Statute II.
March 3, 1809.

Chap. XXXI.—*An Act to authorize the making of a Turnpike Road from Mason's Causeway, to Alexandria.*

Commissioners to be appointed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John Mason, David Wiley, Henry Foxall, John Cox and John W. Bronaugh, be, and they are hereby appointed and constituted a board of commissioners, a majority of whom to constitute a quorum, with full power to receive and enter in such book or books as they may deem proper, by themselves, or by their agents, subscriptions for raising a capital stock of twenty thousand dollars in shares of one hundred dollars each, for the purpose of opening, gravelling and improving a road from the west end of Mason's causeway to Alexandria, in the district of Columbia, the times, places, and manner of receiving and entering subscriptions, and the manner of authenticating powers of attorney, or other instruments of writing authorizing subscriptions to be made by any person or persons, in the name of any other person or persons, to be ascertained by said board of commissioners, and duly advertised in such gazettes or public prints as they may deem expedient: *Provided*, that the books for receiving and entering subscriptions shall be opened on or before the first day of May next, and that no subscription shall be received unless the sum of ten dollars be first paid into the hands of such agent or other person as said commissioners may authorize to receive it.

Directors to be appointed.

Sec. 2. *And be it further enacted,* That when any number of persons shall have subscribed one hundred and fifty shares or more of the said stock, the said commissioners, or a majority of them may, and when the whole number of shares aforesaid shall be subscribed, shall give notice in some newspaper, printed in the district of Columbia, of a time and place to be by them appointed for the subscribers to proceed to organize the said corporation, at which time and place the said subscribers, by a majority of votes to be delivered by ballots in person, or by proxy duly authorized, shall elect one president and four directors, to conduct the business of said company for one year, and until other such officers shall be chosen in their place, and may make such rules, orders, and regulations, not inconsistent with the constitution and laws of the United States, as shall be necessary for the well being of the affairs of said company: *Provided always,* that no stockholder shall, in person or by proxy, have more than ten votes at any election, or in determining any question arising at such meeting, whatever number of shares he or she may hold, and each stockholder, in person or by proxy, shall be entitled to one vote for every share by him or her held under said number; and all persons who may then be, or thereafter may become, the actual holders or proprietors of shares in the said capital stock, either as subscribers for the same, or as the legal representatives, successors, or assignees, of such subscribers, shall become one body politic and corporate, in deed and in law, by the name and style of the president, directors and company of the Georgetown and Alexandria turnpike road, and by the said name shall have perpetual succession, and all the privileges incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same by new subscriptions, if such enlargement shall be found necessary, to fulfil the intent of this act, and of purchasing, taking, and holding to them and their successors and assigns in fee simple, or for any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary or useful to them in the prosecution of their works, and of suing and being sued, of having a common seal, the same breaking and altering at pleasure, and of doing all and every other matter and thing concerning the subject aforesaid, which a corporation or body politic may lawfully do.

Proviso, as to the powers of voting.

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Meetings of the company. Their powers.

Sec. 3. *And be it further enacted*, That the said company shall meet on the first Monday in February, in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such officers as aforesaid for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the president and directors aforesaid, at which annual or special meetings they shall have full power and authority to do and perform any act by law allowed, and pertaining to the affairs of said company.

Printed certificates of shares, &c. &c.

Sec. 4. *And be it further enacted*, That the president and directors shall procure printed certificates for all the shares of said stock, and shall deliver one such certificate, signed by the president, to each person for every share by him or her subscribed and held, which certificate shall be transferable, at his or her pleasure in person, or by attorney, in the presence of the president or treasurer, subject however to all payments due or to grow due thereupon; and the assignee holding such certificate, having caused the assignment to be entered in a book of the company to be kept for that purpose, shall be a member of said company, and for every certificate by him held, shall be entitled to one share in the capital stock and estate of said company; and if any stockholder, after thirty days' notice in a public paper printed in each of the towns of Alexandria and Georgetown, of the time and place appointed for the payment of any portion or dividend of the sum subscribed in said stock, shall neglect to pay the same for the space of thirty days after the time so appointed, the share or shares on which such delinquency has taken place shall be forfeited to the said company, and may be sold by them to any person or persons, willing to purchase, for such price as can be obtained, and in case such share or shares should not, on a sale so to be made, produce a nett sum equal to the portion or dividends then remaining to be paid thereon, such deficiency may be recovered of the person or persons, so failing to pay, by warrant from a justice of the peace, if the amount shall not exceed twenty dollars, and if the sum so due shall exceed twenty dollars, the same may be recovered by motion, in the name of the said company, on ten days' notice, in any court of record in the county or district where the debtor may be found; and in all such warrants and motions the certificate of the clerk or recording officer of the said company shall be conclusive evidence of the defendant's being a member of the company, and prima facie evidence of the amount due on the share or shares held by such defendant.

