

compelled to pay any costs, or fee to the plaintiff's attorney, when judgment is entered on any instrument of writing as aforesaid.

Section XXIX. (Section XXIX, P. L.) And be it further enacted by the authority aforesaid, That all acts of assembly now in force, so far as they are inconsistent with this act, and no further, are hereby repealed.<sup>(3)</sup>

Approved February 24, 1806. Recorded in L. B. No. 10, p. 223.

Note (1) Chapter 2589; 17 Statutes at Large, p. 1011.

Note (2) Chapter 2214; 17 Statutes at Large, p. 29.

Note (3) See Supplements. Chapter 2656; *infra* this volume; p. 100 Chapter 2692; *infra* this volume; p. 222 Chapter 3043; *infra* this volume; p. 962; Chapter 3258; 18 Statutes at Large.

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## CHAPTER MMDCXLVII.

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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 PITTSBURGH.

Section I. (Section I, P. L.) 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 for the purpose of making an artificial or turnpike road from Harrisburg through Bedford to Pittsburgh, the following persons, *viz.* Samuel Meeker, Godfrey Haga, George Clymer, William Guyer, George Bickam, and Thomas Allibone, of Philadelphia; Adam Reigart, junior, Abraham Witmer, Samuel Humes, and William Montgomery, of Lancaster; Robert Coleman, and Robert Jenkins, Lancaster county; Moses Gilmore, Christian Kunckle, Robert Harris, Henry Bader, Adam Boyd, and George Weinman, of Harrisburg; John Bauman, John Carothers, Christopher Quigley, James Duncan, Joseph Pierce, Alexander Sharp, John M'Kee, Jacob Raum, and John Simpson, of Cumberland county; Andrew Dunlap, Jacob Heiser, John Gilmore, and Christian Keever, of Franklin county; George Baird, John Grier, and Jacob Hay, of York county; John Davis, Jacob Bonnett, John Anderson, and Henry Wertz, junior, of Bedford county; George

Kimmel, Michael Ream, Abraham Morrison, Peter Kimmel, John Fletcher, John Scull, and Alexander Ogle, of Somerset county; William Jack, James Guthrie, John Irvin, Hugh Martin, Joseph Baldrige, John Bonnett, Robert Dickey, and Thomas Jones of Westmoreland county; Nathaniel Irish, Thomas Beard, James O'Harra, Samuel Ewalt, and Adamson Tannehill, of Allegheny county; Roger Aldan, David Meade, Thomas R. Kennedy, and William Clark, of Crawford county; shall be, and they are hereby appointed commissioners to do and perform the duties hereinafter mentioned, that is to say: They shall procure a sufficient number of books, and in each of them enter as follows: "We, whose names are hereunto subscribed, do promise to pay to the president and managers of the Harrisburg and Pittsburgh Turnpike Road Company, the sum of fifty dollars, for every share by us subscribed for, 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 a company, for making an artificial road, from the bank of the river Susquehanna, opposite the borough of Harrisburg to Pittsburgh." Witness our hands, this

day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_ " and shall give notice in, at least, one of the public newspapers printed in Philadelphia, Lancaster, York, Harrisburg, Carlisle, Chambersburg, Bedford, Somerset, Greensburg, Pittsburgh, and Washington, for one calendar month, of the time when the said books shall be open in the city of Philadelphia; in the town of Lancaster, Yorktown, Harrisburg, Carlisle, Shippensburg, Chambersburg, Bedford, Somerset, Greensburg, Pittsburgh and Meadville, 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 the said books, which shall be kept open for the purpose aforesaid, at least, six hours in every juridical day, for the space of six days, or until the book or books opened in Philadelphia, shall have four thousand shares sub-

