

## 1802. — Chapter 61.

[January Session, ch. 23.]

## AN ACT TO ESTABLISH THE FIFTEENTH MASSACHUSETTS TURNPIKE CORPORATION.

Names of persons incorporated.

SEC. 1ST. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That David Tracy, Richard Stevens, Orson Smith, Seth Morse, Elisha Andrews, Solomon Hart, John Hyde, Devenport Adams, Noah Church, Elijah Catlin, Zenas Hyde, William P. Stevens, Amos King, Seth Shelden, John D. Taylor, Elias Taylor, Stephen Sage, Joshua Emmes, Abel Sage, Daniel Herrick, Amos Hall, Jacob Webster, Abner Webster, Abel Wilcox, Junr., William Wilcox, Micah Goodrich, Solomon Smith, Junr., Joseph Paine, Junr., Richard Chapil, Daniel Sears, and Josiah Harmon, and all such persons as shall associate with them, and their successors, shall be a Corporation by the name of The

Corporate name.

fifteenth Massachusetts Turnpike Corporation, with all the powers and privileges incident to Corporations, for the purpose of laying out and making a turnpike-road from the termination of the turnpike-road leading from New Haven to Massachusetts line at Southfield, near Sandy Brook, so called; from thence, in the most convenient and direct rout, near to the dwelling-house of Stephen Sage, in Sandisfield, to the dwelling-house of Eliphalet Phelps, in New-Marlborough; from thence, in the most convenient and direct route, to the north meeting-house in said New-Marlborough; from thence, in the most convenient route, to Noah Church's dwelling-house; from thence, in the most convenient route, to the dwelling-house of Samuel Kingman; from thence, in the most convenient and direct route, to the river at the lower end of the meadow, near the dwelling-house of Solomon Hart; from thence, in the most convenient route, between the dwelling-houses of David Tracy and Richard Stevens, to the top of three-mile hill in Great Barrington, between the dwelling-house of Seth Morse and the guide-board on the top of said hill; from thence, in the most convenient and direct route, to the south line of Stockbridge, near the dwelling-house of Elisha Andrews; and for keeping the same in repair; which shall not be less than four rods wide, and the path to be travelled on not less than twenty-two feet wide in

Course of the road.

any place; and that when said turnpike-road shall be sufficiently made, and shall be so allowed and approved by the Justices of the Court of Common pleas for the County of Berkshire at any term thereof, then the said Corporation shall be authorized to erect two gates on said road, in such places as the Justices of the Court of Common pleas in said County of Berkshire shall determine: Provided, that said gates shall not be placed on any present public road; & shall be entitled to receive, for each traveller and passenger, at each of said gates, the following rates of toll, *viz.* For every coach, chariot, phaeton or other four wheel carriage, drawn by two horses, twenty-five cents, and if drawn by more than two horses, an additional sum of four cents for each horse; for every cart or waggon, drawn by two oxen or horses, ten cents, and if drawn by more than two oxen or horses, the additional sum of three cents for each ox or horse; — for every curriole twelve cents and five milles; — for every chaise, chair or other carriage, drawn by one horse, twelve cents and five milles; — for every man and horse five cents; — for every sled or sleigh, drawn by two oxen or horses, seven cents, if drawn by more than two oxen or horses, an additional sum of two cents for each ox or horse; — for every sled or sleigh, drawn by one horse, five cents; — for all horses, mules, oxen or neat cattle, led or driven, besides those in teams and carriages, one cent each —; for all sheep or swine at the rate of three cents per dozen.

Two gates may be erected.

Toll.

*Provided also*, that the said Corporation may, if they see fit, commute the rate of toll with any person, or with the inhabitants of any town through which the said road passes, by taking of him or them a certain sum annually, to be mutually agreed upon, in lieu of the toll aforesaid; *provided*, that no toll shall be taken of any person passing said road on military duty, to or from public worship, to or from any mill, or about his common and ordinary business within the town wherein he resides.

Proviso.

Exemptions.

