completed the or part.
remainder of the distance to Thompson's hotel, or any part thereof,
they shall give notice thereof to the court of quarter sessions of Delaware
county, who shall thereupon forthwith nominate and appoint three dis- Viewers.
interested persons to view and examine the same, and report to the
president judge thereof in writing whether the said road is so far ex-
ecuted in a masterly and workmanlike manner, according to the true
intent and meaning of this act; and if their report shall in either case be
in the affirmative, then the said president judge shall, by license under License.
his hand, permit and suffer the said president, managers and company
to erect and fix so many gates and turnpikes upon and across the said
road, as will be necessary and sufficient to collect the toll and duties
hereinafter granted to the said company, from all persons travelling on
the same with horses, cattle, carts and carriages: *Provided*, That all Proviso.
persons attending funerals or places of worship, their horses and car-
riages shall be exempt from the payment of tolls in going to and return-
ing therefrom.

SECTION 11. That when the said company is licensed in manner Toll gatherers.
aforesaid, it shall and may be lawful for them to appoint such and so
many toll gatherers as they shall think proper to collect and receive of Powers of.
and from all and every person and persons using the said road, the
tolls and rates hereinafter mentioned, and to stop any person riding, lead-
ing, or driving any horses, cattle, hogs, sheep, coach, coachee, sulkey,
chair, chaise, phaeton, cart, wagon, train, sleigh, sled, or any other
carriage of burden or pleasure from passing through the said turnpikes,
until they shall respectively have paid the same, that is to say: For
every five miles in length of the said road completed and licensed as
aforesaid, the following sums of money, and so in proportion for any
lesser distance, or for any greater or lesser number of sheep, hogs, or
cattle, to wit: For every score of hogs, five cents; for every score of Tolls.
sheep, five cents; for every score of cattle, ten cents; for every horse
and his rider, or led horse, three cents; for every sulkey, chair or
chaise, with one horse and two wheels, six cents; and with two horses,
nine cents; for every chariot, coach, phaeton or chaise, with two
horses and four wheels, ten cents; for either of the carriages last men-
tioned, with four horses, twenty cents; for every other carriage of
pleasure, under whatever name it may go, the like sums, according to
the number of wheels and horses drawing the same; for every stage

wagon with two horses, twelve cents; and for every such wagon with four horses, twenty cents; for every sleigh, three cents for each horse drawing the same; and for every sled, two cents for each horse drawing the same; for every cart or wagon, whose wheels shall not be four inches in width, four cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than four inches, and not more than seven inches, two cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches, one cent; and if any person or persons shall represent to the said company, or any of their officers, that he, she, or they have travelled a less distance than he, she, or they have actually travelled along the said road, with intent to defraud said company of its toll, or any part thereof, such person or persons shall, for every such offence, forfeit and pay to the use of the said company, the sum of five dollars; and if any toll gatherer shall knowingly 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 greater toll from any person or persons than such toll gatherer is authorized to demand and receive by virtue of this act, such toll gatherers shall forfeit and pay the sum of ten dollars for every such offence, to the use of the poor of the county in which the forfeiture is incurred, and for the payment of which the said company shall be responsible.

Fines.

Tolls estimated
in certain cases.

SECTION 12. That all such carriages as aforesaid, to be drawn by oxen in the whole, or partly by horses and partly by oxen, two oxen shall be estimated as equal to one horse in charging all the aforesaid tolls, and every mule as equal to one horse.

Repairs, how en-
forced.

SECTION 13. That if the said company shall neglect to keep the said road in good order, for the space of ten days, and information thereof shall be given to any justice of the peace of the neighborhood, within the county where the repair ought to be made, such justice shall issue a precept, to be 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 in the said road which shall be complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto, within the said county, and 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 turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put in good order and repair as aforesaid.

Of frauds on
company.

