

ACTS

OF

THE GENERAL ASSEMBLY

2217 THE

22 02 1

COMMONWEALTH OF KENTUCKY,

PASSED

AT THE SESSION WHICH WAS BEGUN AND HELD IN THE CITY OF
FRANKFORT, ON MONDAY, THE 7TH OF DECEMBER, 1857,
AND ENDED WEDNESDAY, 17TH OF FEBRUARY, 1858.

Volume 1.

~~~~~  
PUBLISHED BY AUTHORITY.  
~~~~~

STANFORD LIBRARY

FRANKFORT, KENTUCKY.
A. G. HODGES, PUBLIC PRINTER,
1858.



CHAPTER 257.

1858.

AN ACT to incorporate the London, Somerset and Waitsborough Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That a company is hereby created, under the name and style of the "Somerset, London, and Waitsborough turnpike road company," for the purpose of making a gravel, McAdamized, or other artificial road from London to Somerset and Waitsborough, at steamboat navigation on the Cumberland river.

Corporate name and style.

§ 2. The following persons are appointed Commissioners to contract for and superintend the building of said road, and to locate the same: Edmund Jones, B. H. Sowder, Andrew Edwards, T. M. Simpson, Jesse Seares, James Dehuff, C. Wait, and their associates, be and they are hereby appointed Commissioners to locate, contract for, and superintend the construction of said road; and they and their successors are made a body corporate, and vested with all the necessary powers to carry out the object of this act.

Commissioner's names.

§ 3. That when said company shall be organized the Commissioners shall be the directors of said company, and shall elect one of their number as President; and said officers shall proceed to locate, build, and manage the same, having first taken an oath before some Justice of the Peace faithfully to perform the duties of their office, and to locate said road without favor or affection, to the best of their judgment.

President and Directors.

§ 4. If any of said officers shall die, resign, or refuse to act, or a vacancy shall occur in any way, it shall be filled by the remainder of the Board of Directors. The President and Directors shall appoint a Treasurer and such other officers as they may deem necessary, who shall hold their offices at discretion of the board; and the Directors may appoint others in their places. Before the Treasurer enters upon the duties of his office he shall execute bond, with one or more securities, payable to the company, that he will faithfully discharge the duties of his office, and account for and pay over all the money to the President and Directors of said company, or their order as such.

Vacancies—how filled.

To appoint officers.

§ 5. The grade, material, and width of said road shall be such as the President and Directors aforesaid may deem best, the artificial part not to exceed twenty feet in width, and the grade not to exceed four degrees; and said Directors shall have power to employ Surveyors, Engineers, and other agents to construct said road.

Grade, &c.

§ 6. That in case the corporation shall not be able to acquire the title to any lands over which they desire to run said road, by contract or voluntary cession, it shall be lawful for the corporation to appropriate the same to their

May enter upon lands.

1858.

use, for the purpose contemplated by this charter, by their complying with the provisions of the following section of this act; and they shall, upon the same terms and conditions, have power to condemn any stone, wood, gravel or other material that may be necessary to construct said road.

Right of way—
how acquired.

§ 7. The Directors shall present a petition to the Judge of the County Court of the county in which the lands, stone, gravel, or other material shall lie, setting forth the lands and material wanted for the construction of said road, or its appendages, and the names of the owners thereof, if known, distinguishing the parcels claimed by the respective owners, and praying for the appointment of appraisers to assess the damages which the owners of said lands, stone, timber, or gravel and other materials will sustain, severally, by reason of the appropriation aforesaid to the use of said corporation; and on the presentation of such petition said Judge shall appoint a day for the hearing of the parties interested, and shall direct reasonable notice to be given of the time and place of hearing; and if it shall appear that any of the owners of such property are unknown, infants, insane, or *femcs covert* it shall be the duty of the Judge to appoint some discreet person to represent them, and the Judge shall award him reasonable compensation for his services, to be paid out of the damages assessed against the corporation, if any, if not, then out of the estate of the party so represented. At the time of hearing the Judge shall appoint three disinterested free holders, residents of said county in which the land and materials are situated, to assess the damages, and in the order of their appointment shall direct what lands or property are to be appropriated by the corporation. Said appraisers, after being first sworn, shall proceed to assess the damages, and in the assessment of the damages they shall, in all instances give the party whose property is to be used full value for the property taken, but in estimating the incidental damages to the adjoining lands they may offset against them the advantages that will arise to said persons from making the road; and said appraisers shall report, in writing, under their hands, to the said Judge, within ten days from the receipt of their commission, their assessment of damages, together with the order of appointment, and shall designate what property they have valued; in case the appraisers do not agree the Judge shall appoint others; and on the judgment or tender of the damages the corporation shall be entitled to the land or property so valued and condemned; on the return of the assessment to the County Judge the owner of the land or materials may demand and have a jury summoned, or their assessment shall be binding.

