

No. 143.

A SUPPLEMENT

To "an act to authorize the Baltimore and Ohio Rail Road Company to construct a Rail Road through Pennsylvania, in a direction from Baltimore to the Ohio river.

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 the period in which the Baltimore and Ohio rail road company were to complete the construction of their rail road or rail roads, authorized by the act of the legislature of Pennsylvania, approved the twenty-seventh day of February, Anno Domini one thousand eight hundred and twenty-eight, entitled "An act to authorize the Baltimore and Ohio rail road company to construct a rail road through Pennsylvania, in a direction from Baltimore to the Ohio river," and to which this is a supplement, be, and the same is hereby extended four years from the expiration of the time limited in said act, or until the twenty-seventh day of February, Anno Domini one thousand eight hundred and forty-seven. *Provided,* That the said Baltimore and Ohio rail road company shall not be entitled to any of the privileges, or enjoy any of the benefits conferred by this act, until the said rail road company shall authorize the commonwealth of Pennsylvania, the Franklin rail road company, or any other rail road company or companies, by the said commonwealth incorporated for that purpose, to intersect the said Baltimore and Ohio rail road, at any point or points, in the counties of Morgan or Berkley, in the state of Virginia, not further west than the town of Hancock, nor further east than the town of Martinsburg; and that the states of Maryland and Virginia shall severally permit the said commonwealth or companies to construct, repair and preserve a rail road, or roads of the same width, with the same privileges, and on the same terms as the Baltimore and Ohio rail road, with all the necessary viaducts, bridges, culverts, and other devices appertaining thereto, through so much of the county of Washington, in the said state of Maryland, and so much of the counties of Morgan and Berkley in the said state of Virginia, as may be necessary to intersect the said Baltimore and Ohio rail road, at such point or points, within the limits aforesaid, as may be selected for that purpose by the said state of Pennsylvania, the Franklin rail road com-

Time for completion of rail road, extended until 1847

Proviso

Before taking effect, certain conditions to be complied with

2nd proviso
Of tolls

pany, or such rail road company or companies as may be authorized by the said state of Pennsylvania so to do. *Provided also*, That if at any time the average per mile of the charges for tolls and transportation of persons or things upon the rail roads, made or to be made, by authority of Pennsylvania, and connecting the city of Philadelphia with the Baltimore and Ohio rail road, shall be less than the charge per mile, for tolls and transportation of like persons or things on the Baltimore and Ohio rail road; then, and in every such case, the said Baltimore and Ohio rail road company may reduce the charge per mile for tolls and transportation of like persons or things upon so much of their rail road as shall lie between such point of connexion or intersection and the city of Baltimore, but so as not, in any event, to be less on such part of said road than four cents per ton per mile, for goods, produce, merchandize or other property, or than four cents per mile per passenger, any thing in the third section of the act to which this is a supplement, to the contrary notwithstanding.

3rd proviso
Certain privileges heretofore enjoyed by the state, to remain unimpaired

Provided, That none of the rights and privileges relative to joining the Baltimore and Ohio rail road, within the state of Pennsylvania, and the regulations of toll on any lateral rail road which may be authorized to join within this state, to which Pennsylvania was entitled under any former laws, shall be in any way impaired by the provisions of this act.

4th proviso

Provided, That the aggregate amount charged for tolls and transportation, for persons and things, on the whole line of rail roads, made or to be made, by authority of the state of Pennsylvania, between the town of Hancock and the town of Martinsburg, being the point or points of intersection, and the city of Philadelphia, shall not be less than the aggregate amount at the same time charged, on the like persons and things, between the same point or points of intersection and the city of Baltimore.

Of tolls

5th proviso

Regulation of trade and travel

Provided also, That the said Baltimore and Ohio rail road company shall so conduct and regulate the trade and travel on their said road, whether the same be with their own locomotives, cars or other means of transportation, or by locomotives, cars or such means of transportation used on the said road by their agents or contractors, that a convenient opportunity shall be allowed, permitted and given at such points of intersection, for persons and things, travelling or transported on the said road, or on such rail roads as aforesaid, made to connect with said Baltimore and Ohio rail road, by virtue of this act, to pass to or from such rail roads so connecting with the same, so that there may be like convenience to pass the trade, and travel to and from said Baltimore and Ohio rail road, to such roads as may connect with the same as to pass to and from Baltimore; nor shall the said Baltimore and Ohio rail road company charge,

