

regulations for their particular government, not repugnant to the bye-laws of the general society ; and shall be capable to purchase, and receive by donation, Books, Philosophical, and Chirurgical Instruments, or other personal property, and may hold and dispose of the same exclusively of any authority of the general Society.

Parts of former law repealed.

SECT. 6TH. *And be it further enacted*, that all matters and clauses, contained in the Act aforesaid, to incorporate certain Physicians by the name of the Massachusetts Medical Society, which are contrary to the purview of this act, shall be, and they hereby are repealed.

The Fellows exempted from military duty.

SECT. 7. *And be it further enacted*, That the Fellows of the said Corporation shall not be liable to be enrolled or mustered in the militia of this Commonwealth.

Approved March 8, 1803.

1802. — Chapter 124.

[January Session, ch. 86.]

AN ACT TO ESTABLISH A CORPORATION BY THE NAME OF THE CAMBRIDGE AND CONCORD TURNPIKE CORPORATION.

Preamble.

Whereas the highway leading from Cambridge, thro' Lexington, to Concord is circuitous, and the expence, of making, straitening and keeping the same in good repair is much greater than can be reasonably required of the said towns —

Persons incorporated.

SECT. 1ST. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, that Jeduthun Willington, John Richardson, Thomas Heald, Francis Jarvis, Charles Wheeler, William Wheeler, Jonas Lee, Richard Richardson, John Stearns, Benjamin Kendall, Thomas Clark, Peter Clark, Ephraim Flint, Ephraim Flint junr. Daniel Brooks, Leonard Hoar and Abiel Abbot, together with such others as may hereafter associate with them and their successors, be and they hereby are made a Corporation, by the name and style of The Cambridge & Concord Turnpike Corporation and by that name may sue and prosecute, and be sued and prosecuted, unto final judgment and execution, and shall have a common Seal, and exercise and enjoy all powers and privileges, which are usually given, and incident to similar corporations for making Turnpike roads: Begining at or near the dwelling house of Jonas Wyeth in Cambridge and from thence to

Corporate name.

Course of the road.

continue a westerly course, south of Doctor Andrew Craige's summer house, and on said course to the Bridge over the river runing out of Fresh Pond so called, thence on said rout about thirty feet south of the dwelling house of Richard Richardson, thence on said rout, south of the dwelling house of Joshua Kendal in said Cambridge thence on the said course, as near as the nature of the ground will admit near the dwelling house of Joseph Underwood in Lexington, thence on the said course near the dwelling houses of Benjamin Phinney and Thomas Tufts in said Lexington, thence on said course, near the dwelling houses of Abiel Abbot, Leonard Hoar, Timothy Brooks, and Daniel Brooks, in the town of Lincoln, thence on said course near the dwelling house of Thaddeus Hunt in the town of Concord, thence on said course on as strait a line as circumstances will admit, to the meeting house in Concord. And the said road shall not be less than four rods wide, and the Path to be travelled in, not less than twenty two feet wide in any part thereof; and when the said Turnpike road shall be sufficiently made, and approved of by a Committe appointed by the Court of General sessions of the Peace for the County of Middlesex, then the said Corporation shall be authorised to erect two Turnpike Gates on the said Road, in such manner as the said Committee shall judge necessary and convenient for collecting the Toll. *Provided* that the said Gates, or either of them shall not be erected on any present travelled road.

Two gates to be erected.

SECT. 2D. *And be it further enacted*, that it shall be lawful for the said Corporation to demand and receive of each traveller or passenger, at each of the said Gates, the following rates of Toll, Vizt. — 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, an additional sum of three cents for each ox or horse; for every curricule sixteen cents; for every chaise, chair, or other carriage drawn by one horse ten Cents; — for every man and horse five Cents; for every sled or sleigh, drawn by two Oxen or horses seven Cents, and 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

Rates of toll established.

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; and for all sheep and swine at the rate of three Cents by the Dozen, and in that proportion for a greater or lesser number. And the said Corporation shall at each place, where the said Toll shall be collected, erect and keep constantly exposed to open view, a sign or board, with the rates of Toll, of all the tollable articles, fairly and legibly written thereon, in large or capital characters. *Provided however* that the said Corporation may when they see fit commute the rate of Toll, with any person or corporation, or with the inhabitants of any town, thro' which the said road passes, by taking of him or them, a certain sum annually, to be mutually agreed on, in lieu of the toll aforesaid.

