

No. 77.

A FURTHER SUPPLEMENT

To the act entitled, "An act authorizing the Governor to incorporate the Tioga Navigation company."

Company authorized to locate rail road, and to extend the same to the Williamsport and Elmira road.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That the president and directors of the Tioga Navigation company shall have power to survey, lay down, ascertain, make and fix such route as they shall deem expedient for a rail road, as authorized by the first section of a supplement to the act to which this is a further supplement, and also to extend the same to the Williamsport and Elmira rail road, having due regard to the situation and nature of the ground, and of the buildings thereon, the public convenience and the interest of the stockholders, and so as to do the least damage to private property; and the said rail road shall not be more than five rods wide, and shall not pass through any burying ground nor place of public worship, or any dwelling house, without the consent of the owner or owners thereof, nor shall it pass through any out buildings of the value of five hundred dollars, without such consent.

Width, &c.

SECT. 2. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the said president, directors and company, and their agents, and all persons employed by or under them for the purpose contemplated in this act, to enter upon any land which they shall deem necessary for laying out said road.

Right of entry upon lands.

SECT. 3. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said company to make, erect and establish a rail road, on the route laid out as aforesaid; and they are also hereby empowered to erect, make and establish, all works, edifices and devices, to such rail road, as may by the said company be deemed expedient for the purpose of carrying into effect the objects of their incorporation; and also to contract or agree with the owner or owners, for the purchase of any lands or tenements which may be necessary, for the purpose of erecting the said rail road.

Authority to construct works.

Arrangement for ascertaining damages.

SECT. 4. *And be it further enacted by the authority aforesaid,* That whenever it shall be necessary for the said president, directors and company, to enter in and upon and occupy, for the purpose of making said rail road, any land upon which the same may be located, if the owner or owners of the said land shall refuse to permit such entry and occupation, and the parties cannot agree on the compensation to be made for any injury or supposed injury that may be done to said land, by such entry and occupation, it shall and may

be lawful for the parties to appoint three suitable and dis- Parties to ap-
 interested persons to estimate such damages, who shall be point viewers
 under oath or affirmation, fairly and impartially to estimate
 the same, and shall reside within the county of Tioga, and
 the expenses incurred by the said appraisers shall be de-
 frayed by the said rail road company; but if the parties can-
 not agree upon such persons, or if the parties so chosen shall
 not decide upon the matter, or if the owner of such land
 shall refuse or neglect to join in such appointment within
 twenty days after the requisition for that purpose upon him,
 or if such owner shall be a feme covert, under age, non com-
 pos mentis, out of the state, or unknown, then it shall be
 lawful for the court of Common Pleas of the county in which Or Court
 the land lies, on application of either party, and at the cost may appoint.
 and charges of said corporation, to appoint three disinterested
 men of said county, to view, examine and survey the said
 lands, tenements or hereditaments, and estimate the injury
 or damage, if any, that in their apprehension will be sus-
 tained as aforesaid, by reason of said rail road, and report
 the same, under their oaths or affirmations, to the said court,
 which report being confirmed by the said court, judgment Confirmation
 shall be entered thereon, and the viewers shall be entitled of report.
 to the like fees for their services, as are allowed by law to Viewers fees,
 viewers of public roads and highways, to be paid by said &c.
 company; and it shall be the duty of the said appraisers, in
 estimating such injury or damage, to take into consideration
 the advantages that will be derived to the owner or owners
 of the said lands, from the said rail road: *Provided*, That Proviso.
 either party may appeal to the court within thirty days after Right of ap-
 such report may have been filed in the prothonotary's office peal.
 of the proper county, in the same manner as appeals are
 allowed by the provisions of the arbitration act of the year
 eighteen hundred and ten; and upon the coming in of such
 report and the confirmation thereof, or upon final judgment
 or appeal therefrom, and the said company paying to such
 owners the sum in such report or judgment specified, in full Payment of
 compensation for said lands, or for the injury sustained as award to vest
 aforesaid, the said company shall become seized of the same rights.
 estate, in the said lands which the owner held in the same;
 and they, and all who act under them, shall be acquitted
 and freed from all responsibility for, and on account of such
 injury: *Provided*, That upon payment, or tender of payment 2d proviso.
 by the said company, of the sum specified in the report of Upon tender
 said viewers or appraisers, to the owner of said land, the of award, co.
 president and managers of said company, their agents or not to await
 contractors for making or repairing the said road, may im- issue of ap-
 mediately take and use the same, without awaiting the issue peal.
 of proceedings as herein before prescribed.

SECT. 5. *And be it further enacted by the authority afore-
 said*, That the said rail road shall be so constructed by the

Forbidden to obstruct other roads. said company, as not to obstruct or impede the free use and passage of any public road or roads, which may cross or enter at the same, being now laid out, or hereafter to be laid out; and in all places where the said rail road may cross, or in any way interfere with any public road, it shall be the duty of the said company to make, or cause to be made, a

Causeways to be erected.

good and sufficient causeway or causeways, to enable all persons passing or travelling such public road, to cross and pass over or under the said railway, which causeway or causeways shall be made and maintained by the said company; and if the said company shall refuse or neglect to make such causeway or causeways, or when made to keep the same

Liability to penalty.

in good repair, they shall be liable to pay a penalty of ten dollars for every day the same shall be neglected or refused to be made or repaired, after having been duly notified thereof, to be recovered by the supervisor of the township, with costs, for the use of the township, as debts of like amount are by law recoverable, and shall, moreover, be liable to an action or actions, at the suit of any person who may be aggrieved thereby; and the service of process upon any officer of said company, shall be as good and available in law, as if served upon the president thereof.

Damages for neglect.

Service of process.

