

in the township through which said person so refusing may reside; and that said commissioners shall have power to vacate any road or part thereof, as may be rendered useless by this act, or shall have power to locate any part of the road between the points mentioned by this act. Power to vacate.

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

WM. F. JOHNSTON,
Speaker of the Senate.

APPROVED—The tenth day of April, one thousand eight hundred and forty-eight.

FRS. R. SHUNK.

No. 347.

AN ACT

Relative to the claim of Isaac Knight, to the estate of Thomas Hale, deceased, to the estate of Dr. George Huey, to the estate of William Smith, deceased, incorporating the Lockport and Ridgeway turnpike road company, relative to the estate of Christian Ley, deceased, to taxing dogs in Somerset, and to selling real estate in the town of Conyngham, Luzerne county.

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 the canal commissioners of this commonwealth be and they are hereby authorized and required to examine the claim of Isaac Knight, for compensation for the use, by the agents of the commonwealth, of his patented improvements in the journals, boxes, bearings and axles of cars and carriages running upon railroads, and report the facts to the next legislature, and state what amount, if any, ought in their opinion to be paid to the said Isaac Knight, for the use of his invention. Canal commissioners.

WHEREAS, Thomas Hale, formerly of the city of Philadelphia, but late of the county of Bucks, deceased, died intestate, seized in fee simple, of various tracts or lots of land, of little value, in divers counties of the state of Pennsylvania, other than the said county of Bucks: Preamble.

And whereas, The said intestate, in his lifetime, bargained and contracted to sell some parts of the said real estate, and died without having made any provision for the performance of such bargains and contracts; and the costs and expenses of procuring orders for the specific performance of every such bargain and contracts, by the orphans' court of the proper county, are productive of great loss and detriment to the said estate, and absorb a large proportion of the proceeds of every such sale:

And whereas, By an act of assembly, approved February thirteenth, one thousand eight hundred and forty-seven, entitled "An Act relating to the estate of Thomas Hale, late of the county of Bucks, deceased," authority was given to Almy S. Hale, administratrix of all and singular the goods and chattels, rights and credits which were of the said Thomas

Hale, late of the said county of Bucks, deceased, to convey the said last mentioned real estate:

And whereas, It has since been ascertained that the bargainees, of some parts of the said real estate above, abandoned and surrendered their contracts for the same; and some lots and small parts of the said tracts of land, of which the said Thomas Hale died seized, were never bargained and contracted to be sold in his lifetime; therefore,

Administratrix authorized to sell and convey real estate of Thomas Hale.

SECTION 2. That Almy S. Hale, administratrix of all and singular the goods and chattels, rights and credits which were of the said Thomas Hale, deceased, be and she is hereby authorized and empowered to sell and convey, in fee simple, all and every the tract and tracts of land, lot or lots of which the said Thomas Hale, deceased, died seized, other than any in the said county of Bucks, for such price or prices as she shall see fit, without any obligation on the part of any purchaser or purchasers thereof, to see to the application of the purchase money thereof: *Provided however*, Before the said administratrix shall be at liberty to act under the authority hereby conferred on her, she shall give security in such sum, and in such manner as the orphans' court for the county of Bucks shall direct, for the faithful execution of the authority hereby conferred on her, and the just application of all such purchase moneys.

Executor of Dr. George Huey, authorized to sell.

SECTION 3. That Samuel C. Huey, acting executor of the last will and testament of Dr. George Huey, late of the borough of M'Keesport, in the county of Allegheny, is hereby authorized to sell and convey to James E. Huey, and to assure to the said James E. Huey in fee simple, all that certain lot of ground, in the borough of M'Keesport, marked and numbered in the plan of said borough, as lot number one hundred and sixty-five, and fronting on Market street sixty feet, and running back along third street, one hundred and forty feet to an alley twenty feet wide: *Provided always*, That the price or purchase money to be paid, or secured to be paid, by the said James E. Huey, for said lot, shall be not less than the sum of three hundred dollars.

Proviso.

Purchase money to be secured.

