

BRUSH HILL TURNPIKE. *March 16, An. 1805.*

by-laws and regulations as they shall judge necessary and convenient; and all the votes and doings of the said **Corporation** shall be by the Clerk fairly recorded in a book to be kept for that purpose.

[This Act passed *March 16, 1805.*]

An ACT to establish a **Corporation**, by the Name of the **Brush Hill Turnpike Corporation.**

SECT. I. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That Isaac Davenport, Joseph Billings, and Jeremiah Smith Boies, together with such persons as may hereafter associate with them, and their successors and assigns, shall be a Corporation by the name of The Brush Hill Turnpike Corporation; and by that name may sue and prosecute, and be sued and prosecuted unto final judgment and execution, and have and use a common seal, and exercise and enjoy all other privileges and powers, which are incident and usually given to similar Corporations, for the purpose of laying out, making and*

General powers.

Course of the
road.

keeping in good repair, a **turnpike** road, between *Davenport's Corner*, so called, near the west end of *Blue Hill*, in *Milton*, in the county of *Norfolk*, and near the four mile stone in *Roxbury*, near the dwelling-house of *Ebenezer Seaver*, Esq. as follows: Beginning at said *Davenport's Corner*, by the most favourable route, to the *Upper Bridge*, so called, near *Boies's Mills*, from thence, by the most favourable route, at or near the said four mile stone; and the said road shall not be less than sixty-six feet wide, and the path to be travelled on not less than twenty-four feet wide in any part thereof: And when the said **turnpike** road shall be well and sufficiently made, and shall be so approved by a Committee to be appointed by the Court of Common Pleas, within and for the county of *Norfolk*, then the said Corporation shall be authorized to erect two **turnpike** gates on the said road, one at or near the lane, near the house of *Benjamin Vose*, in *Milton*, and one at or near the lane, near the dwelling-house of *John White*, in *Dorchester*, in such manner and places as shall be appointed by a Committee of the Court of Common Pleas, within and for the said county of *Norfolk*: *Provided*, That the said **turnpike** gates shall not be erected on any road at present travelled.

Two gates al-
lowed.

Corporation
may hold lands.

SECT. 2. *Be it further enacted*, That the said **Corporation** may purchase and hold land over which they may make said road: and the Justices of the Court of General Sessions of the

may hold lands. . . . road ; and the Justices of the Court of General Sessions of the Peace within and for the said county, are hereby authorized, on the application of the said Corporation, to lay out the said road, or any part thereof, as they, with the consent of the said Corporation,

Digitized by G

BRUSH HILL TURNPIKE. *March 16, An. 1805* 567

poration, shall think proper, by a Committee from said Court ; and the said Corporation shall be liable to pay all damages which may arise to any person by taking his land for such road, (where the same cannot be obtained by voluntary agreement,)

to be estimated by said Committee, saving to either party the right of trial according to the law which makes provision for the recovery of damages arising from laying out highways; and if said Jury shall increase the damage estimated by such Committee, the said Corporation shall be holden to pay the cost of such Jury trial.

SECT. 3. *Be it further enacted*, That it shall be lawful for said Corporation to demand and receive at each gate, of each traveller or passenger, the following rates of toll, viz. For every coach, chariot, phaeton, or other four-wheel carriage, drawn by two horses, *twelve cents and five mills*; and if drawn by more than two horses, an additional sum of *one cent* for each horse; for every cart or waggon, drawn by two oxen or horses, *five cents*; and if drawn by more than two oxen or horses, the additional sum of one cent for each ox or horse; for every curricule, chaise, chair, or other carriage, drawn by one horse, *six cents two and one half mills*; for every man and horse, *two cents*; for every sled or sleigh, drawn by two oxen or horses, *three cents*; and if drawn by more than two oxen or horses, an additional sum of *one cent* for each additional ox or horse; for every sled or sleigh, drawn by one horse, *three cents*; for every horse-cart or waggon, drawn by one horse, *three cents* each; for all horses, mules, oxen or neat cattle, led or driven, beside those in teams, *five mills* each; for all sheep or swine, at the

Toll establish-
ed.

rate of *two cents* for each dozen: *Provided*, That said **Corporation** may, if they see fit, commute the rate of toll with any person, or with the inhabitants of any town, by taking of him or them a certain sum annually, to be mutually agreed upon, in lieu of the toll aforesaid.

