

No. 104.

AN ACT

To incorporate the president and managers of the Bybery and Bensalem 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. Israel Walton, George Ivins, Watson Comly, George Worthington, Thomas Carter, Silas Tomlinson, James Thornton, Charles Wamsley and Jonathan T. Knight, of Philadelphia county, and James Townsend, Jonathan Ridge, Abraham Larrue, John Wildman, Pearson Mitchell, Joseph Vansant and Thomas Blakey, of Bucks county, be and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned, that is to say, they shall, on or before the first Monday in September next, procure two books, and in

Form of subscrip- each of them enter as follows:—"We whose names are hereunto subscrib-
tion. ed, do promise to pay the president and managers of the Bybery and Bensalem 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 incorporate the president and managers of the Bybery and Bensalem turnpike road company.' Witness our hands the day of , in the year of our Lord one thousand eight hundred and forty-eight;," and thereupon shall give notice in two papers, printed in the county of Bucks, for at least three insertions, when and where the said books

Open books. shall be open to receive subscriptions for the stock of the said company; at which time and places one of 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 person 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

Number of shares the space of three days, or until the said books shall have two hundred shares therein subscribed; and if at the expiration of the said three days, the books aforesaid shall not have the said number of two 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 shall give such public notice as the occasion may require; and when the whole number of shares subscribed shall amount to two hundred, the same shall be closed:

Proviso *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 one dollar 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 corporation, as soon

as the same shall be organized, and the officers chosen as hereinafter mentioned.

SECTION 2. When ten persons or more shall have subscribed twenty-five shares of the said stock, said commissioners respectively may; or when the whole number of shares 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 the seal of the state, to create and erect the subscribers, and if the subscription be not full at the time, then also 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 Bybery and Bensalem turnpike road company;" and by the said name, the said subscribers shall have perpetual succession, and all privileges and franchises incident to a corporation, and shall be capable of taking and holding the capital stock, and the increase and profits thereof, and of enlarging the same 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 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.

Letters patent.

Style.

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 two or more public papers printed in the county of Bucks, of a time and place by them to be appointed, not less than twenty-one days from the time 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, in person, seven managers, who shall elect a president, treasurer, and such other officers as may be necessary to conduct the business of said company until the first Monday in December next, and until such other managers shall be chosen; and shall and may make such by-laws, orders 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 of the affairs of said company: *Provided*, That no person shall have more than ten votes at any election, or in determining any question arising at any 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.

Proviso.

Votes.

SECTION 4. The said company shall meet on the first Monday in December in every year, at such place as shall be fixed on by their by-laws, for the purpose of choosing such other managers for the ensuing year, in manner aforesaid, and at such other times as they may be summoned by the managers, in such manner and form as shall be prescribed by the by-laws of the company; at which annual or special meetings they shall have power and authority 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.

Annual meeting.

SECTION 5. The president and managers first to be chosen as aforesaid, shall issue certificates of stock to the subscribers severally respectively, signed by the president, and countersigned by the treasurer of stock.

Certificates of stock.

- Transferable.** the said company; which certificate shall be transferable at his or her pleasure, in person or by attorney, subject, however, to the payment due, and that may become due thereon; and the assignee holding any certificate, having first caused the assignment or transfer to be entered in a book of the company, to be kept by the treasurer for that purpose, shall, for every share of stock so held by him or her, be entitled to his or her equal proportion of the said capital stock, and of all the estates and emoluments of the company as aforesaid, at the meeting thereof.
- Instalments, how payable.** SECTION 6. If after thirty days' notice in two or more of the public newspapers in the county of Bucks, 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 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 two per cent. per month for delay of such payment; and if the same and the additional penalty shall remain unpaid for the space of six months, 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 the president and managers may, at their election, cause suits to be brought against such delinquent stockholder, in the same manner as debts of like amount are now recoverable by law, for the recovery of the same, together with the penalties aforesaid.
- Quorum.** 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 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,
- Powers.** they shall have 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 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 order shall be entered on the book of minutes, and shall be signed by the president, or in his absence, by the chairman, 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 and regulations of the company, shall be committed to them.
- Location of road.** SECTION 8. The said road shall commence at the intersection of the Attleborough and Bustleton road with the Bustleton and Sommerton turnpike road, in the county of Philadelphia, and be continued along the bed of the first named road, through the townships of Moreland and Bybery, to the Bucks county line; thence through the township of Bensalem, to the Bloomville bridge over the Neshomony.
- Width of road.** SECTION 9. The president and managers and company shall cause a road to be laid out of not less than forty feet in width, in such a manner as not to injure any of the present buildings on the route, and at least sixteen feet thereof be made good and substantial turnpike road, to secure a firm, and as near as the materials will admit of, an even surface, and in no place rise or fall more than will form an angle of five degrees with a horizontal line, and shall forever after maintain and keep the same in good and perfect order from the place of beginning to termination thereof; and the president and managers and company shall