SECTION 4. That upon the execution and delivery of the deed from the said executor, to the said James E. Huey, for said number one hundred and sixty-five, in the borough of M'Keesport aforesaid, the said James shall execute and deliver to the said executor a mortgage, for securing the purchase money for said lot, which said mortgage shall remain a lien upon said lot, number one hundred and sixty-five, in the borough of M'Keesburg, until the time appointed by the will of Dr. George Huey, for the division of the real estate of which he died seized; and then the amount of said mortgage shall be deducted from the share devised to the said James E. Huey, by the will of the said Dr. George Huey aforesaid.

Guardian of minor children of John C. Smith, empowered to sell real estate.

SECTION 5. That the guardian, for the time being, of Charles R. Smith, Ellen Smith and Cooper Smith, minor children of John C. Smith, of the city of Philadelphia, deceased, and the guardian for the time being of Lewis R. Phillips, minor child of the said Maria L. Phillips, appointed or that may be appointed by the orphans' court, for the city and county of Philadelphia, be and they are hereby authorized and empowered to sell and convey in fee simple or otherwise, and for such consideration as they may deem proper, all the estate, right, title and interest, whether at law or in equity of the said minor children, respectively, of the said John C. Smith and Maria L. Phillips, of, in and to all or any lands, tenements and hereditaments in Clearfield county, aforesaid, of which the said William Smith, died, seized, and the deed or deeds of conveyance therefor, executed by the said guardians, respectively, to the purchaser or purchasers, his or their heirs or as-

signs, shall be deemed and taken to pass and convey the interest of the said minors, respectively, in the same; and the said guardians, respectively, are hereby further authorized and empowered, upon the payment of the share of the said minor children, respectively, of the consideration money of any lands or tenements, in the counties of Clearfield, Jefferson and Armstrong, in this state, of which the said William Smith, died seized, and heretofore agreed to be sold, but not conveyed by the said John C. Smith and Maria L. Phillips in their lifetime; or upon payment of the same, being secured by mortgage on the premises, to make and execute deeds to the purchaser or purchasers, his, her or their assigns, conveying the interest of the said minor children, respectively, in the said lands and tenements agreed to be sold; and the same being made and executed, and proved or acknowledged according to law, shall be of the same force and effect to pass and vest the estate intended, of and in the lands and tenements aforesaid, with the appurtenances, as if the same had been executed by the said John C. Smith and Maria L. Phillips, in their lifetime: *Provided always,* Proviso. That the said guardians, respectively, before executing any deed or deeds of conveyance, in pursuance of this act, shall give security to be approved by the orphans' court for the city and county of Philadelphia, for the faithful discharge of their duty, and proper application of the money arising from such sale or sales: *And provided further,* Proviso. That such sale shall be made under the supervision and direction, and subject to the approval of the said orphans' court of the city and county of Philadelphia.

SECTION 6. That James Tean, A. B. Massey, Allison White, John Fleming, Jacob Moyer, James Dunn, Philip Kreps, R. M. Hanna, John Reed, W. W. Barker, George W. Hollenbake, Thomas M'Shee, Robert Bridges, A. O. Caldwell, William Floyd, junior, and W. A. Wycoff, of the county of Clinton, and George Dickinson, Ignatius Garner, George Weis, Jesse Kyler, Isaac Horton, Charles B. Gillis, Joseph S. Hyde, John Cobb and Eddy Hyatt of the county of Elk, be and they are hereby appointed commissioners, to do and perform the several things hereinafter mentioned; that is to say, they shall procure a sufficient number of books, in each of them enter: "We whose names are hereunto subscribed, do promise to pay to the president and managers of the Lockport and Ridgway turnpike road company, the sum of twenty dollars, for every share by us subscribed, in such manner and proportions, and at such times and places as shall be determined on by the said president and managers, in pursuance of an act, entitled 'An Act authorizing the governor to incorporate the Lockport and Ridgway turnpike road company.' Witness our hands the day of Form of sub-
scriptions to
Lockport and
Ridgway turn-
pike road com-
pany. Anno Domini one thousand eight hundred and ;" and shall give notice in the Clinton Democrat, the Elk County Advertiser, and one paper published in the city of Philadelphia, of the times when, and the places where the books shall be opened to receive subscriptions of stock to the aforesaid company; at which respective times and places, some one or more of the aforesaid commissioners shall attend, and receive subscriptions from all persons of lawful age, who shall offer to subscribe in said books, which shall be kept open for the purpose aforesaid, at least six hours in each juridical day, for the space of six days, or until the books shall have subscribed therein two thousand shares; and the said commissioners may adjourn from day to day, and from time to time, until the whole number of shares aforesaid, shall be subscribed; and every person offering to subscribe in his own name, or any other name, shall previously pay to the attending commissioner or commissioners, the Notice.

