

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 Clevestine, 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*

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 purposes aforesaid, at least six hours in every juridical day, for the space of three days, or until the said books shall have seventeen hundred and fifty shares therein subscribed; and if at the expiration of the said three days, the said books shall not have seventeen hundred and fifty shares subscribed therein, 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 shall give such public notice as the occasion may require; and when the whole number of shares subscribed, shall amount to seventeen hundred and fifty, the same shall be closed: *Provided always*, That every person offering to subscribe in the said books, in his own or any other name, shall previously pay to the attending commissioners the sum of one dollar for every share to be subscribed, out of which shall be defrayed the incidental charges of taking such subscriptions, and the remainder shall be paid over to the treasurer of the corporation as soon as the same shall be organized, and their officers chosen as hereinafter mentioned. Proviso.

SECTION 2. When twenty persons or more shall have subscribed five hundred shares of the said stock, the said commissioners respectively may, or when the whole number of aforesaid 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 Phoenixville, Kimberton and Yellow Springs 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 fulfill the intent of this act, and of purchasing, taking and holding to them, their successors and assigns, and selling, transferring and conveying in fee simple, or for any less estate, all such lands, tenements and 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 or thing which a corporation or body politic may lawfully do. Letters patent.
Name.
Privileges.

SECTION 3. 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 county of Chester, of a time and place by them appointed, not less than twenty-one days from the time of the first notice; at which time and place the subscribers shall proceed to organize the said corporation, and shall choose by a majority of the votes of subscribers, by ballot, to be delivered in person or by proxy, one president, six managers, one treasurer, and such other officers as may be necessary to conduct the business of the company, until the first Monday in January next thereafter, and until such other officers shall be elected; and shall and may make such by-laws, orders and regulations, not inconsistent with the laws and Organization.

Proviso.

constitution of this commonwealth, or of the United States, as shall be necessary for the well ordering of the affairs of the said company: *Provided always*, That at such elections, every person shall have ten votes for the first ten shares he may hold, and one vote for every five shares thereafter; but one vote for every single share up to ten as aforesaid, that is, each person shall be entitled to a vote for every share he holds under ten, and above that number, one vote for every five shares.

Annual meeting.

SECTION 4. The said company shall meet the first Monday in January in every year, at such place as the managers may choose, for the purpose of electing officers for the ensuing year, and at such other times as the managers may deem necessary; and at their stated or special meetings, they shall have full power and authority to make, alter or repeal, by a majority of votes in manner aforesaid, all by-laws, rules, orders and regulations, and to do and perform any other corporate act.

Issue certificates of stock.

SECTION 5. The president and managers first chosen shall procure certificates, written or printed, for the shares of the said stock, and shall deliver one or more signed by the president, and countersigned by the treasurer, and sealed with the common seal of the corporation, to each person for the number of shares by him subscribed and held; which certificates shall be transferable at his pleasure, in person or by attorney, in the presence of the president or treasurer, subject to all payments due or 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 the said corporation, and for every share held by him, shall be entitled to one share of the capital stock, and one share of all the estates and emoluments of the company, and be entitled to vote at their meetings as aforesaid.

Transferable.

Payment of instalments regulated.

SECTION 6. If after thirty days' notice in three or more public newspapers printed in the county of Chester, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, any stockholder shall neglect or refuse to pay any such portion or dividend of the said capital stock 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 five per cent. per month for delay of such payment; and if the same, and the additional penalty, shall remain unpaid for such length of time, as that the accumulated penalties shall become equal to the sums of money before paid on account of such shares, the same shall be forfeited to the company, and shall be sold to any person or persons willing to purchase for such price as can be obtained for the same.

Quorum.

Duties of board.