have power to erect permanent bridges over all the waters crossing the said road. And it may be lawful for the said president and managers, by and with their superintendents, workmen, their tools, implements, carts, wagons and beasts of draught or burden, to enter in and upon the lands contiguous and near to which the said road shall be made or constructed, first giving notice of their intention to the occupiers thereof, and doing as little damage thereto as possible, and making amends for damages upon a reasonable and equitable agreement by the parties; or if they cannot agree thereupon, a just and equitable assessment to be made, upon oath or affirmation, by three disinterested freeholders, 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 within the county wherein the land lies, who shall not be interested therein; and upon the tender of the assessed value, to dig or cut, and carry away, any timber, stone, sand, earth or other materials necessary or suitable for making said road: *Provided*, That no part of this act shall authorize the taking of any property, unless the same be previously paid for, or adequate security given to the owners for the payment thereof; *And provided further*, That if either party is dissatisfied with the award made by the freeholders chosen as aforesaid, an appeal may be taken, within thirty days, to the court of common pleas of the proper county.

Enter upon lands

Assessment of damages.

Proviso.

SECTION 10. So soon as the said president, managers and company shall have perfected the said road the distance of two miles, and also when they have completed the remainder of the distance, 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 so far executed 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 governor shall, by license, under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers and company to erect and fix so many gates 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 traveling on the same, with horses, cattle, carts and carriages: *Provided*, That all persons attending funerals or places of worship, and military parades, their horses and carriages, shall be exempt from payment of tolls in going to or returning therefrom.

Governor to appoint viewers.

License.

Proviso.

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 and every person or 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, coach, coachee, sulkey, chair, chaise, phaeton, cart, wagon, wains, sleigh, sled, or any other carriage of burden or pleasure, from passing through the said turnpike, 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 less distance, or for any less or greater number of sheep, hogs or cattle, to wit: For every score of hogs, six cents; for every score of sheep, six cents; for every score of cattle, twelve 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 dearborn, with one horse and four wheels,

Toll-gatherers.

Tolls.

Frauds, how
punishable.

eight cents; for every chariot, coach, phaeton or chaise, with two horses and four wheels, twelve cents; for either of the carriages last mentioned, 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; and for every cart or wagon, whose wheels shall not exceed four inches, six and a quarter cents for each horse drawing the same; and for every cart or wagon, whose wheels shall exceed four inches, and not exceed seven inches, three cents; and if any person or persons shall represent to the said company, or any of their officers, that he, she or they have traveled a less distance than he, she or they have actually traveled along 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 demand and receive toll for a greater distance than the person of whom such toll is demanded shall have traveled along the 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-gatherer shall forfeit and pay the sum of five dollars, for every such offence, to the use of the poor of the township in which the said forfeiture is incurred, and for the payment of which the said company shall be responsible.

Tolls.

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

Proceedings to
keep the road in
order and repair.