Duty of commis-
sioners.

- sum of two dollars for every share to be subscribed by him; out of which shall be defrayed the expenses attending the taking of such subscriptions, and all other incidental expenses, 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: *Provided however*, That in no case whatever shall the neglect or refusal of any person or persons subscribing to the stock of the said corporation, in his own or any other name, to pay to the attending commissioner or commissioners, the said sum of two dollars for every share so subscribed, be construed to exonerate the person or persons subscribing in manner aforesaid, from the payment of the amount due on the share or shares, which he or they respectively may have subscribed.
- SECTION 7.** That when twenty or more persons shall have subscribed two hundred and fifty, or more shares, the said commissioners or a majority of them, shall certify under their hands and seals to the governor, in the names of the subscribers, and the number of shares subscribed by each; whereupon, 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 Lockport and Ridgway turnpike road company; and by the said name, the said subscribers shall have perpetual succession, and the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profit 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 and their successors and assigns, and of selling, transferring and conveying in fee simple, or for any less estate, all such lands, tenements and hereditaments and estate, 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 and thing which a corporation or body politic may lawfully do.
- SECTION 8.** That the commissioners or any two of them named in the letters patent, shall as soon as conveniently may be after the issuing of the same, give notice in one newspaper printed in the city of Philadelphia, in the Clinton Democrat, and in the Elk County Advertiser, of a time and place to be by them appointed, not less than twenty days from the time of the first notice, at which time and place the said subscribers, or as many of them as may be then present, shall proceed to organize the said company, and shall choose by a majority of votes, of the said subscribers by ballot, either in person or by proxy duly authorized, one president, eight managers, among whom there shall be at least one commissioner of each of the counties, the commissioners of which may have subscribed to the stock of the said corporation, agreeably to the provisions of the fifteenth section of this act, one treasurer, and such other officers as they may think necessary to conduct the business of said company for one year, and from thence to the next annual election, and until such other officers shall be chosen and organized, agreeably to the provisions of this act; and in case of the death, removal or resignation of any president or manager, the board of managers may and shall choose another to supply the vacancy, until the next annual election of said company; they may make and have one common seal, and the same may break, alter or renew at their pleasure, and may make such by-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this state, as shall be necessary for the well ordering
- Proviso.**
- Governor to grant letters patent.**
- Name.**
- Privileges.**
- Notice of organization.**
- Elect officers.**
- Seal.**

of the affairs of the corporation : *Provided*, That each person shall be entitled to one vote, for every share of stock by him or her held, not exceeding five, but no share or number of shares above five, shall entitle the holder to more than two votes at any election or meeting of said company : *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 share or shares by him or her held at the time of such election or meeting, shall have been fully paid and discharged. Proviso.

SECTION 9. That if any treasurer elected by virtue of this act, shall die, resign, or refuse, or neglect to give such security for the faithful discharge of the duties of his office, as the board of managers may direct and require, and having given the security required, shall neglect or refuse to take upon him, and perform all the duties of his said office, it shall be the duty of the said managers for the time being, to appoint some suitable person treasurer, which person so appointed, shall hold the office to which he shall have been appointed, until the next election, by the stockholders, on his giving the requisite security, and until a successor shall be duly elected and give the security required. Duty of treasurer.

SECTION 10. That the stockholders shall meet on the first Monday in July, in each succeeding year, at such place as shall be fixed by the by-laws of said company, for the purpose of choosing in manner aforesaid, for the year ensuing the terms of service of those previously elected. Annual election.

SECTION 11. That the said president and managers shall make out certificates of stock, signed by the president and countersigned by the treasurer, and sealed with their corporate seal, and deliver one such certificate to each subscriber, for any share or number of shares by him held, on his paying to the treasurer on each share so held, the sum of five dollars in addition to the two dollars hereinbefore required to be paid at the time of subscribing ; which certificates shall be transferable in person or by attorney, on the books of said company, only subject to the sum due or to become due on the shares so transferred. Certificates of stock.