SECTION 7. The president and managers shall meet, for the transaction of business, at such time and place as designated by the by-laws; and when met, four members shall be a quorum, who, in the absence of the president, may choose a chairman; they shall choose a secretary from their own number, and keep minutes of all their transactions, and fairly enter them in a book; and they shall choose or appoint surveyors, engineers, superintendents, artists, officers and others, as they may deem necessary to carry on their intended works, fix their salaries or wages, to fix or determine the time and place, and the manner and proportions that stockholders shall pay the moneys due on their respective shares, and publish the usual notices thereof, to draw orders on the treasurer for moneys to pay the salaries or wages of all persons in their employ, and for materials required in the prosecution of the work, and for payment of all dues of every kind; which orders shall be entered in their book of minutes, and be signed by the president or chairman, and countersigned by the secretary, and generally to do all such acts

and things as by this act, and the orders of the company shall be required of them.

SECTION 8. The president and managers of the Phoenixville, Kimberton and Yellow Springs turnpike company shall lay out and make the road, for the most part, on the bed of the old road from the village of Phoenixville, beginning at the west end of the bridge lately erected over the river Schuylkill, at that place, by Kimberton, to the Yellow Springs, in the county of Chester, aforesaid, a distance of about seven miles, with the privilege of extending the said road from the Yellow Springs, to the aforesaid, by the nearest and best route, to intersect the Little Conestoga turnpike, whenever the said company shall deem it advantageous to them to do so; and they shall widen the road, where less, to the width of fifty feet, and at least, except in deep cuts and through the village of Phoenixville, twenty-five feet thereof, in the middle to be made an artificial road; and where the ground is level, or nearly so, the centre to be made at least two feet higher than the side roads, which are to be level, and kept free from all obstructions to travel, as summer roads. The artificial road shall be constructed of firm and substantial materials, as gravel, slate, or furnace cinders on broken stone, so as to secure a solid foundation, a smooth and firm surface and a well made and permanent highway, and by digging down and leveling the hills, made so nearly level in progress, that it shall in no place rise or fall more than will form an angle of five degrees with a horizontal line: *Provided*, That in the village or town of Phoenixville, the hills are not to be removed, and the road may be formed entirely of furnace cinders, from the bridge to the Fountain inn, if the managers shall so order.

SECTION 9. It shall be lawful to and for the said president and managers, their superintendent, engineers, contractors or workmen, to enter upon the lands in the vicinity of said road, or contiguous thereto, first giving notice to the owner thereof, or his representative, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures, and making amends for damages that may be done to any improvements thereon, and also for the value of materials, by appraisement or by reasonable agreement, if they can agree; if they cannot agree, then upon an appraisement to be made by three disinterested freeholders, to be mutually chosen, whose award, or the award of any two of them, shall be final; it shall and may, therefore, be lawful for the said president and managers, or for any person or persons, by his or their directions, to dig, take and carry away any sand, gravel, stone, earth or other material, being conveniently situated for making or repairing the said road: *Provided*, That no part of this act shall authorize the taking away of any property by the said company without the owner's consent, in writing, unless the same be previously paid for, or adequate security be given for the payment thereof.

SECTION 10. So soon as the said president, managers, and company shall have completed and finished the said road from Phoenixville to the Yellow Springs, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three disinterested persons to view and examine the same, and report to him, in writing, whether the said road is executed in a masterly 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 commonwealth, permit and suffer the said president, managers and company to erect toll, and fix so many gates and turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties from persons traveling on the same.

