

1801. — Chapter 68.

[January Session, ch. 44.]

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT FOR INCORPORATING THE MEMBERS OF THE EPISCOPAL CHURCH IN THE TOWN OF PORTLAND INTO A RELIGIOUS SOCIETY."

Preamble.

Whereas it appears, that the said society with others contemplate rebuilding their church on a different spot, and by the said act, they are not empowered to purchase one for that purpose, which has occasioned some doubts; and whereas only the names mentioned in the said act are expressly incorporated without any mention of such as might thereafter join the said church.

The purchase
of a new lot
authorized.

SEC. 1ST. *Be it enacted by the Senate, and House of Representatives in General Court assembled and by the authority of the same, that the Wardens, and Vestry of the said Church be, and they are hereby authorized and empowered with the real estate now belonging to said church, or the proceeds of the same, to purchase in the name, and to the use of said church, any other lot of land, or situation in the said Town of Portland which may be deemed eligible for the purpose of rebuilding their House of public worship on the same, and that the said lot of land, or situation, when so purchased, shall belong to those, who shall subscribe for, and assist in rebuilding said House, in proportion to their subscriptions and actual assistance.*

How to become
a member.

SEC. 2D. *And be it further enacted, that such persons as shall subscribe for, and build the said house, together with such others as may hereafter join the said church by giving notice in writing to the Clerk of the parish, or society, which they shall leave seven days at least previous to the annual meeting held in March or April by the Parish, or Society, they intend to leave as aforesaid, and being accepted by said church, shall be accounted as a member or members of the corporation of said church as established by the act aforesaid to all intents and purposes.*

Approved March 6, 1802.

1801. — Chapter 69.

[January Session, ch. 45.]

AN ACT ESTABLISHING THE NORFOLK AND BRISTOL TURNPIKE CORPORATION.

SEC. 1ST. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the*

authority of the same, That Ephraim Starkweather, Oliver Starkweather, Oziel Wilkinson, Eliphalet Slack, Samuel Slack, William Blackington, Israel Hatch, Elijah Daggett, Joseph Holmes, Fisher Ames, James Richardson, John Whiting, Timothy Whiting, Timothy Gay Junr., and all such persons as shall be associated with them, and their Successors, shall be a Corporation by the name of The Norfolk and Bristol Turnpike Corporation; and shall by that name sue and be sued, and enjoy all the priviledges and powers which are by law incident to Corporations, for the purpose of laying out and making a Turnpike road from the Court House in Dedham, in the County of Norfolk, to the north parish Meeting House in Attleborough, in the County of Bristol, and from thence to Pawtucket Bridge, so called, and for keeping the same in repair. The said Turnpike to begin at the Court House in Dedham aforesaid, and thence to run as near a strait line from the said Court House in Dedham to the said Pawtucket Bridge, as a Committee appointed by the General Court, shall, with due regard to the nature of the ground, direct; and which said Committee is hereby authorized and directed to locate the same road accordingly; which road shall not be less than four rods wide, except in such parts thereof, as the said Committee shall think it expedient, otherwise to direct; but said road shall in no part thereof be less than three rods wide, and the part to be travelled on not less than twenty feet in width in any place; and that when said Turnpike road shall be sufficiently made, and shall be so allowed and approved by the abovesaid Committee, then the said Corporation shall be authorized to erect three Turnpike Gates on the same, in such manner as shall be necessary and convenient, in such places as the abovesaid Committee shall direct; and shall be entitled to receive from each traveller and passenger, at each of the said Gates, the following rates of toll, to wit. For every coach, phaeton, chariot 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 curriple seventeen Cents. For every cart, waggon, sled or sleigh, drawn by two oxen or horses, ten Cents, and if drawn by more than two, an additional sum of three Cents for each horse or ox. For every chaise, chair or other carriage drawn by one horse, ten Cents. For every sled or sleigh, drawn by one horse,

Persons incorporated.

Course of the road.

Width.

Number of gates.

Toll.

six Cents. For every man and horse four Cents. For all oxen, horses, mules and neat cattle, led or driven, besides those in teams and carriages, one Cent each. For all sheep and swine, three Cents by the dozen, and in that proportion for a greater or less number. *Provided*, that nothing in this Act shall extend to entitle the said Corporation to demand toll of any person who shall be passing with his horse or carriage to or from public worship, or with his horse or team, to or from any mill, or with his horse, team or cattle, to or from his common labour on his farm, or on the common and ordinary business of family concerns within the same towns; or any person passing on military duty: & That when no toll gatherer shall be present at either of the said Gates, to receive the toll, the said Gate shall be left open, and travellers be permitted to pass freely. *Provided also*, that no Turnpike Gate shall be erected at any place on the present travelled road. *Provided also*, *And be it further enacted* That the said Corporation be, and it is hereby empowered to commute the rate of toll with any person, or with the inhabitants of any town through which the said Turnpike road shall be made, by taking of him or them any certain sum annually, or for a less time, to be mutually agreed on, in lieu of the toll established in and by this Act.