SECTION 12. That it shall and may be lawful for the said president and managers, their superintendents, surveyors, engineers, artists and chain bearers, to enter in and upon all and every the lands, tenements and enclosures, in, through and over which the said intended turnpike road may be thought proper to pass; and for that purpose to examine the ground and the quarries of stone and gravel and other materials that may be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark and fix such route for said road, as in the best of their judgment and skill, will combine shortness of distance with the most eligible ground within the points aforesaid. Transferable.

SECTION 13. That the said president and managers, five of whom shall for all purposes be a quorum, 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, 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 to fix their compensation, to ascertain the times, manner and proportions in which the stockholders shall pay the amount of their respective shares, in order to carry on their work, 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 quorum of the managers, and attested by their secretary, and to do and transact all other acts, matters and things as by the by-laws, orders and regulations of the said company shall be entrusted to them. Enter upon lands.

Quorum.
Powers and duties of managers.

Relative to the
payment of in-
stalments.

SECTION 14. That if any stockholder whether original subscriber or assignee, after thirty days' notice in one newspaper published in the city of Philadelphia, and one in the county of Clinton, of the time and place appointed for the payment of any instalment or proportion of the said capital stock, shall neglect to pay such proportion at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of two per centum per month for every delay of such payment; and if the same and the additional penalty shall become equal to the sums before paid in part on account of such share, the same may be forfeited by and to the said company, and may be sold by them for such price as can be obtained therefor; or in default of payment by any stockholder of any such instalments as aforesaid, for the space of sixty days as aforesaid, the said president and managers may at their election, cause suit to be brought before a justice of the peace, or in any court having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid.

Enter upon lands.

SECTION 15. That it may be lawful for the said president and managers, by and with their superintendents, engineers, artists, workmen and laborers, their tools and instruments, carts, wagons and other carriages, 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, then upon 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 of the county of Clinton, or Elk, as the case may be, who shall not be interested therein; and upon the tender of the assessed value, to dig, take and carry away any timber, stone, sand, earth, or other materials necessary or suitable for making said road.

Damages.

Accounts.

SECTION 16. That the said president and managers shall keep fair and just accounts, as well of all moneys received by them, as of those paid, laid out and expended in the prosecution of said 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 said company is not sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the president and managers, at a stated or special meeting, convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as they shall deem sufficient to accomplish the work; and to demand and receive the moneys subscribed for such additional shares, in like manner and under the like penalties, as are provided by this act in the case of the original subscriptions.

Power to erect
bridges.

Width of road.
Proviso.

SECTION 17. That the said president and managers shall have power to erect good and sufficient bridges over all the streams of water crossed by said route, wherever the same shall be found necessary; and shall cause a road to be laid out, not exceeding thirty feet in width, and shall cause at least sixteen feet of said width to be made an artificial road of wood, stone, gravel, or other proper and convenient materials, such as the nature of the ground may require, and will afford to be constructed in such manner as will admit an even surface; and in such places where the road shall not be made of stone, to rise towards the centre by a gradual arch to the height of eighteen inches, and in no place on said

road shall there be an elevation of more than five degrees from a horizontal line, and shall forever thereafter maintain and keep the same in good order and repair: *Provided*, That it shall and may be lawful for the said president and managers, whenever they may deem it necessary, to cut and prostrate the timber on each or either side of the said road, within a distance not exceeding fifty feet from the centre of the said road.

SECTION 18. That whenever, and as often as the said company shall have finished five miles or more of said 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 report, on oath or affirmation to him, whether the 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 seal of the state, permit and suffer said company to erect and fix toll such, and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect from all persons traveling the same, otherwise than on foot, the same tolls which are hereinafter authorized and granted: *Provided*, That all persons attending funerals, military parades or trainings, or divine worship on the Sabbath day, shall, at all times, be exempt from the payment of any toll on said road.

SECTION 19. That for collecting and receiving tolls, and for every attempt to evade the payment thereof, for every neglect to keep the said road in good repair, for the increase, diminution and application of tolls, the erection of index posts, and for injuring or defacing the same, for the regulation of the traveling on the said road, limitations of actions, and for the recovery and application of fines and penalties for offences against this act, the said company shall have all the powers, authorities, rights and privileges, and be subject to all the penalties which are given and granted by the act, entitled "A supplement to an act, entitled 'An Act authorizing the governor to incorporate a company for making an artificial road from the bank of the river Susquehanna, opposite the borough of Harrisburg, to Pittsburg,' passed the thirty-first day of March, one thousand eight hundred and seven."

