

LAWS OF PENNSYLVANIA,

No. 379.

AN ACT

To annul the marriage contract of Francis D. Todd and Catharine S., his wife.

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 marriage contract entered into between Francis D. Todd, and Catharine S., his wife, both of the county of Philadelphia, be and the same is hereby annulled and made void, and the parties released and discharged from said contract, and from all duties and obligations arising therefrom, as fully, effectually and absolutely, as if they had never been joined in marriage.

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. 380.

AN ACT

Authorizing the Governor to incorporate the Brooklyn and Lenox turnpike road company.

Commissioners.

Form of subscription.

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 E. R. Grow, F. P. Grow, Orrin G. Kinney, Erastus Corey, Elisha Bell, Warren M. Tingley, of the county of Susquehanna, or a majority of them, 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 the president and managers of the Brooklyn and Lenox turnpike road company, the sum of twenty-five 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 authorizing the governor to incorporate the Brook-

lyn and Lenox turnpike road company.' Witness our hands, this day of . Anno Domini, one thousand eight hundred and ;" and shall give at least thirty days' notice in a newspaper published in Susquehanna county, 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 two 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. Open books.

SECTION 2. When five or more persons shall have subscribed seventy or more shares, and the said commissioners or a majority of them, shall have certified under their hands and seal 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 all those who may afterwards subscribe, into one body politic and corporate, in deed and in law, by the name, style and title of the Brooklyn and Lenox turnpike road company; and by the said name, the subscribers shall have perpetual succession, and all 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 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. Letters patent.
Style.
Privileges.

SECTION 3. The stockholders, or any two of them named in the letters patent, shall as soon as conveniently may be after issuing of the same, give notice in one or more of the newspapers published in the county of Susquehanna, 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 in person, 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, not exceeding ten; but no share or num- Organization.
Proviso.

Votes.
Proviso.

Proviso.

Vacancy in the
office of treasurer
to be supplied.

Annual meeting.

Certificates of
stock.

Transferable.

Enter upon lands
to locate route.

Quorum.

Powers and du-
ties of board.

ber of shares above ten, shall entitle the holder thereof to a vote at any election or meeting of said company : *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 a 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, or 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 January, in each year, at such place as shall be fixed by the by-laws of said company, for the purpose of choosing in manner aforesaid, such other 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 certificate 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 to 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 on the Clifford and Carbondale turnpike road, in the township of Clifford, and county of Susquehanna, near George Brownell's, and thence the nearest and best route, down the east branch of the Tunkhannock, near William Hartley's ; from thence the nearest and best route, to the Milford and Owego turnpike road, near Brooklyn village, crossing Martin's creek, near Orson Case's.

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 engineer, 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 or things, as by the by-laws, orders and regulations of the said company, shall be entrusted to them.

SECTION 9. If any stockholder, whether original subscriber or assignee, after thirty days' notice in one newspaper printed in Susquehanna county, of the time and place appointed for the payment of any instalment, or proportion of the 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 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 stockholders 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 penalty aforesaid.

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 reasonable and equitable agreement by the parties; and in case the said president and managers, and the owner or owners of land, tenement, or enclosure through which the said road may be laid out, cannot agree upon the compensation to such owner or owners, the same shall be determined by three disinterested freeholders, to be chosen by the parties; or if they cannot agree, to be appointed by a justice of the peace of the county, who, before entering on their duties, shall take an oath or affirmation to perform their duties with fidelity; and in determining the amount of damages, shall take into consideration the advantages as well disadvantage of the road; and the amount of such damages or compensation so assessed, shall be paid by said company, or adequate security therefor, to be approved by the court of said county, for the payment thereof, shall be given before the land of such owners shall be taken or occupied by said company; and if either party shall be dissatisfied with the assessment of damages made as aforesaid, in such case it shall be lawful for such party to appeal from the award at the next court of common pleas, upon entering into security, and in such form as the court may direct; in which case the owner of the land shall be plaintiff, and the said company defendant, and the same shall thereon be proceeded in, and tried in all respect as an appeal from an award of arbitrators, and the cost shall abide the event of the appeal in the same, as in an appeal from the award of arbitrators: *Provided*, That in case of an appeal by either party upon security being given as aforesaid, for the amount of compensation of damages assessed as aforesaid, it shall be lawful for the president, managers, their superintendents, artists and laborers, with horses, carts and wagons, tools and implements, to enter upon all such lands so assessed and secured, to make, construct, grade and finish said road, and do all other matters

Payment of instalments regulated.

Enter upon lands.

Damages, how paid.

Proviso.

necessary for carrying out the objects of this act, as freely and as uninterruptedly as if full compensation had been made for all such lands.

Accounts.

SECTION 11. The said president and managers shall keep fair and just accounts, as well of all the moneys received by them as 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 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 the case of the original subscriptions.

Increase shares.

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, wherever the same shall be found necessary, and shall cause a road to be laid out not exceeding fifty feet in width, and shall cause at least twelve 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 shall forever thereafter maintain and keep the same in good order and repair: *Provided*, That it shall and may be lawful for the president and managers, whenever they may deem it necessary, to cut, deaden and prostrate the timber on each or either side of the said road, within a distance not exceeding one hundred feet from the centre of the said road, they making just and equitable compensation to the owners.

Proviso.

Appoint viewers.

SECTION 13. Whenever and as often as the said company shall have finished five miles or more of the 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 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 should be in the affirmative, then the governor shall by license, under his hand and the seal of the state, permit and suffer said company to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect from all persons otherwise than one foot, the same tolls which are hereinafter authorized: *Provided*, That all persons attending funerals, military parades and trainings or divine worship, on the Sabbath day, shall at all times be exempted from payment of any toll on said road.

License for taking toll.

Proviso.

Toll-gatherers.

SECTION 14. The said company having perfected the said road or 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 rates and tolls hereinafter mentioned, and stop any person riding or leading any horse, or driving any cattle, hogs or sheep, or driving any coach, coachees, sulky, chair, chase, 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

Tolls.

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 a half cents; for every horse and his rider, or led horse, three cents; for every sulky, chair or chase 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, three 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 each 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 every 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 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 the said company, of their toll or any part thereof, such 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 highways of the township in which the forfeiture is incurred, for the repairs of the roads in the said township, and for the payment of which the said company shall be responsible: *Provided always*, That it shall be lawful for the said company, by their by-laws, to regulate the burden on carriages to be drawn along the said road, in such manner as shall be found from experience, to be most conducive to the public convenience, and the advantage of said company.

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 tolls, the erection of index posts, and for injuring and defacing the same, for the regulation of the traveling on the said road, and for 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, 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 borough of Easton, in the county of Northampton, to the town of Wilkesbarre, in the county of Luzerne.'" Penalties for fraudulent practices.

LAWS OF PENNSYLVANIA,

Reservation. **SECTION 16.** That the legislature hereby reserves the right to alter, revoke or annul the privileges and powers contained in this act, whenever it shall appear that they have been misused or abused by said company.

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

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

FRS. R. SHUNK.