Penalty on non-payment of instalments on shares.

Meetings of the president and directors.

Sec. 5. *And be it further enacted*, That the said president and directors shall meet at such times and places as shall be agreed upon for transacting their business; at which meetings any three members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to appoint a treasurer, and agree with and appoint all such surveyors, intendants, artists, or other agents as they shall judge necessary to carry on the intended works, and to fix their salaries, wages or compensation; to direct and order the times, manner, and proportions, when and in which the stockholders shall pay monies due on their respective shares; to draw orders on the treasurer for all monies due from the said company, and generally to do and transact all such other matters, acts and things, as by the by-laws, rules, and regulations of said company, shall be required or permitted.

Route or course of the road.

Sec. 6. *And be it further enacted*, That the said president and directors shall cause to be surveyed, laid down, ascertained and fixed, the said turnpike road, from the west end of Mason's causeway, and passing near to the head of the tide water of Four Mile run, at a place called Adam's Mill, and thence to the limits of Alexandria, in such route or track for the same, as in the best of their judgment and skill

will combine shortness of distance with the most convenient ground, and the smallest expenditure of money; and it shall be lawful to and for the said president and directors, their surveyors and agents, to enter upon all and every the lands and enclosures in, through and over which the said turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone, and gravel, and other materials in the vicinity, that will be useful in making the said road: *Provided*, that the said road shall not be so laid out as to intersect the road laid out and established by the Washington and Alexandria turnpike company, without the consent of the said company. Proviso.

Property thro' which the road is to pass, how to be condemned.

SEC. 7. *And be it further enacted*, That it shall and may be lawful to and for the president and directors, by and with their superintendents, artists and labourers, with their tools and instruments, with carts, wagons and other carriages, and beasts of draft or burthen, to enter upon the lands in, over or near to which the route or tract of the said intended road shall pass, first giving notice of their intention to the owners thereof, or their representatives, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done, by a reasonable agreement, if they can agree; but if they cannot agree, then by appraisement, to be made upon oath or affirmation, by three indifferent freeholders or any [two] of them agreeing, to be mutually chosen, or if they cannot agree in a choice, or if the owners upon due notice shall neglect or refuse to join in the choice, then to be appointed by one of the judges of the circuit court of the district of Columbia, and having tendered the appraised value so as aforesaid to be made, it shall be lawful to cut, dig, take, and carry away any logs, stone, gravel, sand, or earth most conveniently situate for making or repairing said road; and it shall and may be lawful for the said president and directors, or a majority of them, to agree with the owners of any ground to be occupied by the road, and the necessary toll houses and gates for the right thereof; and in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non compos, or out of the district, on application to one of the judges of the said circuit court, the said judge shall issue a warrant, directed to the marshal of the district, to summon a jury of twenty-four inhabitants of the district of Columbia, of property and reputation, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten, nor more than twenty thereafter; and the marshal upon receiving the said warrant, shall forthwith summon the said jury, and when met, provided there be not less than twelve, shall administer an oath or affirmation to every juryman that shall appear, that he shall faithfully, justly and impartially, value the lands and all damages the owner thereof shall sustain, by opening the road through such land, according to the best of his skill and judgment, and that the inquisition thereupon taken, shall be signed by the marshal and by the jurymen present, and returned by the marshal to the clerk of the county, to be by him recorded; and upon every such valuation, the jury is hereby directed to describe and ascertain the bounds of the land by them valued; and their valuation shall be conclusive upon all persons, and shall be paid by the president and directors to the owner of the land or his or her legal representative, and on payment thereof, said land shall be taken and occupied for a public road and for the necessary toll houses and gates, for ever. The said president and directors shall cause the said road to be laid out, not exceeding eighty feet in width, twenty-four feet whereof in breadth, at least, shall be made an artificial road of stone, gravel or other hard substance, of sufficient depth or thickness, to secure a solid and firm road, with a surface as even as the materials will admit, and so nearly level Proceedings.

Dimensions and quality of the road.

as that it shall in no place rise or fall more than an angle of four degrees with an horizontal line; and the said road shall for ever hereafter be maintained and kept in good and perfect repair; and wheresoever any bridge over any part of the said road shall be deemed necessary, the same shall be built of sound and suitable materials.

When the tolls may become receivable.