SECT. 6. *And be it further enacted by the authority aforesaid,* That for the accommodation of all persons owning or possessing land through which the said rail road may or shall pass, and to prevent inconveniencies to such persons

Causeways to be constructed for land holders.

in crossing or passing the same, it shall be the duty of said company, when required, to make or cause to be made, good and sufficient causeway or causeways, wherever the same may be necessary, to enable the occupant or occupants of said lands to cross or pass over or under the same, with wagons, carts and implements of husbandry, as the occasion may require: *Provided,* That the said company shall in no

Proviso.

case be required to make, or cause to be made, more than one such causeway through each plantation or lot of land; for the accommodation of any one person owning or possessing land through which the said rail road may or shall pass; and where any public road shall cross the said rail road, the person owning or possessing land through which the said public road shall pass, shall not be entitled to make

Where they may be dispensed with.

such requisition on said company; and the said causeway or causeways, when so made, shall be maintained and kept in repair by said company; and if said company shall refuse or neglect to make such causeway or causeways, or when made, to keep the same in good repair, when duly notified thereof, the said company shall be liable to pay any person aggrieved thereby, all damages sustained by such person, in consequence of said refusal or neglect, to be sued for and recovered before any magistrate or any court having cognizance there-

Penalty and damages for neglect.

of; and the service of process upon any officer of said company, shall be as good and available in law, as if served upon the president thereof. Service of process.

SECT. 7. *And be it further enacted by the authority aforesaid,* That no suit or action shall be brought or prosecuted by any person or persons for penalties incurred under this act, unless said suit or action shall be commenced within twelve months next, after the offence shall have been committed, or the cause of action shall have accrued; and the defendant or defendants in such suit or action, may plead the general issue, and give this act, and the special matter in evidence, and that the same was done in pursuance, and by authority of this act. Penalty suits to be brought within 12 months.

SECT. 8. *And be it further enacted by the authority aforesaid,* That the said company shall not prevent any person or persons, being the owner or owners of land bordering on said rail road, or adjacent thereto, from making such lateral rail roads, and to connect them with said rail road, from their said lands, as the said person or persons may conceive necessary. Other roads to be permitted to intersect.

SECT. 9. *And be it further enacted by the authority aforesaid,* That on the completion of the said rail road, the said company may charge and receive tolls, and for freight in, and for the transportation of goods, wares, and merchandize, and for the conveyance of passengers at the following rates, that is to say: On each ton of produce, minerals, or other commodities, not herein enumerated below, two cents per mile; for boards, plank, scantling, or other sawed stuff, reduced to inch measure, two cents per thousand feet; and for shingles, one cent on each one thousand thereof; and all fractions, not less than half a ton, shall be considered a ton, and on empty cars, or those carrying less than half a ton, one cent each; on all passengers, excepting only such as are necessarily engaged in conducting the cars, one cent each per mile, but no person or persons shall ride, lead, drive, or pass along said railway, any horse or horses, cattle, or any animal of what kind soever, nor place any car, or other carriage thereon, without a permit or license, first had and obtained from said company, subject to such rules and regulations as shall from time to time be established by the said company, to govern the use of said rail road: *Provided,* That on the completion of one track of a section of five miles of said rail road, the said company shall be at liberty to charge and receive tolls according to the rates aforesaid: *And provided also,* That all persons using the said road, shall only use those cars, wagons and conveyances, which shall be adapted thereto, which said cars, wagons and conveyances, to be used thereon, for the transportation of persons or commodities, shall be prescribed by the said company: *And provided further,* That whenever the nett proceeds shall exceed twelve per cent. per annum Rates of toll, &c. Proviso. Use of road by sections of 5 miles. 2d proviso. Company to regulate cars. 3d proviso.

Half of profits on the capital expended, one half of the said excess shall be over 12 per ct. paid into the State Treasury for the benefit of the education to go to education fund.

Persons doing wilful injury to works of company liable to penalty and indictment.

SECT. 10. *And be it further enacted by the authority aforesaid,* That if any person or persons shall wilfully and knowingly break, injure, or destroy the rail road, or any part thereof, or any work, edifice, or device, or any part thereof, to be erected by the said company in pursuance of this act, he, she, or they, shall forfeit and pay to the said company, the actual damages so sustained, to be sued for and recovered, with cost of suit, in any court having cognizance thereof, by action of debt, in the name and for the use of said company, and shall also be subject to indictment in the court of Quarter Sessions of the proper county; and upon conviction of such offence shall be punished by fine and imprisonment, at the discretion of the court.

Part of 25th section of original law repealed.

SECT. 11. *And be it further enacted by the authority aforesaid,* That so much of the twenty-fifth section of the act to which this (is) a further supplement as restricts said company from engaging in the transportation of merchandize, lumber, coal, grain, flour, on any other article, be and the same is hereby repealed.

Reservation of right to resume privileges.

SECT. 12. *And be it further enacted by the authority aforesaid,* That if the said company shall at any time hereafter misuse or abuse any of the chartered privileges hereby granted, the Legislature may, at any time thereafter, resume all and singular the rights, privileges and franchises hereby granted to the said company.

SAM'L. ANDERSON,

Speaker of the House of Representatives.

JESSE R. BURDEN,

Speaker of the Senate.

APPROVED—The fourth day of April, A. D. one thousand eight hundred and thirty-three.

GEO. WOLF.

No. 78.

A SUPPLEMENT

To an act entitled, "An act to improve the navigation of the Susquehanna river."

Preamble.

WHEREAS, by an act of the thirty-first of March, one thousand eight hundred and twenty-three, for improving the navigation of the river Susquehanna, a course was directed to be made along the York county shore from Vinegar's