SECT. 4. *Be it further enacted*, That if any person shall cut, break down or injure, or otherwise destroy the said **turnpike** gates, or shall dig up or carry away any earth from the said road, or in any other manner damage the same, or shall forcibly pass, or attempt to pass the said gate by force, with intent to avoid the payment of the legal toll at such gate or gates, such person shall forfeit and pay a fine not exceeding *ten dollars* nor less than *five dollars*, to be recovered by the Treasurer of the said **Corporation**, to their use, in an action of trespass: And if any person, with his team, cattle or horse, shall turn out of said road to pass the said **turnpike** gate, and again enter on said road, with an intent to evade the toll due by virtue of this Act, such person shall forfeit and pay *two dollars*, to be recovered by the Treasurer of said **Corporation**, to the use of the same, in an action of debt: *Provided however*, That nothing

Penalty for injuring gates or road, and for attempting illegally to evade the toll.

in

Exemptions
from toll.

in this Act shall extend to entitle the said Corporation to demand or receive toll of any person who shall be passing on foot, or with his horse or carriage, to or from public worship, or of any person for himself or his servants, horses, cattle, sheep, teams, cart, sled or sleigh, passing to or from his farm or land; or of any person passing to or from mill, or on the common and ordinary business of family concerns, or on military duty :

Provision for
broad wheels.

Provided also, That not more than half the toll beforementioned shall be paid for any cart or waggon, the fellyes of the wheels of which shall be not less than six inches broad, and that the General Court may hereafter regulate the toll on carts and waggons, according to the width of the fellyes of the wheels on which they shall run, and the burthens they shall carry.

Penalty for de-
laying travel-
lers, or exact-

SECT. 5. *Be it further enacted*, That if the said Corporation, or their toll-gatherers, or others in their employ, shall unreasonably delay or hinder any traveller or passenger, or shall demand or 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 *five dollars*, to be recovered before any

ing illegal toll. Justice of the Peace for the county of *Norfolk* by any person injured, delayed or defrauded, in a special action on the case; the writ in which case shall be served on the said Corporation, by leaving a copy of the same with the Treasurer, or with some individual member being within the county of *Norfolk*, or by reading the same to the said Treasurer or individual member, 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 said Corporation:— And the said Corporation shall be liable to pay all damages which may happen to any person from whom toll is demandable, for any injury which may be occasioned by defect of bridges or want of repairs in said way; and shall also be liable to presentment by the Grand Jury for not keeping the same in good repair.

Shares considered personal estate, and to be transferable.

SECT. 6. *Be it further enacted*, That the shares in the same turnpike road shall be taken and deemed and considered to be personal estate, to all intents and purposes, and shall and may be transferable; and the mode of transferring the said shares shall be by deed, acknowledged before any Justice of the Peace, and recorded in a book to be kept for that purpose, by the Clerk of said Corporation; and such shares shall be liable to attachment and execution.

SECT. 7. *Be it further enacted*, That when any Propri-

etor 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
Shares of delinquents to be sold, and mode prescribed.

Digitized by I

BRUSH HILL TURNPIKE. *March 16, An. 1805.*

569

one or more, as shall be sufficient to defray said taxes and necessary incidental charges, after duly notifying the same in

some newspaper printed in *Boston*, in the county of *Suffolk*, the sum due on any such share or shares, and the time and place of sale, at least twenty days previous to the day 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 the 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 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 shall have been thus sold.

SECT. 8. *Be it further enacted*, That *Isaac Davenport*, *Joseph Billings*, and *Jeremiah Smith Boies*, or any two of them, may appoint and notify a meeting of said **Corporation** for the purpose of choosing a Clerk, (who shall be under oath,) and such other officers as may be determined upon by said **Corporation**, for regulating the concerns thereof; and the said **Corporation** may then and there agree upon such method of calling future meetings as they may judge proper. First meeting.

SECT. 9. *Be it further enacted*, That the said **Corporation** shall, within six months after the said road is completed, Accounts of expenses, rec

lodge in the Secretary's office an account of the expenses thereof; and the said Corporation shall 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; and that the books of said Corporation shall be at all times subject to the inspection of a Committee of the General Court, and to the inspection of the Governor and Council when called for.

expenses, receipts & disbursements to be exhibited.

SECT. 10. *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 said road, together with an interest thereon at the rate of *twelve per cent.* by the year; and thereupon the property of the said road shall be vested in this Commonwealth, and at their disposal: *Provided however,* That if the said Corporation shall neglect to complete the said turnpike road for the space of two years from the passing of this Act, the same shall be void and of none effect.

Corporation may be dissolved when indemnified.

SECT. 11. *Be it further enacted,* That the said Corporation shall, at all the places where the said toll is collected, erect

Sign-board to be erected.

VOL. III.

8...7.

570

BATH ACADEMY.

March 16, An. 1805.

erect and keep constantly exposed to view, a sign-board, with the rates of toll of all the tollable articles fairly and legibly written or printed thereon in large or capital characters.

[This Act passed March 16, 1805.]