Sec. 8. *And be it further enacted*, That so soon as the president and directors shall have perfected the said road from the west end of Mason's causeway to Alexandria, and in the route aforesaid, they shall give public notice thereof in some newspaper printed in the district of Columbia, and it shall be lawful for them thereafter to erect and fix such and so many gates or turnpikes not exceeding three, upon and across the said road, as shall be necessary and sufficient to collect the tolls herein after granted to the said company, and it shall be lawful for them to appoint such and so many toll-gatherers as they shall deem necessary to collect and receive of and from all and every person and persons using the said road, the tolls and rates herein after mentioned, and to stop any person or persons, riding, leading, or driving any horses, mules, cattle, hogs, sheep, sulkey, chair, chaise, phaeton, chariot, coach, cart, wagon, sleigh, sled, or any carriage of burthen or pleasure, from passing through the said gates, until the said tolls shall be paid, that is to say; for the whole distance in length of said road, and so in proportion for any lesser distance, viz. For every score of sheep, eight cents; for every score of hogs, eight cents; for every score of cattle, sixteen cents; for every horse or mule with or without a rider, four cents; for every sulkey, chair, chaise, or carriage of pleasure, with two wheels and one horse, eight cents; for every coach, chariot, stage wagon, coachee, phaeton or chaise, with four wheels and two horses, sixteen cents; for any carriage last mentioned with four horses, twenty cents; for every other carriage of pleasure under whatever name it may go, the like sums, according to the number of wheels and horses in proportion aforesaid; for every sled or sleigh used as a carriage of pleasure, six cents for each horse drawing the same; for every sled or sleigh used as a carriage of burden, four cents for each horse drawing the same; for every cart or wagon whose wheels do not exceed four inches in breadth, five cents for each horse drawing the same; for every cart or wagon whose wheels shall exceed in breadth four inches, and not exceed seven inches, three cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches, and not more than ten inches, two cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches and not exceed twelve inches, one and a half cents for every horse drawing the same; and that all such carriages as aforesaid, to be drawn by oxen in the whole or partly by oxen, or to be drawn by mules in whole or part, two oxen shall be estimated as equal to one horse in charging all the aforesaid tolls, and every mule as equal to one horse: *Provided*, that no turnpike gate shall be erected within one mile of the line of the town of Alexandria.

Rates of tolls.

No gate to be erected within one mile of Alexandria.

Regulations to be made by the president and directors.

Sec. 9. *And be it further enacted*, That it shall be lawful for the said president and directors, by their by-laws, to make any rule or regulation respecting the burdens on carriages to be drawn over the said road, which shall be deemed reasonable and proper, and from time to time to alter the same; and the said president and directors shall cause mile-stones to be placed on the side of said road, noting the distance from the north bounds of Alexandria, and at every gate or turnpike, shall cause the distance from the north bounds of Alexandria, and the distance from the west end of Mason's causeway, to be marked in legible characters on some conspicuous part of said gate; and shall cause, also, to be affixed at such places, a printed list of the tolls, which may be demanded of those using the said road; and for every day the same shall

Mile-stones to be put up.

List of tolls to be marked on the gates.

be neglected, they shall forfeit and pay one dollar, to be recovered by warrant, by any person who shall sue for the same: all wagoners and drivers of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by another carriage of slower draft going in the same direction, keep their horses and carriage on the right hand side of the said road, leaving the other side of the road clear and free for other carriages to pass and repass; and if any driver shall offend against this provision, he shall forfeit and pay two dollars to any person obstructed in his passage, who shall sue for the same, to be recovered, with costs, before any justice of the peace, in the same manner as small debts are recoverable; and moreover, shall be liable to the party injured, by suit at common law, for any special damage done.

Penalties for obstructing the road.

Sec. 10. *And be it further enacted*, That the president and directors of the said company shall keep, or cause to be kept, fair and just accounts of all monies to be received by them from the said commissioners, and from the stockholders, or subscribers to the said undertaking, on account of their several subscriptions or shares, and of all monies by them to be expended, in the prosecution of their said work, and shall once, at least, in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges, and expenses of effecting the same shall be fully liquidated, paid and discharged; and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said stockholders to be convened according to the provisions of this act, or their own by-laws and rules, to increase the number of shares to such extent as shall be necessary to accomplish the work, and to demand and receive the monies subscribed for such shares, in like manner and under the like penalties, as are herein before provided for the original subscriptions, or as shall be provided by their by-laws.

President and directors to cause accounts to be kept, &c.

May increase the stock.