scribed therein; the book opened in Lancaster, six hundred shares subscribed therein; the book opened in Harrisburg, one thousand shares subscribed therein; the book opened in Carlisle, eight hundred shares subscribed therein; the book opened in Yorktown, six hundred shares subscribed therein; the book opened in Shippensburg, three hundred shares subscribed therein; the book opened in Chambersburg, six hundred shares subscribed therein; the book opened in Bedford eight hundred shares subscribed therein; the book opened in Somerset, five hundred shares subscribed therein; the book opened in Greensburg, six hundred shares subscribed therein; the book opened in Meadville, two hundred shares subscribed therein; and the book opened in Pittsburgh, one thousand shares subscribed therein; and if at the expiration of the said six days, the books aforesaid, or any of them, shall not have the respective number of shares as aforesaid therein subscribed, the said commissioners respectively, may adjourn from time to time, and transfer the said books from place to place, until the whole number of shares for the company aforesaid shall be subscribed, of which adjournments and transfers the commissioners aforesaid, shall give public notice as the occasion may require; and every person offering to subscribe in any of the aforesaid books, in his or her own, or any other name, shall previously pay to the attending commissioners five dollars for every share to be so subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions, and all other incidental charges, and the residue shall be paid over to the treasurer of the corporation, as soon as the same shall be organized.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That when fifty persons or more shall have subscribed one third of the number of shares aforesaid, the commissioners 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; and when the one-third of the whole number of shares shall be subscribed, 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 into one body politic, and corporate in deed, and in law, by the name, style, and title of "The President, Managers, and Company of the Harrisburg and Pittsburgh Turnpike Road;" and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said 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 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 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 III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the seven commissioners first named in the letters patent, shall as soon as conveniently may be after the said letters patent shall be sealed and obtained, give notice in the public papers most suitable of a time and place, by them to be appointed, not less than twenty days from the publication 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 said subscribers, by ballot to be delivered in person, or by proxy duly authorized, one president, twelve managers, one treasurer, and such other officers as they shall think necessary to conduct the business of the said company for one year, and until other such officers shall be chosen, and make such by-laws, rules, orders, and regulations not inconsistent with the constitution and laws of this commonwealth, as shall be necessary for the well ordering the affairs of the said company: Provided always, that no person shall have more than five votes at any election, or in determining any question arising at such

meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall meet on the first Monday of January, in every year at such place, as shall be fixed by their bylaws for the purpose of choosing officers as aforesaid, for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers in such manner and form as shall be prescribed by their bylaws, at which annual or special meetings, they shall have full power and authority to make, alter, or repeal, by a majority of votes in manner aforesaid, all such bylaws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the president and managers first to be chosen as aforesaid, shall procure certificates to be written or printed, for all the shares of the stock of the company, and shall deliver one such certificate signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person for every share by him subscribed and held, he paying to the treasurer in part of the sum due thereupon, the sum of ten dollars for each share; which certificate shall be transferable at his pleasure, in person or by attorney, in the presence of the president or treasurer, subject however to all payments due and to become due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for that purpose, shall be a member of the corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall meet at such times and places, and be convened in such manner as shall be agreed on, for transacting their busi-

ness, at which meeting seven 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 met, they shall have full power and authority to agree with, and appoint all such surveyors, superintendents, artists, and officers, as they shall judge necessary to carry on the intended works, and to fix their salaries or wages; to ascertain the times, manner and proportions, when, and in which the stockholders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the treasurer for all monies necessary to pay the salaries or wages of persons by them employed, and for the labor done, and materials provided in the prosecution of the work, which orders shall be entered or registered in their books of minutes, and shall be signed by the president, or in his absence by a majority of a quorum, and countersigned by their secretary, and generally to do all such other acts, matters, and things, as by the bylaws, rules, orders, and regulations of the company, shall be committed to them.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any stockholder, whether original subscriber or assignee, after thirty days notice in one of the public newspapers printed in the city of Philadelphia, Lancaster, Harrisburg, Carlisle, Chambersburg, Bedford, Somerset, Greensburg and Pittsburgh, respectively, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, 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 five per centum per month, for every delay of such payment; and if the same, and the said additional penalty shall remain unpaid for such space of time as that the accumulated penalty shall become equal to the sums before paid in part and on account of such share, the same may be forfeited by, and to the said company, and may be sold by them to any person or persons, willing to purchase