1858.

§ 8. In case the judge of the county is interested, or a party, then the application for the appointment and proceedings named in the last section may be had before a special Judge, elected for the occasion.

When gates may be erected.

§ 9. Whenever five consecutive miles of said road are finished, and the same reported in the open County Court, and entered of record, it shall be lawful for said company to erect a toll gate, at which gate, and all others on said road, they shall charge no greater toll than the law permits on other turnpike roads in this State; and no gate shall be placed within less than two and one-half miles of London or Somerset; and the corporation shall not place more than one gate for every five miles of said road; but if the gates are more than five miles apart the toll may be increased in the same proportion. The Directors shall have power to appoint and remove gate keepers at their pleasure. The President and Directors shall have power to purchase and hold, for the benefit of the corporation, sites for toll gates, and erect buildings thereon; no person over whose lands said road runs shall be charged toll in their daily occupations, for going through the gates to get from one part of the farm to the other; no person shall be charged toll for going to or from church on said road on the Sabbath day.

Money in hands of Jarvis Jackson may be appropriated to this road.

§ 10. And as there are funds in the hands of Jarvis Jackson, of Laurel county, as a Commissioner, directed by act of General Assembly to be applied to the opening of a road from London, in Laurel county, to the Cumberland river; and as the route contemplated upon which to open said road is the same, as that of the road provided for in this charter, for a considerable portion of the distance towards Cumberland river: *Be it therefore enacted*, that the County Court of Laurel county shall have power, if it be desired so to do, to order an appropriation of such portion of said fund, now in the hands of Jarvis Jackson, to the road, the construction of which is provided for by this act, and shall place such sum under the control of the Directors under this charter; but said court, in making such order for the appropriation of the fund, shall be governed by a *pro rata* distribution of the fund according to the distance which the road, hereby chartered, shall be located on the same route as that to which the fund in the hands of said Jarvis Jackson was intended to be located, and the balance of said fund in the hands of said Jarvis Jackson shall be carried out on the balance portion of roads to which it was appropriated, by said Jackson, under the laws now in force in relation thereto.

Tax may be levied.

§ 11. The County Judges of Pulaski and Laurel shall, levy annually a tax of two cents on each hundred dollars of property in Laurel and Pulaski, subject to State revenue tax, for the purpose of building said road, and continue said tax until the road is completed.

1858.

Vote to be taken

§ 12. Before the County Judge carries into effect the last preceding section he shall cause a vote to be taken at the next August election of Laurel and Pulaski counties, of the persons qualified to vote for members of the General Assembly, and if a majority of those who vote at said election, for or against said measure, shall cast their votes in favor of levying the tax, then he shall order the tax to be levied and collected.

Tax, how collected.

§ 13. The tax so levied shall be collected by the Sheriff of the county as other taxes, and by him paid over to the Treasurer of said company, deducting therefrom two per cent. for his services; and he shall give to each person paying said tax a receipt therefor, which shall entitle the holder to that much stock in said company or corporation, and shall operate as a certificate of stock, and shall be assignable.

How dividends applied.

§ 14. All the dividends at any gate on said road shall be applied in aid of the construction of said road, and repairing the same, until completed; after the road is completed the net profits thereof shall be paid *pro rata*, semi-annually, to the stockholders in said road.

Laurel and Pulaski may appropriate money.

§ 15. That the County Courts of Laurel and Pulaski are hereby authorized to appropriate said sum or sums of money as they may deem proper, which shall be held as other stocks from individuals; and the Commissioners receipt for the same, which will entitle the holder thereof to their *pro rata* of dividends.

Boundaries of hands placed under control of the Commissioners.

§ 16. And that the boundaries of hands now allotted to the several surveyors of said road, in each county where said turnpike road may run, be placed under the control of the said Commissioners, as soon as they commence the building of said road under this act, who shall be vested with the same powers, and subject to the same penalties and restrictions, that surveyors now are, except in such cases as are otherwise provided in this act: *Provided*, That if the Directors see fit they may let out such portion of said turnpike road as thought right and proper, for such amount of stock in said road as may be agreed upon by the parties.

Capital stock.

§ 17. The capital stock shall be ten thousand dollars, with privilege to increase the same as may be necessary, divided into shares of twenty-five dollars each. The Directors of said road shall not receive more than one dollar per day for such services as may be rendered for locating and superintending the building of said turnpike road.

Approved February 9, 1858.