Sec. 11. *And be it further enacted*, That the said president and directors shall also keep, or cause to be kept, just and true accounts of all the monies to be received by their several collectors of tolls at the turnpike gates on the said road, and shall make and declare a half-yearly dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the holders of said stock, and shall publish the half-yearly dividend aforesaid, in some newspaper printed in the district of Columbia, and at the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Dividends, how to be made and accounted for.

Sec. 12. *And be it further enacted*, That it shall be the duty of the said corporation to keep the said road in good repair; and if in neglect of their said duty, the said corporation shall at any time suffer the said road to be out of repair, so as to be unsafe or inconvenient for passengers, the said corporation shall be liable to be presented for such neglect before any court of competent jurisdiction, and upon conviction thereof, to pay to the United States a penalty not exceeding one hundred dollars, at the discretion of the court, and shall also be responsible for all damages which may be sustained by any person or persons in consequence of such want of repair, to be recovered in an action of trespass on the case in any court competent to try the same: *Provided always, and be it further enacted*, That whenever the nett proceeds of tolls collected on said road shall amount to a sum sufficient to reimburse the capital, which shall be expended in the purchase of said land and making said road, and twelve per cent. interest per annum thereon, to be ascertained by the circuit court of the United States, in and for the district of Columbia, in the county of Alexandria, the same shall become a free road, and

Road to be kept in repair.

Penalty.

When the road shall become a free one.

toll shall be no longer collected thereon; and said company shall annually make returns to said circuit court of the amount of tolls collected, and of their necessary expenses, so as to enable said circuit court to determine when said toll shall cease.

Penalty for evading the payment of tolls.

Sec. 13. *And be it further enacted*, That if any person or persons, riding in, or driving any carriage of any kind, or leading, riding or driving any horses, sheep, hogs, or any kind of cattle whatever, on said road, shall pass through any private gate, bars or fence, or over any private way or passage, or pass through any toll-gate under any pretended privilege or exemption, to which he or she, or they, may not be entitled, or do any act or thing with intent to lessen or evade the tolls for passing through the gates established under this act, such person or persons, for every such offence, shall forfeit to the said president and directors, not less than three, nor more than ten dollars, to be recovered before any justice of the peace, with costs, in the same manner that small debts are recoverable: *Provided*, that it shall not be lawful for the company to ask, demand or receive from or for persons living on or adjacent to the said road, who may have occasion to pass by said road upon the ordinary business relating to their farms, so far as the limits of the same may extend on the road, who shall not have any other convenient road or way by which they may pass from one part to another part thereof, any toll for passing on or by the said turnpike.

Proviso.

Approved, March 3, 1809.

Statute II.

March 3, 1809.

Chap. XXXIII.—*An Act authorizing an augmentation of the Marine Corps.*(*a*)

Act of July 11, 1798, ch. 72. Act of March 2, 1799, ch. 37. Augmentation of the marine corps authorized.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States shall be, and he is hereby authorized to cause the marine corps in the service of the United States, to be augmented, by the appointment and enlistment of not exceeding one major, two captains, two first lieutenants, one hundred and eighty-five corporals, and five hundred and ninety-four privates, who shall be respectively allowed the same pay, bounty, clothing and rations, and shall be employed under the same rules and regulations to which the said marine corps are, or shall, be entitled and subject.

Term of establishments.

Sec. 2. *And be it further enacted*, That from and after the passage of this act, all enlistments in the said corps, shall be for the term of five years, unless sooner discharged, any law to the contrary notwithstanding.

Approved, March 3, 1809.

Statute II.

March 3, 1809.

Chap. XXXIV.—*An Act supplemental to the act intituled "An act for establishing trading houses with the Indian tribes."*(*b*)

[Obsolete.]

Further appropriation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a sum, not exceeding forty thousand dollars, in addition to the sum heretofore appropriated for the purpose of carrying on trade and intercourse with the Indian nations, in the manner prescribed by the act, intituled "An act for establishing trading houses with the Indian tribes," be, and the same is hereby appropriated, to be paid out of any monies in the treasury of the United States, not otherwise appropriated.

Act of April 18, 1796, ch. 13. Act of April 21, 1806, ch. 48. Act of March 2, 1811, ch. 30.

Appropriation for an additional clerk in the superintendent's office.

Sec. 2. *And be it further enacted*, That the sum of eight hundred dollars be, and the same is hereby appropriated out of any monies in the treasury of the United States not otherwise appropriated, for an additional clerk in the office of the superintendent of Indian trade.

(*a*) See notes of the acts passed relating to the Marine Corps, vol. i. 594.
(*b*) See notes to the act of April 18, 1796, chap. 13.