

## 1801. — Chapter 21.

[May Session, ch. 21.]

AN ACT TO CHANGE THE NAMES OF JOSEPH SPRAGUE STEARNS, JOHN PARKER AND JEDEDIAH BAKER THE THIRD.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That from and after the passing of this Act Joseph Sprague Stearns, of Salem, in the County of Essex, son of William Stearns, shall be allowed to take the name of Joseph Sprague; that John Parker, of Boston, in the County of Suffolk, son of Isaac Parker, shall be allowed to take the name of John Williams Parker; that Jedediah Baker the third, of Yarmouth, in the County of Barnstable, shall be allowed to take the name of Washington Baker; and said persons shall, in future, be respectively known, and called by the names, which they are respectively allowed to take as aforesaid, and the same shall be considered as their only proper names, to all intents and purposes.*

*Approved June 19, 1801.*

## 1801. — Chapter 22.

[May Session, ch. 22.]

AN ACT TO INCORPORATE EZRA MARVIN & OTHERS, BY THE NAME OF THE ELEVENTH MASSACHUSETTS TURNPIKE CORPORATION.

Preamble.

*Whereas the highway leading from the south line of Massachusetts through the east parish of the town of Granville, and through the towns of Blandford and Becket, untill it comes to the turnpike road laid out by the Eighth Massachusetts Turnpike Corporation north of the Meeting House in said Becket, is rocky & mountainous, & the expense of straightening making and repairing the same through the said towns so that the same may be a good carriage road, is greater than reasonably ought to be required of said towns.*

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, That Ezra Marvin, Elihu Stow, Enoch Bancroft, William Cooley, William Cooley junr., Clark Cooley, David Jones, Samuel Bancroft, Jesse Munson, Amos Root, Lee Tinker, Jesse Spelman, Thomas Gillit, Azariah Bancroft, Zadock Cooley, Roswell Rowley,*

Names of  
persons incor-  
porated.

Abner Warner, Nathan Bates, Oliver Dickinson, Israel Parsons, Timothy Spelman, Martin Moses, Charles Spelman, Asa Seymour, Eli Gibbons, James Coe, Oliver Coe, Samuel Trall, Bethuel Jones, Joel Root, Jonathan Barlow, Daniel Cooley, James Barlow, Richard Dickenson, Aaron Bigelow, Nathan Knox, John Crocker Jun., Levi Boies, Asa Merit, Elihu Noble, Alexander Morrison, William Thompson, Reuben Blair, David Adkins, Perry Button, Benedict Bowditch, Solomon Noble, Russell Atwater, Reuben Atwater, Nathaniel W. Little, Judah Bement, Phineas Ashman, Abner Pease, Samuel Sloper, John Upton, Martin Cannon, David Boies 2d, James Freeland, John Hamilton, Alexander Asburn, Joseph W. Brewster, David McConoughey, David McConoughey jr. Samuel Cannon, Samuel Boies 2d, William Ferguson, Robert Cannon, Solomon Stewart junr., William Boies junr., Andrew Wilson, Samuel Knox, Zadock Brown, Isaac Gibbs, Job Almy, William Stewart, Ephraim Gibbs, Asa Blair, David Boies, David Blair, Samuel Boies 3d, Abner Gibbs, Reuben Boies, Samuel C. Gibbs, James Anderson, Jesse Bruce, James Baird, Aaron Baird, Benjamin Taggard, Timothy Blair, Joseph Frary, Joseph Frary junr., Ephraim Perkins, Abel Dewey, Jabez Wadsworth, Seth Wadsworth, Bille Messenger, Oliver Brewster, Barnabas Adams, James Rudd, Josiah Dwight, David Lyman, David Munroe, John Frary, Eleazer Frary, Edmund Barlow Jun., and all such other persons as shall be associated with them, and their heirs and successors be, and they hereby are constituted a Corporation, by the name of The Eleventh Massachusetts Turnpike Corporation, with all the priviledges and powers incident to Corporations, for the purpose of laying out & making a turnpike road, to begin at the south line of Massachusetts, at or near the ending of a turnpike road lately established by the Legislature of the State of Connecticut, from the city of Hartford to said south line of Massachusetts, thence into and through the east parish of Granville to Blandford Meeting house, and from thence through the town street in Blandford by the usual Pittsfield road, so called, & into the town of Becket by the same road, untill it connects with the road of the Eighth Turnpike Corporation, with such variations only from the said Pittsfield road, as the nature of the ground and the avoidance of hills difficult and dangerous of passage, shall require ;

Corporate name.