SECTION 14. That if any person or persons whosoever owning, riding in, or driving any sulkey, chair or chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure, riding or leading any horse, mule, mare or gelding, or driving any hogs, sheep or other cattle, shall therewith pass through any private gates or bars, or along or over any private gates or bars, or along or over any private passage way or other ground near to, or adjoining any turnpike or gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the company, and avoid the payment of the toll or duty for

passing through any such gate or turnpike, or if any person or persons shall, with intent, take off or cause to be taken off, any horse, mule, mare or gelding, or other cattle, from any sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure, or practice any other fraudulent means or device, with the intent that the payment of any such toll or duty may be evaded or lessened, all and every person or persons, in all or every, or any of the ways or manners aforesaid offending, shall, for every such offence, respectively, forfeit and pay to the president, managers and company of the Delaware county turnpike road, any sum not exceeding ten dollars, to be sued for and recovered with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations as debts of a similar amount are by law sued for and recovered: *Provided always*, That if any person or persons shall be prosecuted under this section of this act, and the said prosecution shall not be sustained on the part of the prosecutors, then in that case, the person or persons prosecuted as aforesaid, shall receive from the company the sum of ten dollars, in lieu of damages arising from delay and vexatious prosecution, recoverable as other fines under this act. Penalty. Proviso.

SECTION 15. That the president and managers of the said company shall keep fair and just accounts of all moneys received by them, from the said commissioners, and from the subscribers to the said undertaking, on account of the several subscriptions, and of all penalties for the delay of payment thereof, and of the amount of profits on the shares which may be forfeited as aforesaid; and also all moneys by them expended in the prosecution of their said work, and shall, once at least in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges, and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or when the capital stock of the said company shall be nearly expended, 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 receive and demand the moneys subscribed for such shares, and like manner, and like penalties, as are hereinbefore provided for the original subscription, or as shall be provided for by their by-laws. Accounts of expenditures. Increase of stock.

SECTION 16. That the said president and managers and company shall also keep a just and true account of all and every, of the moneys received by their several and respective collectors of tolls, at the several and respective gates or turnpikes on the said road, from the beginning to the end thereof; and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the subscribers to the said company's stock, and shall, on the first Monday in November and May, in every year, publish the half yearly dividend, if any, made of the said clear profits among the stockholders, and of the time and place, and when and where the same shall be paid, and shall cause the same to be paid accordingly: *Provided*, That the said dividends, in no one year, shall exceed eight per cent. Account of tolls. Dividends. Proviso.

SECTION 17. That the said company shall cause mile stones to be placed on the side of the said road, beginning at the eastern termination thereof, and extending thence to the termination of the turnpike, as it

Penalties for injuries to, &c.

may be completed, as aforesaid, whereon shall be marked, in plain legible characters, the respective number of miles which each stone is distant from the Schuylkill permanent bridge; and if any person shall wilfully destroy the said mile stones, or deface the same, or deface any directions made on the gates or other conspicuous places, or shall, without permission of the acting superintendent of the said road, throw out upon the road, or within the limits of the same, and suffer to remain for the space of one day, any mould, dirt, shavings, weeds, or rubbish of any kind, such person being convicted thereof, by the evidence of one or more credible and disinterested witnesses, before any disinterested justice of the peace of the county, he or she shall be adjudged by the said justice, to pay a fine not exceeding three dollars, to be recovered with costs, as debts of like amount are by law now recoverable; which fine, when recovered, shall be paid by the said justice to the treasurer of the said company, for the use of said company.

Directions for passing and re-passing.

Penalty for neglect of.

SECTION 18. That all wagoners and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by a carriage of slower draught, 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 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, as will sue for the same, to be recovered with costs, before any justice, in the same manner as debts of like amount are by law now recoverable: and no wagoner, or driver of carriages of any kind, whether of burden or of pleasure, using said road, 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 the said company, and the other half to the use of the informant.

Limitation.

SECTION 19. That if the said company shall not proceed to carry on the said work, within two years after the passage of this act, or shall not within three years afterwards complete at least five miles of the said road, according to the true intent and meaning of this act, then, in either of those cases, all and singular, the rights, liberties, privileges and franchises hereby granted to the company, shall revert to this commonwealth.

When road vested in company.

Townships released.

SECTION 20. That so soon as the said company shall commence operations on the said road, the first five miles from the eastern termination thereof, shall vest in the said company, and the townships through which it passes shall be released from repairing the same, and the counties of Delaware and Philadelphia, from the repair of the bridges: and in like manner, the balance of the said road shall vest in the said company, from time to time, as they extend their operations westward.

Reservation.

SECTION 21. The legislature hereby reserves the right to alter, amend or annul the provisions of this act, whenever they may deem it expedient so to do.

FINDLEY PATTERSON,
Speaker of the House of Representatives.

WILLIAM P. WILCOX,
Speaker of the Senate.

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

FRS. R. SHUNK.