Toll collectors. **SECTION 11.** When the said company is licensed, in manner 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 and from all persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding, leading or driving any horses, cattle, hogs, sheep or carriage of any kind, until they shall respectively have paid the same: *Provided*, That all persons attending funerals, or going to or returning from places of worship, their horses and carriages shall be exempt from the payment of tolls, that is to say: For every five miles in length of the said road, the following sums of money, and so in proportion for any greater or lesser distance, or for any greater or lesser number of sheep, hogs or cattle. that is to say: For every score of hogs for five miles, six cents; for every score of sheep for five miles, six cents; for every score of cattle for five miles, twelve cents; for every horse and rider or led horse for five miles, three cents; for every sulkey, chair or chaise with one horse and two wheels, for every five miles, six cents; with two horses, nine cents; for every chariot, coach, phaeton or dearborn with one horse and four wheels, for five miles, nine cents; for either of the carriages last mentioned, with two horses, for each five miles, twelve cents; with four horses, twenty cents; for every other carriage of pleasure, under whatever name it may go, or for what used, the like sum, according to the number of wheels or horses drawing the same; for every stage wagon with two horses, for every five miles traveled, twelve cents; for every stage with four horses, twenty cents; for every sleigh, for each horse five miles, three cents; for every sled, for each horse five miles, two cents; for every cart or wagon whose wheels shall not exceed four inches, for each horse for five miles, six cents; for every cart or wagon whose wheels shall exceed four inches, and not exceed seven inches, for every horse drawing the same, four cents; for every cart or wagon whose wheels shall exceed seven inches in the roll, and not exceed or roll more than ten inches, for every horse for each five miles, three cents; for every cart or wagon, the breadth of whose wheels shall be more than ten inches, and not exceeding twelve inches, or being ten inches, shall roll over or more than fifteen, two cents; for every horse drawing the same over every five miles, two cents; carriages of all kinds, for burden or pleasure, paying toll as above, shall travel the road on the right hand side, and shall so pass one another traveling in contrary directions; but light carriages passing heavy wagons going the same way, must take the left side, under the penalty of one dollar fine for the violation of this rule, and the costs of prosecution, and the damages they may occasion, by neglect or refusal to give the road according with this rule; and if any person or persons shall represent to the said company, or to any of their officers, that they have traveled a less distance than they actually have traveled along said road, with intent to defraud said company of their toll, or of any part thereof, such person or persons shall, for every such offence, forfeit and pay to the use of said company, five dollars; and if any toll gatherer shall demand and receive toll for a greater distance than the person from whom such toll is demanded shall have traveled along such turnpike road, or shall demand and receive greater toll from any person or persons, then such toll gatherer is authorized to demand and receive, by virtue of this act, such toll gatherer shall forfeit and pay the sum of ten dollars for every such offence, to the supervisors of the township in which the forfeiture is incurred, to be expended in repairing township roads, and for the payment of which, the said company is responsible.

Proviso.

Tolls.

Travel on road regulated.

Penalty for defrauding company.

SECTION 12. If the said company shall neglect to keep the road in good order for the space of thirty days, a justice of the peace in the county of Chester may issue a precept, directed to any constable, commanding him to summon three disinterested persons, to meet at a certain time at the place in said road, which shall have been complained of, of which meeting notice shall be given to the nearest toll gatherer, and the said justice shall, at such time and place, hold an inquisition; and if the said road shall be found by the said inquisition to be out of order, contrary to the true intent and meaning of this act, the said justice shall certify a copy of the inquisition and send to a keeper of the turnpike gate, and all tolls shall cease to be collected at such turnpike gate, until the said defective part or parts of the said road shall be put in good order and repair, as aforesaid.

Repairs, how to be enforced.

SECTION 14. If any person or persons whosoever shall practice any fraudulent means or device, with intent that the payment of any toll or duty at the turnpike gate may be evaded or lessened, all and every such person or persons, in any way or manner whatever offending, shall, for every such offence, forfeit and pay to the president, managers and company of the Phoenixville, Kimberton and Yellow Springs turnpike company, 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.

Frauds punished.

SECTION 15. 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 or stockholders, and of all penalties for the delay of payment of instalments, and of the amount of profits on the shares that may be forfeited as aforesaid, and also all moneys by them expended in the prosecution of the 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 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.

Accounts.

SECTION 16. 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 four years thereafter complete the same, according to the true intent and meaning of this act, then, or in either of those cases, all and singular the rights, liberties, privileges and franchises hereby granted, shall revert to the commonwealth.

Commencement and completion of road.

JAMES COOPER,
Speaker of the House of Representatives.

CH. GIBBONS,
Speaker of the Senate.

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

FRS. R. SHUNK.