

SECTION 2. That when five hundred shares of the said stock shall be subscribed, and the sum of two dollars paid on each and every share as aforesaid, the commissioners, or a majority of them, shall certify to the governor, under oath or affirmation, the names of the subscribers, and the number of shares subscribed by each, and the sum of two dollars on each share paid at the time of subscribing; whereupon, the governor shall, by letters patent, under his hand and the seal of the commonwealth, create and erect the subscribers, and if the subscription be not full at the time, then also those who shall thereafter subscribe to the number of shares aforesaid, into a body politic and corporate, in deed and in law, by the name, style and title of "the Lyscoming and Tioga plank road company;" and by the same name the subscribers shall have perpetual succession, with all the privileges, franchises and immunities, incident to a corporation, and be able to sue and be sued, implead and be impleaded in all courts of record and elsewhere; and to purchase, receive, have, hold, and enjoy to them and their successors, lands, tenements and hereditaments, goods, chattels, and all estates, real, personal and mixed, of what kind or quality soever, and the same from time to time to sell, exchange, mortgage, grant, alien, or otherwise dispose of, and to make dividends of such portions of the profits as they may deem proper; and also to make and have a common seal, and the same to alter and renew at pleasure; and also to ordain, establish and put in execution, such by-laws, ordinances and regulations, as shall appear necessary and convenient for the government of said corporation, not being contrary to the constitution and laws of the United States, or of this commonwealth, and generally to do all and singular the matters and things, which to them it shall lawfully appertain to do, for the well being of said corporation, and the due management and ordering the affairs of the same: *Provided*, That nothing herein contained shall be considered as in any way giving to the said corporation any banking privileges whatsoever, or any other liabilities, privileges or franchises, but such as may be necessary or incident to the making and maintaining of the said plank road, and the conveyance of passengers, and the transportation of the mail, and of goods and merchandize, and commodities thereon: *And provided further*, That nothing herein contained shall be so construed as to prevent the said corporation from holding such real estate along the line of said road, as may be given or conveyed by the owners thereof to the company, in aid of the projected improvement, and the same to sell and convey, at their discretion, in fee simple or otherwise.

Letters patent.

Name.

Privileges.

By-laws.

Provide.

SECTION 3. That the said named persons, or a majority of them, shall, as soon as conveniently may be after the said letters patent shall be obtained, give at least twenty days' previous notice in the newspapers hereinbefore mentioned, of the time and place by them appointed for the subscribers to meet in order to organize the said company; to choose, by a majority of votes of the said subscribers, by ballot, to be given in person or by proxy, which proxy shall have been obtained, and bear date within three months previously to the election, at which such proxy shall be presented duly authorized, one president and six managers, a majority of whom shall be residents of this commonwealth, a treasurer and secretary, and such other officers as shall be deemed necessary; that the president and managers aforesaid shall conduct the business of said company until the second Saturday in January then next ensuing, and until like officers shall be chosen, and make such by-laws, rules, orders and regulations as are not inconsistent with the constitution and laws of the United State or of this state, and that may be necessary for the well governing the affairs of said company;

Organization.

Provided, That no person but a stockholder shall be eligible to the office of president or manager.

SECTION 4. That the stockholders shall meet on the second Saturday of January in every year, at such places as may be fixed upon by the by-laws, of which notice shall be given at least twenty days previous by the secretary, in the newspapers before mentioned, and choose, by a majority of the votes present, officers for the ensuing year, as mentioned in the third section of this act, who shall continue in office for one year, and until others are chosen, and at such other time as they may be summoned by the managers, in such manner and form as shall be prescribed by the by-laws; at which annual or special meeting they shall have full power and authority to make, alter or repeal, by a majority of the votes in the manner aforesaid, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform every other corporate act; and the number of votes to which each stockholder shall be entitled, shall be according to the number of shares he or she shall hold, in the proportion following: for every share not exceeding two shares, one vote; for every two shares above two and not exceeding ten shares, one vote; and for every three shares above ten, one vote; but no share shall confer the right of suffrage, which shall not have been holden three calendar months prior to the day of the election, nor unless it be holden by the person in whose name it appears, absolutely and bona fide in his own right, or in right of his wife, or for his or her sole use and benefit, or as executor or administrator, trustee or guardian, or in the right or for the use and benefit of some co-partnership, corporation or society, of which he or she may be a member, and not in trust for and to the use and benefit of any other person: *Provided*, That no share held by transfer shall be entitled to a vote, unless the same shall have been transferred at least three months before the election; and all votes by proxy, shall be on such terms and conditions as are prescribed by the act passed on the twenty-eighth day of March, one thousand eight hundred and twenty, entitled "An Act to regulate proxies:" *And provided also*, That no share shall be entitled to a vote at any election, or at any general or special meeting of said company, on which any instalment or arrearages may have been due, and payable more than thirty days previously to said election or meeting.