SEC. 2D. *Be it further enacted*, That the said Corporation may purchase and hold lands over which they may make said road, and the Justices of the Court of General Sessions of the Peace for the County of Berkshire are hereby authorized, on application of said Corporation, to lay out said road or any part thereof, as, with the consent of said Corporation, they may think proper. And the said Corporation shall be liable to pay all damages that

Corporation allowed to hold land.

shall arise to any person by taking his land for such road, when the same cannot be obtained by voluntary agreement, to be estimated by a Committee of the Court of General Sessions of the Peace in the County of Berkshire, saving to either party the right of trial by Jury, according to the law which makes provision for the recovery of damages arising from the laying out of high-ways.

Penalty for  
delaying  
passengers.

SEC. 3D. *Be it further enacted*, That if said Corporation, their toll-gatherers, or others in their employ, shall unreasonably delay or hinder any traveller or passenger at either of the said gates, or shall demand or receive more toll than is by this act established, the Corporation shall forfeit and pay a sum not exceeding ten dollars, nor less than one dollar, to be recovered before any Justice of the Peace of the County where the offence shall be committed, by any person injured, delayed or defrauded, in a special action on the case, the writ in which shall be served on the said Corporation, by leaving a copy of the same with their Treasurer, or with some individual member of the Corporation, living within the County wherein the action may be brought, or reading the contents thereof to said Treasurer or individual member, at least seven days before the day of trial; and the Treasurer of said Corporation, or individual member, shall be allowed to defend the same suit in behalf of the Corporation; & the said Corporation shall be liable to pay all damages which shall happen to any person, from whom toll is by this act demandable, for any injury which shall arise from defect of bridges or want of repairs within the same way; and also be liable to a fine, on presentment of the Grand Jury, for not keeping the same, or the bridges thereon, in good repair. And if the said road, or any part thereof, shall be suffered to be out of repair, the Justices of the Court of Common Pleas, or a major part thereof, or a Committee to be by them appointed for that purpose, may, after notice in writing served on the Clerk or Treasurer, or any other principal member of said Corporation, seven days before the time of hearing, order the said gates, or either of them to be set open, and immediately upon the service of such order, under the hands of said Justices or Committee, on the Clerk of said Corporation, the said gate or gates shall be opened, and kept open, and no toll demanded or taken thereat, until the Justices of said

Process for  
recovering  
penalty.

The gates to be  
set open if road  
is not kept in  
repair.

Court, or said Committee, shall grant an order for putting up said gate or gates, and receiving the toll thereat.

SEC. 4TH. *Be it further enacted*, That if any person shall cut, break down or destroy any of the said turnpike-gates, or shall forcibly pass, or attempt forcibly to pass the same, without having first paid the legal toll at such gate, such person shall forfeit and pay a fine not exceeding fifty dollars, nor less than two dollars, to be recovered by the Treasurer of said Corporation, to their use, in an action of trespass; and if any person shall, with his cattle, team, carriage or horse, turn out of the said road to pass the said turnpike-gate on ground adjacent thereto, and again enter on said road, with intent to avoid the toll due by virtue of this Act, such person shall forfeit one dollar, to be recovered by the Treasurer of the said Corporation, to the use thereof, in an action of trespass on the case.

Penalty for  
injuring road  
or forcibly  
passing the  
same.

Penalty for  
evading toll.

SEC. 5TH. *Be it further enacted*, That the shares in the same turnpike-road shall be taken, deemed and considered to be personal estate to all intents and purposes, and shall and may be transferable; and the mode of transferring said shares, shall be by deed, acknowledged before any Justice of the Peace, and recorded by the Clerk of said Corporation in a book to be kept for that purpose. And when any of said shares shall be attached on mesne process, or taken in execution, an attested copy of such writ of attachment or execution shall be left with the Clerk of said Corporation, otherwise such attachment, or taking in execution, shall be void; and such shares may be sold on execution, in the same manner as is, or may by law be provided for the sale of personal property by execution; the Officer making sale, or the Judgment-Creditor, leaving a copy of the execution, and the Officer's return on the same, with the Clerk of the said Corporation within ten days after such sale, and paying for the recording of the same.

Shares con-  
sidered per-  
sonal estate.

SEC. 6TH. *Be it further enacted*, That a meeting of said Corporation shall be held at the house of Noah Church, Innholder in New-Marlborough, in the County of Berkshire, on the second Tuesday in April next, for the purpose of choosing a Clerk, and such other Officers, as may then and there be agreed upon by the said Corporation; for regulating the concerns thereof; & that the said Corporation may then and there agree upon such

First meeting.

method of calling meetings in future as they may judge proper.