for such price as can be obtained therefor; or in default of payment by any stockholder of any such instalment as aforesaid, for the space of sixty days as aforesaid, the said president and managers may at their election, cause suit to be brought in any court, having competent jurisdiction for the recovery of the same, together with the penalty aforesaid: Provided always, that the recovery in any such suit, shall in no case exceed the amount of such instalment or instalments, as may be due on such share, together with such accumulated penalty at the rate aforesaid, as shall equal the sums before paid on the same share: And provided also, that no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable as aforesaid, on the share or shares by him held at the time of such election, or general, or special meeting of the said company, shall have been fully paid, and discharged as aforesaid.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be lawful for the said president and managers, their superintendents, surveyors, engineers, artists, and chain-bearers, to enter into and upon all, and every, the lands, tenements and inclosures in, through and over, which the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries, and beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing the said road; and to survey, lay down and ascertain, mark, and fix such route or track for the same road, as in the best of their judgment and skill will combine shortness of distance, with the most eligible ground: Provided, that if the said road shall be laid out and founded over, and upon any land whereby the owner or owners thereof shall suffer damage, the person or persons sustaining such damage may make application to the court of the county in which such damage shall have been done, and thereupon the court shall appoint six fit and disinterested persons, to view and adjudge the amount of the damage so done; which if approved of by the court, shall be paid by the company.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall be lawful for the said president and managers with their superintendents, engineers, artists, workmen and laborers, with their tools and instruments, carts, wagons, wains and other carriages, and also with beasts of draught or burden, to enter upon the lands, in, over, contiguous, and near to which the route and track of the said intended road shall pass; first giving notice of their intention to the owners or occupiers thereof, and doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement if they can agree; or if they cannot agree, then upon an appraisement to be made upon oath or affirmation, by three disinterested freeholders, or any two of them, mutually to be chosen; or if the owner upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of the proper county, not interested therein; and upon tender of the appraised value to cut down, dig, take, and carry away any timber, stone, gravel, sand, earth, or other materials, there being most conveniently situated for making or repairing the said road.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said president and managers shall erect permanent bridges over all the waters crossed by the said route, or track wherever the same shall be found necessary; and shall cause a road to be laid out not exceeding fifty feet in width, unless in such places where the nature of the ground may render a greater width expedient, and then only with the consent of the owners of the contiguous land, and shall cause twenty-two feet thereof in breadth at least, to be made an artificial road, which shall be bedded with wood, stone, gravel, or other proper and convenient materials, well compacted together, and of a sufficient depth to secure a solid foundation for the same; and the said artificial road shall be faced with gravel, or stone pounded, or other small hard substance in such manner as to secure a firm, and as nearly as the nature of the country and the materials will admit, an



even surface rising towards the middle by a gradual arch, and so nearly level in its progress, as that it shall in no place rise or fall, more than will form an angle of five degrees with an horizontal line; and forever hereafter maintain and keep the same in perfect order and repair: Provided, they do not obstruct the passage of any private or public road, laid out by order of the court of quarter sessions, which now or hereafter may cross the route of the said artificial road.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That so soon as the said company shall have perfected the said road from Harrisburg to Pittsburgh, they shall, or when any ten miles thereof is made, may give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three skillful and judicious persons, to view and examine the same and report 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 the less seal of the commonwealth, permit and suffer the president and managers 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 the tolls and duties hereinafter granted to the said company: Provided, that no toll be demanded or taken from any person or persons passing or repassing from one part of his or her farm to another, and all persons attending funerals, places of worship, and all militia men on days of training, their horses and carriages shall be exempt from the payment of tolls in going to and returning therefrom.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the said company having perfected the said road, or such part thereof from time to time as aforesaid, and the same being examined, approved, and licensed as aforesaid, it shall be lawful for them to appoint such and so many toll-gatherers as they shall think proper to collect and receive of all, and every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding or leading any horse or driving any