Course of the road, width, &c.

and making the same in such place or places as the said Corporation shall choose, & for keeping the same in repair; which road shall not be less than four rods wide, and the path to be travelled in not less than eighteen feet wide in any place; And when the said turnpike road is completed from the said south line of Massachusetts to the Meeting house in Blandford, and approved of by a Committee appointed by the Court of General Sessions of the Peace for the County of Hampshire for that purpose, then the said Corporation shall be authorized to erect a Gate in such place on the road so made and completed, as the said Committee shall judge most convenient for collecting the toll, and shall be entitled to receive of each traveller or passenger, at the said Gate, the following rate of toll, viz. 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 Cart or Waggon drawn by two oxen or horses, ten cents; & if drawn by more than two oxen or horses the additional sum of three cents for each ox or horse — For every Curricule twelve cents and five milles — For every Chaise, Chair or other carriage drawn by one horse, twelve cents & 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. And whenever the said turnpike road is made and completed from the said Meeting house in Blandford to the turnpike road in Becket, and approved of by a Committee appointed by the Court of General Sessions of the Peace for the respective Counties of Hampshire and Berkshire for that purpose, then the said Corporation shall be authorized to erect one other Gate on the same, in such place as the said Committee shall judge necessary and convenient for collecting the toll, and shall be entitled to receive thereat from each traveller or passenger the same rate of toll as at the first mentioned Gate. *Provided* that if the said Corporation shall neglect to finish and complete the whole of the said road within the time herein after prescribed by

Rate of Toll.

An additional gate allowed.

Commutation of Toll.

this act, then the said first mentioned Gate shall be removed. *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.

SEC. 2. *And be it further enacted*, That the said Corporation may purchase & hold land over which they may make said road; and the Justices of the Court of General Sessions of the Peace in the County where the said road is, are hereby authorized, on application of said Corporation, to lay out said road or any part thereof within their respective Jurisdictions, as with the consent of said Corporation they shall think proper: And the said Corporation shall be liable to pay all damages that 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 where such damage shall arise, 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.

Corporation allowed to take and hold land.

SEC. 3. *And be it further enacted*, That if the said Corporation, their Tollgatherers, or others in their employ, shall unreasonably delay or hinder any traveller or passenger at either of 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 of the case, the writ in which case shall be served on said Corporation, by leaving a copy of the same with the Treasurer or any individual member, at least seven days before the day of trial; and the Treasurer of said Corporation, or any individual member, shall be allowed to defend the same suit in behalf of said Corporation. And the said Corporation shall be liable to pay all damages that shall happen to any person from whom the toll is demandable, from defect of Bridges, or want of repairs in said road; and shall also be liable to presentment by the Grand Jury for not keeping the same in repair. And

Penalty for delaying passengers.

Corporation liable for damages, if the road is not kept in repair.

if the said road or any part thereof shall be suffered to be out of repair, the Justices of the Court of Common Pleas, within and for the County wherein the same may be, or a major part of them, or a Committee to be appointed for that purpose by said Justices, are hereby authorized to order said Gates or either of them to be set open, said Justices or their Committee having previously notified the Clerk of said Corporation of complaint having been made of the badness of the road, at least ten days previously to the ordering them to be set open; and immediately upon the leaving such order in writing under the hands of said Justices, or their Committee, with the Clerk of the Corporation, the said Gate or Gates shall be opened, and no toll shall be legally demandable or taken thereat untill the said Justices, or their Committee shall grant a counter order.

Penalty for  
injuring the  
road.

SEC. 4TH. *And be it further enacted*, That if any person shall cut, break down, or otherwise destroy or injure either of the said turnpike gates, or shall dig up or carry away any earth from said road, or in any manner damage the same, or shall forcibly pass, or attempt to pass by force either of said Gates, 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 said Corporation to their use, in an action of trespass on the case. And if any person with his team, cart, or horse, turn out of said road to pass either of the Gates, and again enter the said road with an intent to evade the toll due by virtue of this act, such person shall forfeit and pay three times as much as the legal toll would have been, to be recovered by the Treasurer of the Corporation to the use of the same, in an action of trespass on the case: *Provided* that nothing in this act shall extend to entitle the said Corporation to demand and receive toll from any person or persons 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 & ordinary business of family concerns within the same town, or from any person or persons passing on military duty.

Penalty for  
attempting to  
evade the Toll.

Proviso.

Shares deemed  
personal estate;  
may be trans-  
ferred, &c.

SEC. 5TH. *And be it further enacted*, That the shares in the said 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 the Corporation in a Book to be kept for that purpose. And when any share shall be attached on mesne process or taken on execution without such previous attachment, an attested copy of such writ of attachment or execution, shall be left with the Clerk of the Corporation, otherwise the 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 making sale of personal property on execution, the officer making the 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 fourteen days after such sale, and paying for recording the same, shall be deemed and considered as a sufficient transfer of such share or shares in the said turnpike road.