SECTION 5. That the election of officers provided for in the third section of this act, shall be conducted in the following manner, that is to say: the managers for the time being, shall appoint two of the stockholders not being managers, to be judges of the said election, and to conduct the same, after having severally taken and subscribed an oath or affirmation before an alderman or justice of the peace well and truly, and according to law, to conduct said election to the best of their knowledge and abilities; and the said judges shall decide upon the qualifications of voters, and when the election is closed, shall count the votes and declare who has been elected; and if it shall at any time happen, that an election of president, managers, treasurer, secretary or other officer shall not be made, the corporation shall not for that cause be dissolved, but it shall be lawful to hold and make such election of president, managers, treasurer, secretary or other officers on any day thereafter, by giving at least ten days' notice, signed by the president or secretary, in the newspapers before-mentioned, of the time and place of holding said election; and the president, managers, treasurer, secretary and other officers of the preceding year shall, in that case, continue to act and be invested with all the powers belonging to their respective stations, until an election shall take place; in the case of death or resig-

nation of the president, manager, treasurer or secretary, his place may be filled by the board of managers until the next annual meeting.

SECTION 6. That the said president and managers shall meet at such times and places as shall be found most convenient for the transacting of their business, and when met, five shall be a quorum who, in the absence of the president, may choose a chairman, and shall keep minutes of their transactions, fairly entered in a book kept for that purpose ; and a quorum being formed, they shall be empowered and have authority to appoint all such surveyors, engineers, superintendents and other artists and officers as they shall deem necessary to carry on the intended work, and to fix their salaries and wages, to ascertain the times, manner and proportions in which the said stockholders shall pay the moneys due on their respective shares, to draw orders on the treasurer for moneys, which shall be signed by the president, or in his absence, by the president pro tem. for the time being, and countersigned by the secretary ; and generally, to do all such other acts, matters and things as by this act, and by the by-laws and regulations of the company, they are hereby authorized to do. Quorum.
Powers of board.

SECTION 7. That the said president and managers first chosen, shall procure certificates or evidences of stock for all the shares of the said company, and shall deliver one or more certificates, signed by the president and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for the number of shares by him or her subscribed or held ; which certificates or evidences of stock shall be transferable at his or her pleasure, in person, or by attorney duly authorized in the presence of the president or treasurer, one of whom shall keep a book for that purpose, subject, however, to all payments due or to become due thereon ; assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for the transfer of stock, shall be a member of the said corporation ; and for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock of all the estates and emoluments of the company incident to one share, and to vote as aforesaid at the meetings thereof, and be subject to all penalties and forfeitures, and to be sued for all the balances and penalty due or to become due on each share, as the original subscriber would have been. Certificates of
stock.

SECTION 8. That if after thirty days' notice in the public papers aforesaid, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay such proportion or instalment 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 instalment so called for, pay at the rate of one per centum per month for the delay of such payment ; and if the same and additional penalty shall remain unpaid for such a space of time, as that the accumulated penalty 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 be sold to any person or persons willing to purchase for such price as can be obtained for the same ; or in default of payment by any stockholder of any such instalment as aforesaid, the president and managers may, at their election, cause suit to be brought before an alderman or justice of the peace, or in any court having competent jurisdiction for the recovery of the same, together with the penalty aforesaid. Instalments, how
and in what man-
ner to be paid.

SECTION 9. That the president and managers of the said company shall demand and require of and from the treasurer, and may demand and require of and from all and every other the officers and other persons by them employed, bonds in sufficient penalties, and such securi- Security to be
given by officers.

ties as the said company shall, by their rules, orders and regulations, require for the faithful discharge of the several duties and trusts to them respectively committed.

Dividends. SECTION 10. That dividends of so much of the profits of the company, as shall appear advisable to the managers, shall be declared at least twice a year in every year, and paid to the stockholders on demand, at any time after the expiration of ten days therefrom; but they shall in no case exceed the amount of the net profits actually acquired by the company, so that the capital stock shall never be impaired thereby; if the said managers shall make any dividend which shall impair the capital stock of said company, the managers consenting thereto shall be liable, in their individual capacities, to the creditors of the said company, for the amount of the stock so divided; and each manager present when such dividend shall be declared, shall be adjudged to be consenting thereto, unless he forthwith enter his protest on the minutes of the board, and give public notice to the stockholders of the declaring such dividend.