SECTION 20. That the commissioners of the respective counties which said road passes through, shall be at liberty to subscribe stock in the books of said company; which stock so taken, shall be the exclusive property of said counties, and paid for, by orders drawn by the commissioners on their respective county treasurers: *Provided*, That no private property shall be taken by said corporation, in pursuance of this act, without first making compensation therefor, before such property shall be taken.

SECTION 21. That the legislature hereby reserves the right to alter, amend or repeal this charter, and the 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.

SECTION 22. That the sales heretofore made of any portion of the real estate of Christian Ley, late of Lebanon county, deceased, under the provisions of act of general assembly of this commonwealth, entitled "An Act to legalize and confirm the title to a certain tract of land in Somerset county, and for other purposes," approved the eighteenth day of April, one thousand eight hundred and forty-six, shall after the same shall have been approved by the orphans' court of the county wherein the land is located, be valid, firm and effectual, and shall vest

Proviso.

Governor to appoint viewers.

License to take

Proviso.

Penalty for evading the payment of tolls.

Commissioners of counties may subscribe for stock.

Proviso.

Secure payment of damages.

Reservation.

Sales of real estate of Christian Ley, deceased, confirmed.

in the purchaser or purchasers the same estate which the said Christian Ley, deceased, had and held in the same in his lifetime; and that Augustine Holmes, administrator de bonis non of Christian Ley, deceased, is hereby authorized and empowered to sell at public or private sale, the real estate of the said Christian Ley, deceased, situate in the counties of Schuylkill, Dauphin, Clearfield and Northumberland, remaining unsold: *Provided*, That the said Augustine Holmes shall report said sale or sales to the orphans' court of the county in which the real estate so sold is situated, and shall give security for the faithful application of the proceeds of such sale or sales; which report of sale or sales and the security given as aforesaid, shall be approved by the said orphans' court, before any deed or deeds of conveyance shall be executed for the same; and such conveyance or conveyances made as aforesaid, shall vest in the purchaser or purchasers the same estate in such real estate as the said Christian Ley, deceased, had and held in the same in his lifetime.

SECTION 23. That from and after the passage of this act, the burgesses and town council of the borough of Somerset, in the county of Somerset, be and they are hereby authorized to assess and collect, on each and every dog or harbored by any citizen or inhabitant of said borough, a tax to any amount not exceeding one dollar for the first, two dollars for the second, three dollars for the third, and so on in proportion to the number of dogs owned or harbored by any citizen or inhabitant of said borough, as the said burgesses and town council may deem expedient and proper, for the use of the borough of Somerset aforesaid.

SECTION 24. That George A. Bowman, Andrew Fortner, John Barnes, William N. Brown, William Milnis, Andrew Shaw and Jacob Beers, trustees of the Methodist Episcopal church, for the Luzerne circuit, (in the county of Luzerne,) be and they are hereby authorized to sell at public or private sale, a certain lot of ground situate in the town of Cunningham, in said county of Luzerne, bounded as follows: Beginning at a stone on the corner, between Jacob Drumbeller and Moses S. Brundage, on the west side of the turnpike road, and running along said Drumbeller's land, south sixty-one and a half degrees, west eight perches to a stake; thence south forty-one degrees east along the land of said Brundage, three and a half perches to a stake; thence adjoining land of said Brundage, north sixty-one and a half degrees east eight perches to a stake on the aforesaid road; thence along said road north forty-one degrees west three and a half perches to the beginning, on which is erected a dwelling house and stable, and convey by deed, all the right, title and interest of the said Methodist Episcopal church, in and to the same, to the purchaser or purchasers: *Provided*, That before such sale the said trustees shall execute a bond to the commonwealth, under such penalty as shall be approved by the clergyman in charge of said circuit, that the proceeds arising from said sale, shall be applied to the payment of the debts of the Methodist Episcopal church, on the said lot and buildings, and the balance as may be directed by the quarterly conference with which the said church is connected.

WILLIAM F. PACKER,

Speaker of the House of Representatives.

WM. F. JOHNSTON,

Speaker of the Senate.

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

FRS. R. SHUNK.