Account of  
expense and  
annual returns  
to be submitted.

SEC. 7TH. *Be it further enacted*, That the said Corporation shall, within six months after said road is completed, lodge in the Secretary's Office an account of the expenses thereof; and that the said Corporation shall annually exhibit to the Governor & Council a true account of the income or dividend arising from the said toll, with their necessary annual disbursements on said road; and that the books of said Corporation shall at all times be subject to the inspection of a Committee to be appointed by the General Court, or to the inspection of the Governor and Council when called for.

Shares of  
delinquent  
proprietors may  
be sold.

SEC. 8TH. *Be it further enacted*, That whenever any Proprietor shall neglect or refuse to pay any tax or assessment, duly voted and agreed upon by the Corporation, to their Treasurer, within sixty days after the time set for the payment thereof, the Treasurer of said Corporation is hereby authorized to sell, at public vendue, the share or shares of such delinquent proprietor, one or more, as shall be sufficient to defray said taxes and necessary incidental charges, after duly notifying, in some newspaper printed in the County of Berkshire, the sum due on any such shares, and time and place of sale, at least twenty days previous to the time of sale; and such sale shall be a sufficient transfer of the share or shares so sold, to the person purchasing; and on producing a certificate of such sale from the Treasurer to the Clerk of said Corporation, the name of such purchaser, with the number of shares so sold, shall be by the Clerk entered on the book of the said Corporation, and such person shall be considered to all intents and purposes the proprietor thereof, and the overplus, if any there be, shall be paid, on demand, by the Treasurer, to the person whose shares were thus sold.

Signboard to  
be erected.

SEC. 9TH. *Be it further enacted*, That the said Corporation shall, at all places where the said toll shall be collected, erect & keep constantly exposed to view, a sign or board, with the rates of toll of all the tollable articles fairly and legibly written in large or capital characters.

Corporation  
may be dis-  
solved when  
indemnified  
with interest.

SEC. 10TH. *And be it further enacted*, That the General Court may dissolve said Corporation, whenever it shall appear to their satisfaction, that the income arising from the said toll, shall have fully compensated the said

Corporation for all monies they may have expended in purchasing, repairing and taking care of the said roads, together with an interest thereon at the rate of twelve per centum by the year, and thereupon the property of the said road shall be vested in this Commonwealth, and be at their disposal: *Provided*, that if the said Corporation shall neglect to compleat the said turnpike road for the space of three years from the passing of this act, the same shall become void and of no effect.

*Approved February 12, 1803.*

**1802. — Chapter 62.**

[January Session, ch. 24.]

AN ACT TO INCORPORATE WILLIAM KING AND OTHERS INTO A COMPANY BY THE NAME OF THE LINCOLN & KENNEBEC MARINE INSURANCE COMPANY.

SECT. 1. *Be it enacted by the Senate & House of Representatives, in General Court assembled, and by the authority of the same*, that William King and others, together with such persons as have already, or hereafter may become Stockholders in said Company, being Citizens of the United States, be, & hereby are Incorporated into a Company or body politic by the name of The Lincoln & Kennebec Marine Insurance Company, for and during the term of twenty years from the date of this Act; and by that name may sue and be sued, plead or be impleaded, appear, prosecute and defend, to final Judgment and execution, and have a common seal, which they may alter at pleasure, and may purchase, hold, & convey, any estate, real or personal, for the use of said company, subject to the restrictions herein after mentioned.

Corporate name.

SECT. 2. *Be it further enacted*, that a share in the Capital stock of the said Company shall be One hundred Dollars, and the number of shares shall be Seven hundred and fifty, and if the said number of shares are not already filled, subscriptions shall be kept open, under the inspection of the president and Directors of the said Company, until the same shall be filled; and the whole capital Stock, estate or property, which the said Company shall be authorized to hold, shall never exceed Seventy-five thousand Dollars, exclusive of premium notes or profits arising from said business, of which Capital stock or property, Fifteen thousand Dollars only shall be invested in real estate.

Amount of shares and capital stock.