

No. 99.

AN ACT

To authorize the governor to incorporate the Whitemarsh and Plymouth 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* Isaac Jones, James Wells, David Hany, Charles Wood, William Davis, James Cresson, Daniel A. Dager, Nathaniel Yerkes, Daniel O. Hitner, George Corson, Jacob Albertson and Alan W. Corson, of Montgomery county, be and they are hereby appointed commissioners to do and perform the duties hereinafter mentioned, that is to say, they shall procure a book, and therein enter as follows :—“We whose names are hereunto subscribed, do promise to pay to the president and managers of the Whitemarsh and Plymouth turnpike road company, the sum of fifty dollars for every share of stock in said company by us subscribed, in such manner and proportions, and at such times and places, as shall be determined on by the president and managers in pursuance of an act, entitled ‘An Act to authorize the governor to incorporate the Whitemarsh and Plymouth turnpike road company.’ Witness our hands the day of _____, Anno Domini, one thousand eight hundred and forty-eight;” and shall give at least twenty days’ notice in two newspapers published in Norristown, of the time and place, when and where, the said books shall be opened to receive subscriptions of stock of the said company; at which time and place, three or more of the said commissioners shall attend and receive subscriptions from all persons of lawful age, who shall offer to subscribe in said book, which shall be kept open for the purpose aforesaid, six hours or more in each juridical day for the space of three days, or until there shall have been subscribed one hundred and eighty shares; and the said commissioners may adjourn from time to time, and transfer the book from place to place, until the whole number of shares aforesaid, shall be subscribed; of which adjournment and transfer, the said commissioners shall give such notice as the occasion may require.

SECTION 2. When twelve or more persons shall have subscribed one hundred or more shares, and the said commissioners, or a majority of them shall have certified, under their hands and seals, to the governor the names of the subscribers, and the number of shares subscribed by each, it may be lawful for the governor, by letters patent under his hand and seal of the state, to create and erect the subscribers, and also those who may afterwards subscribe, into one body politic and corporate in deed and in law, by the name, style and title of the Whitemarsh and Plymouth turnpike road company; and by the same name the subscribers shall have perpetual succession, and the privileges and franchises incident to a corporation, and shall be capable of taking and holding their capital stock, and the increase and profits thereof, and of enlarging the same from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intention of this act, and of purchasing, taking and holding to them and their successors and assigns, and of selling,

Commissioners.

Form of subscription.

Open books.

Letters patent.

Name.

Privileges.

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 work, 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.

SECTION 3. That the commissioners aforesaid, or any three of them, as soon as conveniently may be after the said letters patent are obtained, shall give notice in two newspapers published in Norristown, of a time and place by them to be appointed, not less than ten 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, one president, six managers and one treasurer, and such other officers as may be necessary to conduct the business of said company, until the third Monday in May next after said meeting, 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 this commonwealth, or of the United States, 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, but each stockholder shall be entitled to one vote for each share of stock held not exceeding ten shares: *And provided also*, That no stockholder, whether 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 said offering to vote, shall have been fully paid.

SECTION 4. The stockholders of the said company shall meet on the third Monday of May in every year, at such place as shall be fixed by the by-laws, for the purpose of choosing officers for the year ensuing, in the manner aforesaid, and at such other times as they shall be notified by the managers; 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 or to become due thereon.

SECTION 6. If any stockholder, whether original subscriber or assignee, after twenty days' notice in two newspapers printed in Norristown, of the time and place appointed for the payment of any instalment or portion of the capital stock, shall neglect or refuse to pay such instalment or portion at the place appointed, for the space of thirty days after the time appointed for such payment, 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 in default of payment by any stockholder, of such instalments and penalties, the president and managers shall cause suit to be brought, in the same manner as debts of a like amount are recoverable, for the recovery of the said instalments and 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.
- Duties and powers.** SECTION 8. The said turnpike road shall commence at the north-east end of the bridge over the canal at Conshohocken, in the line dividing the townships of Whitemarsh and Plymouth, in said county of Montgomery, and proceed from thence on the nearest and best route, to the Germantown and Perkiomen turnpike road, at or near Plymouth meeting house.
- Location of road.** SECTION 9. The said road shall be laid out not exceeding fifty feet in width, of which forty feet shall be opened and graded, and twenty-five feet wide in the middle of said forty feet shall be a good and substantial turnpike road, to be composed of limestone or marblestone, when the same can be had conveniently, well broken and compacted firmly together, at least one foot in depth, and so nearly level in its progress, that it shall in no place rise or fall more than will form an angle of two degrees and a half from a horizontal line, excepting for one thousand feet nearest to said canal bridge; at the beginning of said road it may have a rise or fall not greater than will form an angle of four degrees with a horizontal line; and the said company shall have power to erect and build a stone arch or wooden bridge over the Philadelphia and Norristown railroad, at Conshohocken, of sufficient height so as not to obstruct the passage of the locomotive engines or cars of said railroad company, and shall have authority to erect culverts over any creeks or channels where water must necessarily pass; and the said turnpike company shall ever after maintain and keep the said road, bridge and culverts in good order and repair: *Provided however*, That in all deep cuts or fills, the said road need not be of greater width on the surface than thirty feet.
- Width of road.** SECTION 10. It shall be lawful for the president and managers, and their agents, engineers and workmen, with their tools and instruments, carts, wagons and other carriages, and beasts of draught and burden, to enter in and upon the lands over which, and contiguous and near to which the said road shall be laid or made, first giving notice of their intention to the occupiers thereof, and doing as little damage thereto as possible, and making amends for damages, if any, 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: *Provided*, That either party may appeal to court, within thirty days after such assessment of damages, and upon the payment of such damages, or giving adequate security therefor, may dig and carry away any timber, stone, gravel, sand, earth or other materials necessary or suitable for making said road; and the said managers and their work-
- Construction.**
- Proviso.**
- May enter upon lands.**
- Assessment of damages.**
- Proviso.**

men 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.