horses, cattle, swine, sheep, sulky, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of pleasure or burden, from passing through the said gates or turnpikes, until they shall respectively have paid the same; that is to say: For every space of five miles in length of the said road completed and licensed as aforesaid, the following sums of money, and so in proportion for any greater or less distance, or for any greater or less number of sheep, swine, or cattle, viz. For every score of swine, six cents; for every score of sheep six cents; for every score of cattle, twelve cents; for every horse or mule laden or unladen with his rider or leader, three cents; for every sulky, chair, or chaise with one horse and two wheels, six cents; and with two horses nine cents; for every chair, coach, phaeton, chaise, stage-wagon, coachee, or light-wagon with two horses and four wheels, twelve and a half 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 of horses drawing the same; for every sleigh or sled, two cents, for each horse drawing the same; for every cart or wagon, or other carriage of burden, the wheels of which do not in breadth exceed four inches, four cents, for every horse drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth four inches, and shall not exceed 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, and 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 and a half, for each horse drawing the same; and for any such carriage, the breadth of the wheels of which shall be more than twelve inches, one cent, for each horse drawing the same; and when any such carriage aforesaid, shall be drawn by oxen or mules in the whole, or in part, two oxen shall be estimated equal to one horse; and every ass or mule

as equal to one horse in charging the aforesaid tolls: Provided, that any person or persons, who are or may be an inhabitant or inhabitants of any of the counties west of the dividing ridge of the Allegheny mountain, in this state, shall have the privilege of packing salt on any beast or beasts of burden, toll free.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons, owning, riding in, or driving any carriage of burden or pleasure as aforesaid, or owning, riding, leading, or driving any horse or mule as aforesaid, shall with an intent to defraud the said company, or to evade the payments of any of the tolls or duties aforesaid, pass therewith through any private gate or bar, or along or over any private passage way, or along or over any other ground or land near to, or adjoining any turnpike or gate, which shall be erected in pursuance of this act; or if any person or persons shall with the intent aforesaid, take off or cause to be taken off, any horse or other beast or cattle of draught or burden, from any carriage of burden or pleasure, or shall practice any other fraudulent means, or device, with the intent to evade or lessen the payment of any such toll-duty, every such person or persons offending in manner aforesaid, shall for every such offense respectively, forfeit and pay to the president, managers and company, fifteen 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 equal amount may be sued for and recovered.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof shall be given to any justice of the peace of the proper county, such justice shall issue a precept to be directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road complained of; of which meeting, notice shall be given to the keepers of the gates

or turnpikes, between which the defective place is; and the said justice shall at such time and place, by the oaths or affirmations of the said freeholders, enquire whether the said road or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made under the hands and seals of himself, and a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order and repair according to the true intent and meaning of this act, he shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates, between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates, for the intermediate distance between them shall cease to be demanded, paid or collected, until the said defective part or parts of the said road, shall be put into good and perfect order as aforesaid; but if the same shall not be put into good and perfect order and repair, before the next ensuing court of quarter sessions of the proper county; the said justice shall certify and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue, and bring in the bodies of the person or persons entrusted by the company, with the care and superintendence of such part of said road as shall be found defective as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest, against the person or persons entrusted as aforesaid, and upon conviction, shall give such judgment according to the nature and aggravation of the neglect, as the said court in their discretion shall judge proper: Provided, the fine in no instance shall be less than ten dollars, nor exceeding one hundred dollars; and the fines so imposed, shall be recovered in the same manner, as fines for misdemeanors are usually recovered in the said counties, and shall be paid to the supervisors of the highways of the place where the offense was committed, to be applied to repairing such highways, as the township or county is bound to repair, at the public expense thereof.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the said company shall

