

No. 348.

AN ACT

To authorize the governor to incorporate the North and South Lebanon 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 George Hoffman, George Mark, Abraham Sherk, Lorenzo L. Lehman, George D. Coleman, and George Reinoehl, of North Lebanon; Samuel Light, Jefferson Sherk, George Leinaweaver, Jacob Weidel, Leonard Zimmerman, and John Krause, John Weidman and Levi Kline, of the borough of Lebanon; Joseph Zimmerman, Christian Bomberger, Henry Brechbill, John Zinn, George Bowman and Robert W. Coleman, of South Lebanon, in the county of Lebanon, 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 North and South Lebanon 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 North and South Lebanon turnpike road company.' Witness our hands, the

Commissioners.

Form of subscription.

day of Anno Domini one thousand eight hundred and ;" and shall give at least thirty days' notice, in three newspapers published in Lebanon county, and of the time and place, when and where the said book shall be opened to receive subscriptions of stock of the said company; at which time and place, two 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, at least six hours in each juridical day, for the space of six days, or until the book shall have subscribed therein four hundred 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.

Number of shares.

SECTION 2. When ten 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 "North and South Lebanon 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,

Governor to grant letters patent.

Style. Privileges.

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 intentions of the 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, 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 and thing which a corporation or body politic may lawfully do.

Organization.
Elect officers.

Seal.

Proviso.
Votes.

Proviso.

Proviso.

Treasurer.

Annual meeting.

Certificates of
stock.

Transferable.

SECTION 3. The stockholders or any two of them named in the letters patent, shall as soon as convenient may be after issuing of the same, give notice in three of the newspapers published in the county of Lebanon, 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 the said subscribers, by ballot, one president, six managers, one treasurer, and such other officers as may be necessary to conduct the business of said company for one year, and from thence until 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 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 of the affairs of the corporation: *Provided*, That each subscriber shall be entitled to one vote for every share of stock by him or her held: *And provided also*, That no person shall be entitled to hold the office of president, manager, or treasurer of the said company, who is not a stockholder thereof: *And provided also*, That no stockholder whether the 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 shares by him or her held at the time of such election or meeting, shall have been fully paid and discharged.

SECTION 4. If any treasurer elected by virtue of this act, shall die, resign, or refuse to act, or neglect to give security for the faithful discharge of the duties of his office, as the board of managers may direct and require, or having given the security required, shall neglect or refuse to take upon himself and perform all the duties of 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.

SECTION 5. The stockholders shall meet on the first Monday in December, in each and every year, at such place as shall be fixed by the by-laws of said company, for the purpose of choosing in manner aforesaid, such officers for the year ensuing the term of service of those previously elected.

SECTION 6. 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 or her held, on him or her paying to the treasurer on each share so held, the sum of five dollars, which certificates shall be transferable in

person or by attorney, on the books of the said company, only subject to the sum due or to become due on the share or shares so transferred.

SECTION 7. 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 quarries of stone, and gravel, and other materials that may be necessary in making and constructing the said road, and survey, lay down, ascertain, mark and fix such route for said road as in the best of their judgment and skill, combine shortness of distance with the most eligible ground, beginning at the bridge which is erected across the Union canal at the end of Market street, in the town of North Lebanon; thence the nearest and best route through the borough of Lebanon, crossing the Berks and Dauphin turnpike, in the Market square of said borough; thence by the nearest and best route to John Zinn's mill, in South Lebanon; and thence by the nearest and best route to the Cornwall ore bank, in South Lebanon, in the said county of Lebanon.

Enter upon lands to make examinations and locate route.

Route.

SECTION 8. 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 to 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.

Quorum.

Powers and duties of board.

SECTION 9. If any stockholder, whether original subscriber or assignee, after thirty days' notice in three newspapers printed in Lebanon county, of the time and place appointed for the payment of any instalment or portion of the capital stock, shall neglect to pay such portion, 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 such 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 may be obtained therefor; or in default of payment of any stockholder of such instalments as aforesaid, for the space of sixty days as aforesaid, the president and managers may, at their election, cause suit to be brought in the same manner as debts of like amount are now recoverable, for the recovery of the same, together with the penalties aforesaid.

Penalty on delinquent stockholders.

SECTION 10. 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 intentions 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,

Enter upon lands to construct road.

Damages, how to be ascertained.

Proviso. 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 for the county wherein the said land lies, who shall not be interested therein; *Provided*, That either party may appeal to court within thirty days after report of such assessment of damages has been made; and after compensation has been made for such damages, or adequate security given therefor, may dig and carry away any timber, stone, sand, earth or other materials necessary or suitable for making said road.

Accounts. **SECTION 11.** The said president and managers shall keep fair and just accounts, as well of all moneys received by them, and of those paid out and 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 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 an 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 like penalties as are provided by this act in case of the original subscriptions.