SEC. 6. *And be it further enacted,* That the said Corporation is hereby empowered to grant monies to such persons as rendered services to the proprietors in exploring the rout of the turnpike road or otherwise, previous to the act of incorporation.

Authorized to grant monies.

SEC. 7. *And be it further enacted,* That a meeting of said Corporation shall be held at the house of Solomon Noble, inholder in said Blandford, on Monday the thirteenth day of July next at ten o Clock in the forenoon, for the purpose of choosing a Clerk, who shall be sworn to the faithfull discharge of the duties of said office ; & such other Officers as may then and there be agreed on by said Corporation. And said Corporation may then and there make and establish such rules and regulations as they shall judge necessary, *provided* the same are not repugnant to the laws of this Commonwealth, for regulating the concerns thereof. And the said Corporation may then and there agree upon such method of calling meetings in future, as they shall judge proper.

First meeting, and the business to be transacted.

SEC. 8. *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 shall also annually exhibit to the Governor and Council a true account of the income or dividend arising from said toll, with their necessary annual disbursements on said road.

An account of income and expenses to be exhibited.

Penalty for drawing logs, &c. over the road.

SEC. 9TH. *And be it further enacted*, That if any person shall draw any log tree or stick of timber on or over said turnpike road, except in the months of January and February, unless said log, tree or stick of timber is loaded on a cart or sled, or one end thereof is raised on a sled, cart or other suitable carriage, he shall forfeit and pay to the said Corporation three dollars for every log, tree or stick of timber so drawn on or over said road, to be recovered by action of debt.

Shares of delinquents may be sold.

SEC. 10. *And be it further enacted*, That when 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 the necessary incidental charges, after duly notifying, in the News papers printed at Springfield and Stockbridge, the sum due on 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 sufficient transfer of the share or shares so sold, to the person or persons 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 books of the said Corporation, and such person shall be considered, to all intents, the proprietor thereof; and the overplus, if any there be, paid on demand by the Treasurer, to the person whose share was thus sold.

Sign-board to be erected.

SEC. 11. *And be it further enacted*, That the said Corporation shall, at the places where the said toll is collected, erect, and keep constantly exposed to view, a sign or board, with the rates of toll, and all the tollable articles, fairly and legibly written or printed thereon in large or capital characters.

Power of dissolving the corporation reserved.

SEC. 12. *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 said toll, shall have fully compensated the said Corporation for all monies they may have expended in exploring, purchasing, taking care of and repairing the said road, together with an interest thereon 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 complete the said turnpike road for the space of five years from the passing of this Act, the same shall become void and of no effect. *Approved June 19, 1801.*

### 1801. — Chapter 23.

[May Session, ch. 23.]

AN ACT TO INCORPORATE ROBERT LAPISH AND OTHERS INTO A COMPANY, FOR BUILDING A BRIDGE OVER KENDUSKEAG-STREAM, IN THE TOWN OF BANGOR, IN THE COUNTY OF HANCOCK.

SEC. 1ST. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the Authority of the same*, That Robert Lapish, and such others as have, or may hereafter associate with him, and become proprietors, be, and they are hereby incorporated, for the purpose of building a bridge over Kenduskeag-Stream, in the town of Bangor, in the County of Hancock, beginning on the Northerly side of said stream, at a point of Rocks on the place commonly called Budge's-farm, and near Budge's mine, so called, and to cross said stream, and a'join the Bank on the southerly side just above Mr. William Hammond's store, by the name of The Bangor Bridge and Mill Company; and they are hereby vested with all the rights, powers, and privileges usually given to corporations of a similar nature, and by the same name, and style, may sue, and be sued to final Judgment and execution, and do, and suffer all matters, and things, which bodies politic, and corporate, may or ought to do, and suffer, and shall have and use a common seal, which they may break, alter, and renew at pleasure.

Where the  
bridge is to  
be built.

Corporate  
name, &c.

SEC. 2. *And be it further enacted*, That the said proprietors be, and they are hereby impowered to purchase and hold land, or other real estate, which they shall find necessary to effect, the general purpose of said Bridge, not exceeding the amount of five thousand dollars in value, and to hold the same in fee simple; and that the share or shares of any proprietor in said real estate and bridge shall be transferable by deed, ac[k]nowledged, and recorded by the Clerk of the said proprietors in a Book, or Books to be kept for that purpose; and when any share or shares in said bridge and estate shall be attached on *Mesne*

Authorized  
to hold real  
estate.