No. 285.

AN ACT

For the relief of the creditors of the Tioga navigation company; and relative to the claim of William Roberts, an old soldier.

SECTION 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 a new stock of the Tioga navigation company shall be created by a combination of the interests of the present holders of stock, loan and other claims against said company, in the following manner; that is to say, the nominal or par value of each share of stock shall continue to be as heretofore, fifty dollars; and for every one share of stock now existing, the holders shall be entitled to receive one share of new stock; shares of stock less than half paid up shall not be admitted, unless the owner or owners thereof shall, at the time of such combination and consolidation, under the notice hereinafter required to be given, pay in to the treasurer of said company a sum sufficient to make one-half of said share or shares; shares more than half paid up shall be counted at such less number as the payments would make of full stock: the holders of the first mortgage loan shall be entitled to receive one share of stock for every fifty dollars of the amount due upon said loan; holders of other mortgage debts, judgments or any other legal claim whatever, shall be entitled to receive one share of stock for each fifty dollars of the principal of such claim or debt, and where fractional parts of a share of stock may be due to any holder of stock or loan, such fraction shall be issued to such holder in the nearest tenth part of a share: *Provided,* That no dividend shall at any time be declared upon any such fractional part of a share: *Provided further,* That when stock or loan notes or other securities are held by any party as collateral security, the holder shall only be entitled to consolidate one class of claim at his option, and deliver up the other to be cancelled; and the stock resulting from such first mortgage or loan, shall be entitled to receive, as at present, the guaranty from the state so long as it shall be paid, and shall have, on the receipt of dividends, up to six per cent., a preference over all other stock of said company, except stock or loan to be issued as herein provided for the purpose of re-laying the road.

New stock of the Tioga navigation company to be created.

Proviso.

Proviso.

SECTION 2. It shall be the duty of the board of directors of the said Tioga navigation company, as soon after the passage of this act as may be, to open books and receive the subscriptions of such holders of loan, stock or other claims as may assent to the provisions of the same, which books shall be kept open for the space of not less than twenty days; after the expiration of which time the said directors shall call a meeting, whereof fifteen days' public notice shall be given in one weekly newspaper published respectively in the cities of New York and Philadelphia, and in Tioga county, Pennsylvania, of such holders of loan, stock and other claims as shall, in writing, have signified their assent as aforesaid, which meeting shall, by a majority of votes to be taken and counted as directed in section four of the original charter of this company, determine to carry out the provisions of this act, or to decline the same; and if said meeting shall resolve to decline the same, then the

Open books.

said holders of loan, stock and other claims shall continue to possess respectively, all the rights which they now hold or are entitled to; but if said meeting shall resolve to carry out the provisions of this act, then the said directors shall forthwith proceed to call in and receive the surrender of all existing certificates of stock, loan or other evidences of debt of such assenting holders, and to issue new shares of stock to the holders thereof, agreeably to the requisitions of the preceding section.

SECTION 3. That all holders of stock, loan or other claim who desire to retain their present rights and legal position, shall, on or before the first of June next, notify, in writing, the president of the company of their dissent to this act; and all such holders of stock, loan or other claim, who shall fail to notify their dissent, shall be taken and considered to have assented thereto, as fully as if such assent had been given in writing. If any holder of stock, loan or other claim, who shall have assented in writing, or who shall have neglected to notify their dissent, shall neglect or refuse to deliver up his certificates or other evidences of debt, on or before the first of June next, it shall be the duty of the directors to prepare and execute the proper certificates of stock, for such person or persons in their names, or the names of their agents or representatives, as the said directors may be able to ascertain the same, and to file such certificates among the archives of the company, to be delivered to the proper owners whenever the old certificates of other evidences of debt shall be surrendered; and from the time when such certificates shall be executed and filed, the endorsement of which shall be evidence of the fact, the said holders of stock, loan or other claim, so neglecting, shall forfeit all right whatsoever under their original claim, except as against non-assenters, as provided in section fifth of this act.