Route. SECTION 11. That the president and managers of the said plank road company shall have power to survey, lay down, ascertain, mark and fix such route as they shall deem expedient for a plank road, beginning at or near Ralston, in the county of Lycoming, and extending, by the most direct practicable route, to Blossburg, in the county of Tioga: *Provided*, That the said plank road shall not, except in deep cuts and fillings, or at points selected for depots, exceed fifty feet in width, and that it shall not pass through any burying ground or place of public worship, or any dwelling house, without the consent of the owner thereof: *And provided further*, That the track of said road shall be constructed of timber and plank, the surface thereof shall be smooth and even, and the carriage way shall be at least eighteen feet wide.

May enter upon lands. SECTION 12. That the said president and managers shall have power and authority, by themselves, or their superintendents, engineers, artists and workmen, to enter in and upon and occupy all land on which the said plank road, or its depots and warehouses may be located, or which may be necessary for the erection of weigh scales, or any other purpose necessary or useful in the construction and repairs of the said plank road, and therein to dig, embank, make and construct the same:

Proviso. *Provided*, The said company shall first make compensation to the owner or owners of ground and materials, and property so taken and occupied, as aforesaid, or give adequate security therefor; but if the parties cannot agree upon the compensation to be made to such owner or owners, it shall and may be lawful for the parties to appoint five suitable, judicious and disinterested persons, of the counties of Lycoming or Tioga, who shall be under oath or affirmation; and if they cannot agree upon such persons, then either of the parties after giving twenty days' notice to the other, may apply to the court of common pleas of the proper county; and the said court shall appoint five judicious and disinterested men from the said county, in order to ascertain and report to the said court what damages, if any, have been sustained by the owner or owners of the said ground, by reason of the construction of the said plank road through the same; which said appraisers, being duly sworn or affirmed, and having viewed the premises, shall proceed to estimate the quantity and quality of the land occupied by the said plank road, and all other inconveniences which may be likely to result therefrom to the said land; and in view of these considerations, and a just regard to the advantages which may seem likely to result to the owner or owners of the said land, from the opening of the said plank road through the same, to make their assessment and report

Proceedings for the assessment and payment of damages.

to the court, which report being confirmed by the said court, judgment shall be entered thereon, and execution may issue in case of non-payment for the sum awarded; and the cost and expenses incurred by the said appraisers, shall be defrayed by the said plank road company: *Provided*, That either party may appeal to the court within thirty days *Proviso.* after such report may have been filed in the prothonotary's office of the proper county, in the same manner as appeals are allowed in other cases: *Provided however*, That in all cases where an appeal is taken *Proviso.* by either party, the company may immediately, on such appeal being taken, as aforesaid, enter upon, occupy, take and carry away any ground, material or property necessary for the use and construction of the aforesaid plank road: *And provided also*, That if any person or persons *Proviso.* owning land or any other property which shall be affected by this act, be feme covert, under age or non compos mentis, or out of the state, then and either of those cases, the president and managers of the company, and at the cost and charges of the said corporation, shall, within one year after the construction of the plank road through said land, represent the same to the court of common pleas of the aforesaid county, who shall proceed thereon in the same manner and to the same effect as is directed by this act in other cases.

SECTION 13. That the president and managers, by and with their superintendents, engineers, artists, workmen and laborers, with their tools, instruments, carts, wagons and other carriages, and beasts of draught and burden, may enter upon the land contiguous and near the said plank road, first giving notice to the owners or occupiers thereof, and from thence to take and carry away timber, stone or gravel, sand or earth, doing as little damage thereto as possible, and repairing any breaches they may make in the enclosure thereof, and making amends for any damages that may be done thereon; the amount whereof, if the parties do not agree, shall be assessed as hereinbefore mentioned in this act. *May enter lands for materials, &c. Lateral roads.*

SECTION 14. That the company shall not prevent any person or persons, being the owner or owners of land bordering on the said plank road, or in the vicinity thereof, or adjacent thereto, from making such lateral plank roads and connecting them with the said plank road from their said lands, as the said person or persons may wish, for the purpose of transporting their coal, lumber or produce on said plank road: *Lateral roads.* *Provided*, That all such connections of lateral roads are to be made at *Proviso.* the expense of the person so wishing to connect, and according to the direction and approval of the engineer or managers of said plank road company, so as not to obstruct or endanger the free travel on the main road: *And provided also*, That any person or persons owning such *Proviso.* coal, lumber or produce, shall have the privilege of transporting the same on said plank road in their cars or other vehicles, subject to the rules and regulations of said company.