SECTION 13. If the said company shall neglect to keep the said road in good and perfect 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, on the turnpike nearest thereto, within the said county; and the said justice, 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 and perfect order and repair as aforesaid, shall cause an inquisition to be made, under the hands of himself and a majority of the said persons; and if the said road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify and send one copy of the said inquisition to each of the keepers of the gates, on said turnpike, between which such defective place shall be; and from thenceforth the tolls, hereby granted to be collected at such turnpike gate, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put in good and perfect order and repair as aforesaid; and if the same shall not be so put into good and perfect order, before the next general court of quarter sessions of the peace, to be held for the county in which the defect is proved to be, the aforesaid justice shall certify and send a copy of the inquisition aforesaid to the justices of the said court, and the said justices shall thereupon cause process to issue and bring in the body of the person or

persons entrusted by the company with the care and superintendence of such part of the said road as shall be so found defective, and shall proceed thereon as in cases of supervisors of the highways, for neglect of their duty; and if the person or persons, entrusted by the said company, shall be convicted of the offence by the said inquisition charged, the said court shall give judgment, according to the nature and aggravation of the neglect, as according to right and justice would be proper in the case of supervisors of the highways neglecting their duties; and the fines and penalties, so to be imposed, shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said court, and shall be paid to the supervisors of the highways of the township wherein the offence was committed, be applied to repairing the public roads within such township.

SECTION 14. If any person or persons whosoever, owning, riding in or driving any sulky, chair, 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 gate or bars along, or over any private gate and bars, or along or over any 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 toll or duty for passing through any such gate or turnpike; or if any person or persons shall, with such 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 means aforesaid offending, for every such offence shall, respectively, forfeit and pay to the president and managers and company of the Bybery and Bensalem 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,* Frauds upon the company punished. Proviso. That if any person or persons shall be prosecuted under this section of this act, and said prosecution shall not be sustained on the part of the prosecutors, then and 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 a vexatious prosecution, recoverable as other fines under this act.

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 to the said undertaking, on account of the several subscriptions, and of all penalties for the delay of payment thereof, and the amount of profits on the shares which may be forfeited as aforesaid; also all moneys by them expended in the prosecution of their work; and shall, once at least in every year, submit such accounts to a general meeting of the stockholders, and whenever 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 an extent, as shall be deemed sufficient to accomplish the work; and to receive and demand the moneys subscribed for such shares in like manner, and like penalties, as are hereinbefore pro-

vided for the original subscription, as shall be provided for by their by-laws.

Dividends.

SECTION 16. 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, and when such dividends shall exceed twelve per cent. per annum, then one-half of the surplus exceeding twelve per cent. to be paid into the state treasury, for the benefit of the education fund, which abstract shall be verified by the oath or affirmation of the president or treasurer of said company; 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 Mondays in November and May in every year, publish the half yearly dividend made of the said clear profits among the stockholders, and of the time and place, when and where the same will be paid, and shall cause the same to be paid accordingly.

Traveling regulated.

SECTION 17. All wagoners and drivers of carriages of all kinds, whether of burden or pleasure, using said road, shall, (except when passing by a carriage of slower draught,) keep their horses and carriages on the right hand side of 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 recoverable; and no wagoner, or driver of carriages of any kind, whether of burden or pleasure, using said road, shall pass any vehicle going in the same direction, in a faster gait than a trot, at a rate not exceeding ten miles per hour, under a penalty of twenty dollars for each offence, recoverable before any justice of the peace, one-half to the use of said company, and the other half to the use of the informant.

When privileges to revert to the commonwealth.

SECTION 18. If the said company shall not proceed to carry on the said work within five years after the passage of this act, or shall not within ten years afterwards complete 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 and privileges and franchises hereby granted to the company, shall revert to this commonwealth.

Subscription on the part of supervisors of townships.

SECTION 19. That the supervisor of the township of Moreland shall pay to the said president and managers of the Bybery and Bensalem turnpike road company, two hundred dollars at their taking possession of the road, or subscribe for four hundred dollars worth of stock, to be determined on by a majority of votes of the inhabitants, either at the ensuing spring election, or at a special election, called after the passage of this bill, for that purpose; for which twenty days' notice shall be given, by at least ten advertisements, put up in the most public places in the townships; also the supervisors of the townships of Bybery and Bensalem, shall each pay five hundred dollars, or subscribe, each, for one thousand dollars worth of stock, to be determined on as above mentioned.

WILLIAM F. PACKER,
Speaker of the House of Representatives.
WM. WILLIAMSON,
Speaker of the Senate.

APPROVED—The tenth day of March, one thousand eight hundred and forty-eight.
FRS. R. SHUNK.