Erect bridges. **SECTION 12.** The said president and managers shall have power to erect good and sufficient bridges over all the streams of water, crossed by said route, whenever the same shall be found necessary; and shall cause a road to be laid out not exceeding sixty feet in width, and shall cause at least twenty 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 no place in 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.

Governor to appoint viewers. **SECTION 13.** Whenever and as soon as the said company shall have finished five continuous miles or more of 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, 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 his license, under his hand and the seal of the state, permit and suffer said company to erect and fix such and so many toll gates upon and across the said road, as will be necessary and sufficient to collect from all persons, otherwise than on foot, the same tolls which are hereinafter mentioned and authorized: *Provided*, That all persons attending funerals, military parades and training, or divine worship, shall at all times be exempted from payment of any toll on said road.

License. **SECTION 14.** The said company having perfected the said road, of such part thereof, from time to time as aforesaid, and being examined, approved and licensed as 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 stop any person riding or leading any horse, or driving any cattle, hogs or sheep

Proviso.

Exemptions from toll.

Toll-gatherers.

Tolls.

or driving any coach, coachee, sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled or other carriages of burden or pleasure, from passing through the said turnpike, or gates, until they shall have respectively paid the same; that is to say, for every five miles in length of the said road completed and licensed as aforesaid, the following sum of money, and so in proportion for any lesser or greater distance actually traveled, or for any greater or less 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 and one-half 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 chaise, with four wheels and two horses, twelve and one-half cents; for either of the carriages last mentioned, with four horses, twenty cents; for every other carriage of pleasure, under whatsoever name it may go, the like sums, according to the number of wheels and horses drawing the same; for every sled, two cents for each horse drawing the same; for every cart or wagon, the wheels of which do not exceed the breadth of four inches, six cents for each horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth, four inches, and not exceeding seven inches, three cents for each horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, shall roll more than ten inches, two cents for each horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being ten inches, shall roll more than fifteen inches, one cent for every horse drawing the same; for every cart or wagon, the breadth of the wheels of which shall be more than twelve inches, one cent for each horse drawing the same; and all carriages aforesaid, which shall be drawn by oxen in the whole, or partly by oxen and partly by horses, two oxen shall be estimated as equal to one horse, in charging all the aforesaid tolls; and every mule as equal to one horse; and if any person or persons shall represent to the said company, or any of the officers, that he, she or they have traveled a less distance than he, she or they have actually traveled along the said road, with intent to defraud the said company of their toll, or any part thereof, each person or persons shall for every such offence forfeit and pay to the use of the said company, any sum not exceeding five dollars; and if any toll-gatherer shall demand and receive greater or other 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 twenty dollars for every such offence, to the supervisors of the township in which the forfeiture is incurred, for the repair of the roads in the said township: *Provided always*, That it shall and may be lawful for the said company, by their laws, to regulate the burthen or carriages to be drawn along said road, in such manner as shall be found from experience to be most conducive to the public convenience, and the advantage of the company.

Penalty for using
fraudulent
means.

Proviso.

SECTION 15. For collecting and receiving tolls, 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 the tolls, the erection of index posts, and for the injuring and defacing of the same, for the regulation of the traveling on the said road, and for the limitation 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 and privileges, and be subject to all the penalties

Further privi-
leges and restric-
tions.

which are given and granted by the act incorporating the Berks and Dauphin turnpike road.

Reservation.

SECTION 16. That the legislature hereby reserves 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.

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.

No. 349.

AN ACT

Vesting title to land in the school directors of the township of Bushkiln, in the county of Northampton, extending the time of commencing and completing the Allegheny and Bald Eagle railroad, and relative to the Delaware and Hudson canal company.

Title vested.

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 a certain lot of ground containing two acres and twenty-eight perches, situate in the township of Bushkiln, and county of Northampton, adjoining lands of Paul Siegfried, Adam Heckman and Daniel Schlabach, and which has been used by the neighborhood for the purposes of a school, and upon which a school house has been erected for about forty-five years, which is still standing and in use, be and the same is hereby vested, in fee simple, in the school directors of the said township, and their successors in office, for the use of the sub-district in which the same is or may be located, and for the purpose of erecting and maintaining thereon a school house for said sub-district : *Provided,* That the timber standing, or which may grow on said lot, shall not be cut or used, except by the committee of said sub-district, and only for the purposes of fuel, repairs or re-building of said school house, or when no such committee exists, by the school directors : *And provided further,* That this act shall, in no wise, prejudice or affect any previous office right or grant of said premises, if any such there is.

Proviso.

Proviso.

SECTION 2. That the time for commencing the construction of the railroad, authorized to be constructed by the act of June twelfth, eigh-