Land may be purchased and held. Damages to be paid for land taken.

SECT. 3D. *And be it further enacted*, that the said Corporation may purchase and hold land, over which they may make the said road. And the said Corporation shall be holden to pay all damages, which shall arise to any person by taking his land for such road, where it cannot be obtained by voluntary agreement, to be estimated by a Committee, appointed by the Court of General Sessions of the Peace, of the County of Middlesex, 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 Highways. And no town, or private road or way, shall be opened into, or connected with the aforesaid Turnpike road, without the consent of the said Corporation first had and obtained, excepting such town, or private road or way, as may be laid out crossing the said Turnpike road, and leading in different directions therefrom.

Penalty for injuring gates or road and for evading toll.

SECT. 4TH. *And be it further enacted*, that if any person shall willfully or maliciously cut, break down, or otherwise injure or destroy, either of the said Turnpike Gates, or Sign board, or shall dig up or carry away, any earth from the said Road, or in any manner damage the same, or shall forcibly pass, or attempt to pass the said gates by force, without having first paid the legal toll at such gate, such person shall forfeit and pay a fine not exceeding forty Dollars, nor less than two Dollars, to be recovered by the Treasurer of the said Corporation, to their use, in an action of trespass, or on the case; and if any person with his team, cart, or horse, turn out of

the said road, to pass any of the Turnpike gates, and again enter on the said road, with intent to evade the Toll, due by virtue of this Act, such person shall forfeit and pay, Three times so much as the legal toll would have been, to be recovered by the Treasurer of the said Corporation, to their use, in an action of debt, or on the case. *Provided* that nothing in this Act, shall extend to entitle the said Corporation, to demand or receive toll of any person, who shall be passing with his horse or carriage to or from Public worship, or with his horse, team, or cattle, to or from his common labour on his farm, or to or from any grist mill, or on the common, or ordinary business of family concerns, within the same town, or from any person or persons passing on military duty.

Exemptions
from toll.

SECT. 5TH. *And be it further enacted*, that if the said Corporation, their Toll-gatherer, or others in their employ shall unreasonably delay or hinder any traveller or passenger, at either of the said gates, or shall demand and receive more toll than is by this act established, the said 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, (not being a Proprietor in said Corporation) of the County of Middlesex, by any person injured, delayed, or defrauded, in a special action of the case; and the Writ in such action shall be served on the Corporation, by leaving a copy of the writ with the Treasurer, or with some individual member of the Corporation, at least seven days before the day of Trial; and the said Treasurer or individual member, shall be allowed to defend the same suit in behalf of the Corporation.

Penalty for
delaying pas-
sengers, &c.

SECT. 6TH. *And 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 may and shall be transferable; and the mode of transferring the said shares, shall be by Deed, acknowledged before any Justice of the Peace, and recorded by the Clerk of the said Corporation, in a Book to be kept for that purpose; and when any of the said shares shall be attached on mesne process, or taken in execution, an attested copy of such writ of attachment or execution, shall at the time of the attachment, or taking in execution, be left with the Clerk of the said Corporation, otherwise such attachment or taking in execution, shall be void; and

Shares to be
deemed per-
sonal estate;
may be
attached, &c.

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 the sale, or the judgment creditor, leaving a Copy of the execution, and of the officers return on the same, with the clerk of the said Corporation, within fourteen days after such sale, and paying for recording the same.

Shares of delinquent proprietors may be sold.

SECT. 7TH. *And 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 said Corporation, to their Treasurer, within Sixty days after the set time for the payment thereof, the Treasurer of the said Corporation is hereby authorised 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 two newspapers, printed in Boston, the sum due on any such shares, and the time and place of sale, at least twenty days previous to the time of sale; and such sale shall be a transfer of the share or shares sold, to the person purchasing the same, and on producing a certificate of such sale from the Treasurer to the Clerk of the said Corporation, the name of such purchaser, with the number of shares so sold, shall be by the said Clerk, entered on the books 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 share or shares were thus sold.

First meeting of corporation; officers to be chosen, &c.