Holders of stock loan, &c., to give notice of their desire to retain their present rights.

SECTION 4. All persons holding loans or stock of this company, or any claims against the same, in any fiduciary capacity, or acting as agents or attorneys for persons residing out of the state, shall be by all the courts of this commonwealth, held to be fully justified by this act, in consenting to such compromise or consolidation, and in giving up their present certificates of loan or stock, or other evidences of indebtedness, and accepting certificates of new stock as heretofore provided for; and if the cestui que trust or principal shall, at any time, seek to hold such trustees to any accountability for so doing, such trustees may give this act in evidence as a bar to such attempt.

Persons holding loans or stock in a fiduciary capacity held to be fully justified by this act in consenting, &c.

SECTION 5. That any holder of loans or claims against said company, who shall assent to the provisions of this act, shall, as against the non-assenting holders of loans or claims, notwithstanding the surrender of his certificates of loan or other evidences of debt, and the acceptance of certificates of new stock in lieu thereof, continue to be entitled to all the benefit and advantage and legal right that now belong to him, as fully as if such exchange of certificates or evidences of debt had not been made, and as fully as the non-assenting holders of loan or other claims are or may be, until all the holders of loan and other claims as aforesaid, shall have assented to this act; and no such non-assenting holder of loan or claim shall, by any means be benefitted, or the position of his claim be improved by such agreement of those assenting to the provisions of this act, but in any judgment, order or decree of any court, made or given in favor of such non-assenting person, the proportion that his claim would have borne to the whole, and the position it would have occupied if none had assented thereto, shall be assigned to such non-assenting person; and in case of suit by any of the non-assenting loan-holders or claimants, this company are hereby authorized to appear in court in behalf of all or any such assenting persons, and in their place and as their agents, to urge the claim of such assenting persons

Holder of loans or claims, relative to.

as fully as they in person could or might do, if no such assent had been given.

Notice to be given to the governor of the acceptance of this act.

Annual report.

SECTION 6. And it shall be the duty of the president of the company, under his oath or affirmation, on or before the first of January next, to notify the governor of this commonwealth, whether this act shall have been accepted or rejected, at the meeting called as directed in section second; and annually thereafter, on or before first of January in each year, to report to the governor the progress made in re-laying the track between Blossburg and the New York state line; and in case this act shall be accepted at such meeting aforesaid, the commonwealth of Pennsylvania, instead of being liable for and during the whole term of the guaranty, to pay the deficit of net revenue of the company, required to pay five per cent. interest on one hundred and fifty thousand dollars, according to the provisions of the act guarantying such payment of interest, passed the fourteenth day of April, one thousand eight hundred and thirty-five, shall pay as follows, to wit: each year seven thousand five hundred dollars, until said new track shall have been completed: *Provided*, Said completion shall not be longer deferred than to the first of January, one thousand eight hundred and fifty-four; and at the close of the first year after such completion, the commonwealth shall pay seven thousand dollars; at the close of the second year after such completion, six thousand dollars; at the close of the third year, four thousand five hundred dollars; at the close of the fourth year, two thousand five hundred dollars; and from and after such fourth year, the commonwealth shall be released from any further payment whatsoever; and any stock of the company that may be owned by the commonwealth, shall be delivered up to the company to be cancelled; and all the net revenue and income arising from the use of the road, from and after the completion of the said new track, may be pledged and applied as security for the payment of interest and principal, of money required to re-lay the road as provided in section eight; if the holders of stock, loan and other claims against this company shall refuse to accept this act, as provided in section second, then in that case the provisions of this act shall be null and void and of no effect: *And provided further*, That if it shall hereafter be discovered that the conditions upon which the commonwealth has guarantied the payment of the interest aforesaid, have been at any time violated, all further payments under the provisions of this act, or of the act, entitled "A supplement to the act, entitled 'An Act authorizing the governor to incorporate the Tioga navigation company,' passed fourteenth April, eighteen hundred and thirty-five," shall cease and determine, and the commonwealth shall be entitled to resume the stock surrendered to said company under the provisions of this act.