Exceptions.

Toll may be commuted.

Sign board to be erected.

SEC. 2D. *And be it further enacted*, That the said Corporation shall at each place where the toll shall be collected, erect and keep constantly exposed to view a sign or board, with the rates of toll of all the tollable articles, fairly and legibly written thereon in large or capital letters.

Land may be taken.

SEC. 3D. *And be it further enacted*, That the said Corporation may purchase and hold land over which they may make 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, if lying within the County of Norfolk aforesaid, by a Committee appointed by the Court of General Sessions of the Peace, in said County of Norfolk; and if such lands lie in the County of Bristol aforesaid, by a Committee appointed by the Court of General Sessions of the Peace in said County of Bristol, saving to either party the right of trial by Jury according to the law which provides for

the recovery of damages, accruing by laying out public high ways.

SEC. 4TH. *And be it further enacted*, That if any person, cut, break down or destroy either of the said Turnpike Gates, or shall forcibly pass, or attempt to pass the same by force, without having first paid the legal toll at such Gate, such person shall forfeit and pay a fine not exceeding fifty, nor less than two Dollars, to be recovered by the Treasurer of the 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 either of the said Turnpike Gates, 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 and pay, three times so much as the legal toll would have been, to be recovered by the Treasurer of said Corporation, to the use thereof, in an action of debt.

Penalty for
injuring or
forcibly passing
the gates.

SEC. 5TH. *And be it further enacted*, that if the said Corporation, their tollgatherers, or others in their employment, shall unreasonably delay or hinder any traveller or passenger at either of said Gates, or shall demand and 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, not being a proprietor in said Corporation, 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 action, shall be served on the Corporation, by leaving a copy of the same with the Treasurer, or with some individual member of the Corporation living within the County where the offence shall be committed, at least seven days before the day of trial; and the Treasurer of the said Corporation, or any individual member shall be allowed to defend the same suit in behalf of the Corporation; and the Corporation shall be liable to pay all damages which shall happen to any person from whom toll is by this act demandable, for any damages which shall arise from any defect of bridges, or want of repairs within the same way; and shall be also liable to a fine, on the presentment of the Grand Jury, for not keeping the same way or the bridges thereon in good repair.

Penalty for
delaying
passengers.

Road, &c. to
be kept in
good repair.

SEC. 6TH. *And be it further enacted*, That the Shares in the same Turnpike road, shall be taken deemed and

Shares deemed
personal estate.
Mode of trans-

fer and attach-
ment.

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 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 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 of the Officers 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.

Every share
entitles to a
vote, with a
proviso.

SEC. 7TH. *And be it further enacted*, That every proprietor in the said Turnpike road, or his agent duly authorized in writing, shall have a right to vote in all meetings of the said Corporation, and be entitled to as many votes as the proprietor has shares in the same: *Provided* his number of shares do not exceed ten; but no proprietor shall be entitled to more than ten votes for any greater number of shares he may possess.

Mode of pro-
ceeding with
a delinquent
proprietor.

SEC. 8TH. *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 Corporation, to their Treasurer, within Sixty days after the set time for the payment thereof, the Treasurer of the 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 the News papers printed at Dedham, or in some paper 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; and on producing a Certificate of such sale from the Treasurer to the Clerk of such Corporation, the name of such purchaser with the number of shares so sold, shall be by the Clerk entered on the books of the said Corporation, and such person shall be con-

sidered to all intents & purposes, the proprietor thereof; and the overplus, if any there be, shall be paid on demand by the Treasurer, to the person whose shares where thus sold.

SEC. 9TH. *And be it further enacted,* That a meeting of the said Corporation shall be held at the house of Joseph Holmes in Attleborough, on the last Tuesday of March instant 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 that the said Corporation may then & there agree upon such method of calling meetings in future, as they may judge proper.

First meeting, and the business of it.

SEC. 10TH. *And be it further enacted,* That the said Corporation shall within six months after the 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 income or dividend arising from the toll, with their necessary annual disbursements on 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.

Estimates of expense and income to be exhibited.

SEC. 11TH. *Be it further enacted,* That the said Corporation is hereby allowed to grant monies to such persons as rendered services to the proprietors in exploring the said road or otherwise, previous to the act of incorporation.

Monies may be granted in certain case.

SEC. 12TH. *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 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* That if said Corporation shall neglect to complete the said Turnpike road for the space of three years from the passing of this Act, the same shall be void and of no effect.

The corporation may be dissolved in certain case.

Approved March 8, 1802.