SECT. 8TH. *And be it further enacted* that the first meeting of the said Corporation shall be held at the house of Phineas Paine inholder in Concord, on the fourth Tuesday in March inst. at two of the Clock in the afternoon, for the purpose of choosing a Clerk, who shall be sworn to the faithful discharge of his trust, and such other officers, as shall then and there be agreed upon by the said Corporation, for regulating the concerns thereof; and may also agree upon such mode of calling future meetings as they shall judge proper. And each Proprietor in the said Turnpike road, or by his agent duly authorised in writing, shall have a right to vote in all meetings of the said Corporation, and shall be entitled to as many votes, as the said Proprietor has shares in the same: *Provided* his number in said shares do not exceed ten; but no pro-

prietor shall be entitled to more than ten votes, for any greater number of shares he may possess.

SECT. 9TH. *And be it further enacted*, that the said Corporation shall, within six months after the said road is completed, lodge in the Secretary's Office an account of the expences thereof; and that the said Corporation shall annually exhibit to the Governor and Council, a true account of the income or dividends arising from the Toll, with their necessary annual disbursements on the said road; and that the books of the 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.

An account of cost of road and annual returns to be exhibited.

SECT. 10TH. *And be it further enacted*, that the General Court may dissolve the said Corporation, whenever it shall appear to their satisfaction, that the income arising from the Toll, shall have fully compensated the said Corporation, for all monies they may have expended, in purchasing, repairing, and taking care of the said road, 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 however*, that if the said Corporation shall neglect to complete the said Turnpike Road, for the space of three years from the date of this act, the same shall be void and of no effect.

Corporation may be dissolved when indemnified with interest.

SECT. 11TH. *And be it further enacted*, that the said Corporation shall be liable to pay all damages which shall happen to any person from whom toll is demandable by this Act, for any damage which shall arise from any defect of Bridges, or want of repairs within the same way; and shall also be liable to a fine, on the presentment of the Grand Jury, for not keeping the same way, or the Bridges thereon in good repair; and the towns thro' which the said Turnpike road may be made and laid out, shall be and hereby are discharged and exonerated, for and during the term of twenty Years from the time of the acceptance of the said road as aforesaid, of all costs and charges for the support amendment and repairs of said road, that might accrue against said towns, by reason of any laying out, or acceptance of said road by said Court of Sessions as a County Road, within the term aforesaid; and also shall be acquitted, and saved harmless, from any actions, presentments, damages, and fines, on account of any defect

Corporation to pay for damages on account of road being out of repair.

in any part of said road; and may give this Act in evidence to the jury, on the general issue pleaded, which shall be as available, as if plead in bar or discharge of such actions, or presentments.

Approved March 8, 1803.

1802. — Chapter 125.

[January Session, ch. 87.]

AN ACT PROVIDING FOR HOLDING THE COURT OF COMMON PLEAS IN THE COUNTY OF HANCOCK.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the Court of Common Pleas, next to be holden at Castine, in the County of Hancock, on the first tuesday of May next, may be holden by any two of the Justices of the same Court, together with the Senior Special Justice of said County, then present, and the said Court so constituted, may exercise all the powers vested in the Courts of Common Pleas by the Constitution and Laws of this Commonwealth.

Approved March 7, 1803.

1802. — Chapter 126.

[January Session, ch. 88.]

AN ACT TO INCORPORATE ROBERT HOOPER AND OTHERS BY THE NAME OF THE MARBLEHEAD INSURANCE COMPANY.

SECT. 1ST. *Be it Enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same,* that Robert Hooper, Joseph Barker, Henry Gallison, William Reed, Isaac Story, and all others their associates, being Citizens of the United States, who have or shall become, Stockholders in a Capital Stock to be paid and employed in the manner and for the purposes hereinafter mentioned, shall be and they hereby are incorporated, and they and their successors and assigns shall be and continue, not exceeding the term of twenty years from and after the passing of this Act, a body Politic and Corporate, by the name of the Marblehead Marine Insurance Company, and by that name the said Stockholders may sue and be sued, implead and be impleaded, and shall and may appear, prosecute, and defend, in all actions and suits for or against them, until final judgment,

Persons incorporated.

Corporate name.