Increase of capital.

SECTION 7. And the said Tioga navigation company, after it shall thus be re-organized, shall have power to increase its capital by issuing new shares to such extent as may be authorized by a meeting of the stockholders called according to the charter; and it shall have power to borrow such sums as may by the directors be deemed necessary to enlarge or perfect the works, re-lay and improve the track or extend the same, as authorized by law, to secure the lenders by a mortgage upon the property and franchises of the corporation, in such manner that in case of a sale under such mortgage, the said franchises may pass to the purchasers as fully as they are now held by the company, or shall be under this act; and the directors of said company shall have power to give to the stock issued or loan created, for the purpose of re-laying the track, a preference in the payment of dividends not higher than seven (7) per cent. over all other stock whatsoever issued by said company.

SECTION 8. That in order to entitle the creditors and stockholders of the company to the benefit of this act, the president thereof shall cause the same to be published before the first day of May next, once a week, for three consecutive weeks, in one daily newspaper published in the city of Philadelphia, and in one weekly newspaper published in the county of Tioga, Pennsylvania; and in order to give actual notice to all parties in interest, shall transmit by mail a copy of this act addressed to each of the holders of stock, loan or other claim, or to their agent or attorney, as far as they can be ascertained from the books of the company, or the records of Tioga county. Publication of this act.

SECTION 9. That no loan of money or contract which may be made by any person or persons, to or with the Tioga navigation company, shall be deemed or taken to be usurious for or by reason of said company giving its bonds or other evidences of debt, for a greater sum than the sum actually lent them, but such loans and contracts shall be deemed and taken to be lawful and valid. No loans to be deemed usurious.

SECTION 10. From and after the accepting this law by the meeting aforesaid, the corporate name of this company shall be the Tioga railroad company. Corporate name.

SECTION 11. That from and after the acceptance of this act in the manner herein provided, and the substitution and consolidation of the stock, loan and other claim, whenever the said company, by themselves or by any agents, trustees or attorneys, shall proceed to re-lay their road between Blossburg and the New York state line, all iron, timber and other materials, tools, engines, cars and other personal property whatsoever, applied or used, or intended to be applied or used in re-laying said track, or the management of business upon the same, shall be exempt from levy and execution for any debts heretofore contracted by said company: *Provided*, That nothing contained in this section, shall be construed to affect the right of the creditors of the company to levy and sell personal property now held by the company. Materials, &c., exempt from levy and execution. Proviso.

WHEREAS, William Roberts, now of the county of Perry, served as a private in the last war with Great Britain for the period of seven months and ten days, in the year one thousand eight hundred and thirteen, in the company of captain Rodgers, and regiment of colonel Hill, Pennsylvania militia, and while thus mustered and marched in defence of his country to the town of Erie, he the said Roberts, volunteered his services, and was marched across the lines into Canada, and that he never received any bounty or extra pay for his services: Preamble.

And whereas, The act of assembly passed the twelfth day of December, Anno Domini one thousand eight hundred and twelve, appropriated to each private soldier who thus volunteered, a bounty of ten dollars; and also, by resolution of the same session, the sum of two dollars per month extra pay during the time he shall have served; therefore,

SECTION 12. That the auditor general be and he is hereby authorized and directed to issue a warrant, directing the state treasurer to pay William Roberts the sum of twenty-four dollars and sixty-six cents, with interest, from the year one thousand eight hundred and thirteen, out of any moneys in the treasury not otherwise appropriated. William Roberts, payment to.

J. S. M'CALMONT,
Speaker of the House of Representatives.
V. BEST,
Speaker of the Senate.

APPROVED—The sixth day of April, A. D. one thousand eight hundred and fifty.

WM. F. JOHNSTON.