keep fair and just accounts of all monies, which shall be received by them from the said commissioners and from the subscribers for the stock of the said company, on account of their several subscriptions, and of all penalties for the delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also all monies by them to be expended in the prosecution of their said work; and shall, at least once in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges, and expenses of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses, shall be liquidated and ascertained; and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient 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 bylaws, to increase the number of shares to such extent, as shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares in like manner, and under the like penalties as are hereinbefore provided for the original subscriptions, or as shall be provided by their bylaws.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the president and managers shall keep a just and true account of all the monies, to be received by their several and respective collectors of tolls, at the several gates or turnpikes, on the said road from the beginning to the end thereof, or such part thereof, as shall from time to time be completed as aforesaid, and shall after the said road is completed, or so much thereof as it may from time to time be deemed expedient to make and finish; make and declare a dividend of the clear profits and income thereof (all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement, and accomplishment of the said work being first deducted and reserved)

among all the subscribers to the stock of the said company; and shall on the first Monday of February and August, in every year, publish the half yearly dividend, to be made of the clear profits among the stockholders, and of the time and place, when, and where the same will be paid accordingly.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the president and managers shall at the end of every third year, from the date of their incorporation until two years next after the said road shall be completed, lay before the general assembly, an abstract of their accounts, showing the amount of their capital expended in prosecution of said work, and of the income and profits arising from said tolls, for, and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be known and ascertained; and if at the end of two years after the said road shall be completed from the beginning to the end thereof, it shall appear from the average profits of the said two years, that the said clear income and profits thereof, will not bear a dividend of six per centum per annum, on the whole capital stock of the company so expended, and on the interest accrued on such expenditures during the time wherein the work shall have been prosecuting before the receipt of toll, then, it shall and may be lawful for the president and managers to increase the tolls, hereinbefore allowed according to such rate upon the same, as will raise the dividend up to six per centum per annum as aforesaid; and at the end of every ten years, after the said road shall be fully completed as aforesaid, they shall render to the general assembly, a like abstract of their accounts, for the three preceding years; and if at the end of any such decennial period, it shall appear from such abstract, that the clear profits and income of the said company, will bear a dividend of more than nine per centum per annum, then the said tolls, shall be so reduced, as will reduce the said dividend, down to nine per centum per annum.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said company shall cause posts to be erected at the intersection of every road, leading out of the said turnpike road, with boards and index-hands, pointing to the direction of such roads, on both sides of which boards shall be inscribed in legible characters, the names of the towns or places to which such roads respectively lead, and the distance thereto in measured or computed miles; and shall also cause milestones to be placed on the side of the said road, beginning at the distance of one mile from the river Susquehanna, and extending thence to Pittsburgh, on which stones shall be marked in plain legible characters, the respective number of miles which such stone is distant from the city of Philadelphia, and the borough of Harrisburg, and at every gate or turnpike, by them to be erected on the said road, shall cause the distances from the borough of Harrisburg, and Pittsburgh, and the distances from the nearest gate or turnpike in each direction, to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates, or some other conspicuous place near thereto; and also shall cause to be affixed at such places, a printed list of the rates of toll, which from time to time may lawfully be demanded, for the information of travelers using the said road.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall wilfully, break, deface, pull up or prostrate any milestone, which shall be placed in pursuance of this act on the side of the said road, or shall obliterate the letters or figures inscribed thereon; and if any person or persons shall wilfully break, pull down, deface, destroy or injure any direction-post, which shall be erected in pursuance of this act, at the intersection of any road as aforesaid, or the board or index-hand affixed thereto, in conformity with the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon; or if any person or persons shall destroy, deface or obliterate the letters, figures or other characters marked at any turnpike or gate, which shall be erected in pursuance of