SECTION 11. The said president and managers shall keep fair and just Accounts to be accounts of all moneys received by them, and of those paid out and kept. 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 and by-laws, to increase the number of shares to Increase shares. 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 the like manner and under the like penalties as are provided by this act in the case of original subscriptions.

SECTION 12. Whenever the said company shall have finished that part of said turnpike road between Conshohocken and the Ridge 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 to 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 one gate across and upon said road, to collect from all License to take toll. persons such tolls as are hereinafter authorized to be collected: *Provided*, That no toll shall be demanded from any person or persons passing or repassing from one part of his, her or their farm, to any other part of the same; and all persons with their vehicles or horses, going directly to or from funerals, or places of public worship, shall be exempt from the payment of tolls when traveling on the said road. Exemptions.

SECTION 13. When the said company is licensed in manner aforesaid, it shall be lawful for them to appoint one toll-gatherer, 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 gate, until they shall have respectively paid the same: that is to say, for the whole length of said road, and in proportion for any less distance, for every score of hogs, six cents; for every score of sheep, six cents; for every score of cattle, nine cents, and in proportion for any greater or less number; for every horse and his rider, or lead horse, two cents; for every sulkey, chair or chaise, with one horse and two wheels, four cents; and for every such carriage, with two horses, six cents; for every vehicle, not of burden, with four wheels, six cents for each horse drawing the same; for every sleigh, six cents for each horse drawing the same; for every sled, five cents for each horse drawing the same; for every cart, wagon or carriage of burden, carrying less than three tons burden, with wheels four inches wide, five cents per each horse drawing the same; with wheels less than four inches wide, seven cents for each horse drawing the same; and for every such carriage of burden carrying three tons or more burden, with wheels four inches wide, seven cents for each horse drawing the same; and with wheels less than four inches wide, nine cents for each horse drawing the same; two oxen, Toll-gatherer.

Frauds punished. or one mule or ass, to be estimated as equal to one horse; and if any person shall represent to said toll-gatherer that he or she has traveled a less distance than he or she has actually traveled 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 from whom such toll is demanded shall have traveled along said turnpike road, or shall demand and receive 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 townships of Whitmarsh and Plymouth, 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: *Provided*, That the said company may, in their discretion, reduce the tolls hereinbefore provided, or any of them, below what is here allowed, and to raise the same again, not higher than is permitted by this act, during such times and seasons, or at all times and with such discrimination as they may deem most expedient.

Proviso.

Proceedings in case road is out of repair.

SECTION 14. 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 said county of Montgomery, 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 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 the toll-gatherer, and from the time of receipt of said copy, no tolls shall be collected until the said defective part or parts of the said road shall be put in good order and repair aforesaid.

Penalty for practicing fraudulent means.

SECTION 15. If any person or persons whomsoever, shall practice any fraudulent means or device, with the intent that the payment of any toll or duty at said turnpike gate may be evaded or lessened, all and every such person or persons, in any way or manner offending, shall, for every such offence, forfeit and pay to the said 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 as debts of a similar nature are by law sued for and recovered.

Claims for damages.

SECTION 16. 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 the disadvantages to be derived or sustained by the making of said turnpike road.

Dividends.

SECTION 17. 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, may, if a majority of votes are found to be in favor thereof, 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.

Supervisors authorized to subscribe for stock.

SECTION 18. The supervisors of the highways of the townships of Whitmarsh and Plymouth, shall, in addition to the powers vested in them by the act of assembly, approved April the fifth, Anno Domini one thousand eight hundred and forty-two, authorizing subscriptions to be made to turnpike roads, be further 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 said townships; and if said road shall be laid out upon the line dividing said townships, the said supervisors are hereby as fully authorized to subscribe for stock in said turnpike, as if the same were laid out wholly in such township, or either of them. Their duties and powers.

SECTION 19. 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.

SECTION 20. That the legislature hereby reserve the right to alter, annul or revoke the charter and privileges hereby granted, whenever in their opinion the same may be injurious to the citizens of this commonwealth, in such manner, however, that no injustice shall be done to the corporators; and the legislature shall have power to alter the rate of toll fixed by this act; and the managers of said company may lessen the same whenever they shall believe it necessary for the well being of the company or the community at large. Reservation.

WILLIAM F. PACKER,
Speaker of the House of Representatives.

WM. WILLIAMSON,
Speaker of the Senate.

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

FRS. R. SHUNK.

No. 100.

AN ACT

For the removal of the seat of justice of the county of Schuylkill, from Orwigsburg to the borough of Pottsville.

WHEREAS, By an act of the general assembly of this commonwealth, approved the thirteenth day of March, one thousand eight hundred and forty-seven, the question of the removal of the seat of justice of the county of Schuylkill, from Orwigsburg to the borough of Pottsville, was submitted to a vote of the qualified citizens of said county of Schuylkill, at their next general election, to be held after the passage of said act; Preamble.

And whereas, It appears by the official returns of the election, held in pursuance of said act, that a majority of the votes of the qualified citizens of said county, voting upon the question of removal as afore-