SECTION 15. That the said plank road shall be so constructed as not to impede or obstruct the free use or passage of any public road or *Construction.* roads which may cross or enter the same; and in all cases where the said plank road may cross, or in any manner interfere with any existing public road, canal or slack-water navigation, the said company shall make, or cause to be made, as soon as conveniently may be, a good and sufficient causeway or causeways, to enable all persons passing or *To erect causeways.* traveling such public roads, canal or slack water navigations, to cross or pass over said plank road; and if the company shall neglect or refuse to keep such causeways in good repair, they shall be liable to a penalty of ten dollars for every day the same shall be so neglected or refused to be repaired, to be recovered by the supervisors of the township, with cost, for the use of the township, as debts of like amount

are by law recoverable ; and shall, moreover, be liable to all actions at the suit of any person who may be aggrieved thereby.

Causeways.

SECTION 16. That for the accommodation of all persons owning or possessing lands through which the said plank road may pass, it shall be the duty of the said company to make, or cause to be made, a good and sufficient causeway or causeways, wherever the same may be necessary, to enable the occupant or occupants of said lands to cross or pass over the same with wagons, carts and implements of husbandry, as occasion may require ; and the said causeway or causeways, when made, shall be maintained and kept in good repair by said company ; and if the said company shall neglect or refuse, on request to make such causeway or causeways, or when made to keep them in good order, the said company shall be liable to pay any person aggrieved thereby, all damages sustained by such person in consequence of such neglect or refusal, to be sued for and recovered before any magistrate or court

Provide.

having cognizance thereof : *Provided*, That the said company shall in no case be required to make, or cause to be made, more than one causeway through each plantation or lot of land, for the accommodation of any one person owning or possessing land through which the said plank road may pass ; and where any public road may or shall cross said plank road, the person owning or possessing land through which said public road shall pass, shall not be entitled to require the company to erect or keep in repair any causeway or bridge for accommodation of the occupant of said land : *Provided further*, That in the event of any private bridge or causeway being converted to public use, so as to be made to accommodate a public road laid out subsequent to the passage of this act, then and in such case the company shall be forever there-after exonerated from the duty of keeping said bridge or causeway in good repair.

Provide.

Suits.

SECTION 17. That no suit nor action shall be prosecuted by any person or persons, for any penalties incurred under this act, unless such suit or action shall be commenced within twelve months next after the offence committed, or the cause of action accrued ; and the defendants in any such suit or action may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by authority of this act.

Service of process.

SECTION 18. That in all suits or actions brought against the said company, the service of process on any manager, toll gatherer, or other officer of the company, shall be as good and available in law as if made on the president thereof.

Penalty for injuring works.

SECTION 19. Any person who shall willfully injure, break, or throw down any gate, which shall have been erected on said road, pursuant to the provisions of this act ; or dig up, or willfully injure or spoil any part of such road, or any thing thereunto belonging ; or shall drag along or across such road, any log, timber, wood or stone, so that the same shall come in contact with the even surface of said road ; or forcibly or fraudulently pass any such gate without the payment of the legal toll, or shall with his team, carriage, sleigh, sled or other vehicle, or animal, turn out of said road, and pass any gate thereon on ground adjacent thereto, and again enter on such road, he shall, for every such offence, forfeit to the corporation hereby created the sum of ten dollars, in addition to the damages resulting from his wrongful act, which penalties may be recovered by said corporation in an action of debt, in any court having cognizance thereof, and a separate suit for such damages may, in like manner, be prosecuted and maintained by such corporation.