this act, for all, or any of the purposes therein mentioned, or the whole or any part of any printed list of the rates of tolls, which shall be affixed in pursuance of the directions of this act, at any such gate or turnpike, he or they so offending in the premises, and each of them, shall for every such offense, severally and respectively, forfeit and pay to the said president, managers and company, any sum not exceeding twenty dollars, to be sued for and recovered with costs of suit, as debts of equal amount are or may be by law recoverable.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That all wagoners, carters and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the said road free and clear for other carriages to pass and repass; and if any wagoner, carter, or driver shall offend against this provision, he shall forfeit and pay any sum not exceeding ten dollars, to any person who shall by reason thereof be obstructed in his passage, and will sue for the same, to be recovered with costs in manner aforesaid.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That if any toll-gatherer on the said road shall demand and receive from any person or persons using the said road, any greater or other toll than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offense, one half to the use of the supervisors of the highways of the township where the offense is committed, the other half to the use of the person or persons suing for the same, to be recovered as debts of equal amount are or may be by law recoverable.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That if in the case of any suit or prosecution, which shall be commenced under the directions of this act, for any penalty incurred under the same, whether by or against the said company, their agents or as-



signees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then, and in such case, the person or persons prosecuted as aforesaid, shall recover by the judgment of the justice, or the court, as the case may be, before whom such suit or prosecution shall be depending, such sum not exceeding the amount of the penalty, for which the suit or prosecution shall be commenced, as shall by such justice or court, be deemed a reasonable retribution for the vexation of such suit or prosecution.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That no suit or action shall be brought or prosecuted by any person or persons for any penalty incurred under this act, unless such suit or action shall be commenced within six months next after the fact charged is said to have been committed, and the defendant or defendants in such suit or action, may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

Section XXIV. (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if the said company shall not proceed to carry on the said work within five years after the passing of this act, or shall not within twenty years thereafter, complete the said road according to the true intent and meaning of this act, then in either of those cases, it shall and may be lawful for the legislature, to resume all and singular the rights, liberties, privileges, and franchises by this act granted to the said company.

Section XXV. (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if the legislature should at any time after the year one thousand eight hundred and thirty-six, think proper to take possession of the said road or any part thereof, then, three persons shall be chosen by the governor, three by the president and managers of the company, and three by the judges of the supreme court, who, or any six or more of them, shall proceed to examine and estimate the value of the property, which the said company have therein, and certify the same to the governor, who shall cause

the same to be laid before the legislature at their next session; and whenever the amount so certified shall be paid, the right of the said company to take toll on said road, or any portion thereof redeemed as aforesaid, together with all their right, title, interest, and claim therein, shall cease and determine.<sup>(1)</sup>

Approved February 24, 1806. Recorded in L. B. No. 10, p. 231.

Note (\*) See a Supplement. Chapter 2802; *Infra* this volume, p. 442.

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### CHAPTER MMDCXLVIII.

AN ACT TO REPEAL AN ACT, ENTITLED "AN ACT DECLARING CHARTIER'S CREEK, IN THE COUNTIES OF WASHINGTON AND ALLEGHENY A PUBLIC HIGHWAY." (\*)

Section I. (Section I, P. L.) 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 from and after the passing of this act, the act, entitled "An act declaring Chartier's creek, in the counties of Washington and Allegheny, from the mouth thereof, to David Bradford's mills on the main branch thereof, a public highway;" passed the eighth day of April, one thousand seven hundred and ninety-three,<sup>(1)</sup> be, and the same is hereby repealed and made null and void.

Approved February 24, 1806. Recorded in L. B. No. 10, p. 243.

Note (\*) Chapter 1675; 14 *Statutes at Large*, p. 392.

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### CHAPTER MMDCXLIX.

AN ACT ESTABLISHING AN ACADEMY IN THE TOWN OF GRIERSBURG, IN BEAVER COUNTY.

Section I. (Section I, P. L.) 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 there shall be, and hereby is established in the town of Griersburg, Beaver county, an