SECTION 20. That if any person or persons shall willfully or maliciously remove, or destroy any of the company's constructions or place, ^{1b.} designedly and with evil intent, any obstruction on the line of the plank road, so as to jeopard or endanger the lives of persons traveling on the same, such person or persons, so offending, shall be deemed guilty of a misdemeanor, and shall be adjudged, on conviction, to be imprisoned in the Eastern penitentiary of Pennsylvania for a term not more than two years: *Provided*, That nothing herein contained shall prevent the company from pursuing any other appropriate remedy at law, in such cases. ^{Proviso.}

SECTION 21. Whenever any five continuous miles of said road shall be completed, it shall be lawful for said corporation to erect a toll gate ^{On completion of every five miles to erect a toll gate and receive tolls.} thereon, and appoint a toll collector for the same, and to do the same as often as any additional continuous five miles of said road shall be completed; at each of such gates, when erected in pursuance of this act, the said corporation and toll collector thereof may demand and receive the following tolls, viz: for every carriage, sleigh, sled or other vehicle ^{Tolls.} of any description, drawn by one horse or other animal, fifteen cents; if drawn by two animals, twenty-five cents; for every additional animal, five cents; for every horse and rider, five cents; for every horse without a rider, every mule or head of neat cattle not attached to a vehicle, and every half score of sheep or swine, two cents; the collector of toll at each of said gates may detain and prevent from passing such gates, any animal, team, carriage or other vehicle, subject to toll, until the toll thereon shall be paid.

SECTION 22. That at each annual meeting of the stockholders, the president and managers of the preceding year shall exhibit to them, a ^{Annual statement of affairs.} complete statement of the affairs and proceedings of the company for such year, and that special meetings of the stockholders may be called by order of the president and managers, or by the president, at the request of the stockholders holding one-fourth of the amount of the capital stock, of like notice as that required for annual meetings, specifying moreover the object of the meeting; but no business shall be transacted at such meetings, except that for which it shall have been called, nor unless a majority in value of the stockholders shall attend in person or by proxy.

SECTION 23. That if the president, and managers and company, shall not proceed to carry on the said work within three years from the passage of this act, and shall not complete the same within five years as aforesaid, according to true intent and meaning of this act; or if after the completion of the said road, the said company shall suffer the same to go to decay, and be impassable for the term of two years, then this charter shall become null and void, except so far as compels the said company to make reparation for damages. ^{Commencement and completion of road.}

SECTION 24. That if any increase of the capital stock shall be deemed necessary by the stockholders to improve or complete the said road, it ^{Increase capital.} may be lawful for the said president, and managers and company, at a stated or special meeting convened for the purpose, to increase the number of shares, so that the capital of the said company shall not exceed one hundred and fifty thousand dollars, and to receive and demand any moneys for shares so subscribed, in like manner, and under like penalties as are hereinbefore provided for the original subscription, or as shall be provided for by their by-laws.

SECTION 25. That at the end of the third year after the charter shall be obtained, and at the end of every year thereafter, there shall be furnished to the legislature an abstract of the account of the company, ^{Report to legislature.} showing the amount of capital paid in, and the debts of the said com-

pany, the amounts received for toll and transportation and rates charged, and the amounts of dividends declared, which abstract shall be verified by the oath or affirmation of the president or treasurer of said company.

Reservation.

SECTION 26. *That if the said company shall at any time misuse or abuse any of the privileges hereby granted, the legislature may resume all and singular the rights and privileges hereby granted to the said corporation, in such manner, however, as not to do injustice to the corporators.*

JAMES COOPER,

Speaker of the House of Representatives.

CH. GIBBONS,

Speaker of the Senate.

APPROVED—The sixth day of March, one thousand eight hundred and forty-seven.

FRS. R. SHUNK.

No. 364.

AN ACT

To incorporate the president and managers of the Phoenixville, Kimberton and Yellow Springs turnpike road company.

Commissioners.

Form of subscription.

Notice to open books.

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 Samuel Moses, Samuel Cornett, Robert S. Buck, Robert Jones, Benjamin Hartman, Alexander Kennedy, John Clevensline, David West, Norris Maris, Samuel Halman, Doctor George Lingen, John Thomas, Emmor Kimber, Joseph Pennypacker, James Penrose and George W. Dewees, 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 Monday in June next, procure two 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 Phoenixville, Kimberton and Yellow Springs turnpike road company, the sum of twenty 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 the said company, in pursuance of an act of the general assembly of this commonwealth, entitled ‘An Act to incorporate the president and managers of the Phoenixville, Kimberton and Yellow Springs turnpike road company.’ Witness our hands the day of in the year of our Lord one thousand eight hundred and forty ;” and thereupon, shall give notice in three papers printed in the county of Chester, and one in Montgomery, for twenty-one days at least, of the time and places, when and where the said books shall be opened to receive subscriptions for the stock of the said company; at which time and places one of the said commissioners shall attend, and permit and suffer all*