or permit to be charged, a greater amount per mile for tolls and transportation, on their road west of the point of intersection, for persons or things, to pass or having passed, upon the intersecting rail road made by authority of Pennsylvania, than would at the same time be charged on their road west of the point of intersection, as aforesaid, on like persons or things to pass, or having passed, upon that part of their said road east of the point of intersection. *Provided*, That the state of Pennsylvania, or any road authorized by it, may reduce their toll and freight, so that the aggregate amount from the point of intersection to Philadelphia, shall be equal to the minimum aggregate authorized to be charged from such point to Baltimore, whether said Baltimore and Ohio rail road company charge such minimum, or a higher rate, or not. *And provided further*, That if the said company shall construct the main stem of their said road to any point on the Ohio river, below the city of Pittsburg, then the branch required under the act to which this is a supplement, to be constructed simultaneously to the said city, shall be located along the valleys of the Youghiogeny and Monongahela rivers, unless the cost of the right of way along the said route shall be found to exceed in amount the cost which would be incurred for the same purpose, by the said company, if said branch rail road were located and constructed along the valley of the Monongahela from the mouth of Redstone creek to Pittsburg. *And provided also*, That the said branch road shall at all times consist of as many tracks, and be placed on the same footing with regard to tolls and transportation, and be kept in equal repair with the main stem of the said road between the point of departure of the said branch and the western termination of the main stem of the said road, on the Ohio river. *Provided also*, That the said Baltimore and Ohio rail road company shall permit burden cars to pass to and from the said road, to and from any rail road in Pennsylvania, connected with the same, and that the said cars shall be taken by such motive powers as may be used on the said road, either by the said company, or their agents or contractors, to the place or places of destination on said road upon the same terms and under like regulations as other burden cars are so taken.

6th proviso
Of the right of
the state of
Penn'a, and
others, to re-
duce the tolls

7th proviso
Of the con-
struction of
road by com-
pany

8th proviso
Branch road
to be kept in
as good repair
as the main
stem

9th proviso
Burden cars
to be permit-
ted to pass,
&c.

SECTION 2. And whereas, The aforesaid third' section of the act to which this is a supplement, may be construed to permit the said Baltimore and Ohio rail road company to charge for tolls and transportation, for property and for persons, to pass or be conveyed upon their said rail road, or any branch of it in this state, such rates or sums as the state of Maryland and the said company may, from time to time, allow or establish; therefore it is enacted, that, unless other-

Company or agents vested with power to charge tolls

wise agreed upon with the owner of any property or thing, or with the officer or agent forwarding the same, the said Baltimore and Ohio rail road company, or any agent or agents, contractor or contractors under them, shall have power to charge for toll and transportation on all goods, produce, merchandize or property of any description whatsoever, to be conveyed upon said road or any part of it, not exceeding eight cents per ton, (or two thousand pounds) per mile, and on passengers, not exceeding six cents per mile for each passenger and his or her baggage, the latter not exceeding one hundred pounds in weight, and unless by special agreement, as aforesaid, the charge for the transportation of any single box, parcel or package of merchandize, or other articles weighing not more than fifty pounds, and measuring in size not more than six cubic feet, shall not be more than one cent per mile; and for any heavier or larger bail, box, parcel or package, weighing not more than two hundred and fifty pounds, not more than two cents per mile; and in all cases where the weight of any bale, box, parcel or package shall not exceed five hundred pounds, the said company, their agents or contractors, may charge, at their discretion, either by bulk or by weight, estimating fifty cubic feet as equivalent to a ton, or two thousand pounds.

Rate of toll fixed, unless by special agreement

Agents may charge by bulk or weight

May charge customary commission

SECTION 3. The said company, their agents or contractors, are also hereby authorized to charge at any of their ware-houses, depots or stations, to be established or used in this commonwealth, for receiving and weighing, and delivering merchandize, produce or other articles, such commission as shall at the same time be usual and customary in like cases, in the towns adjacent to such ware house, depot or station.

Width of rail road

SECTION 4. That the width of the said Baltimore and Ohio rail road, or its branches authorized in the act to which this is a supplement, shall be sixty-six feet horizontal, together with such additional width on each side, as shall be required for the slopes of the excavations and embankments respectively, and the said rail road shall be considered as completed within the meaning of this act, and of the act to which this is a supplement, when only a single track of railway shall be laid down and opened for use, with the requisite turnouts and sideways. *Provided*, That the said company shall have power at all times thereafter to lay down and use

Proviso

Second track
2nd proviso
May increase width of graded surface

a second track, or any additional number of railway tracks upon the said width of sixty-six feet horizontal. *And provided*, That the said company may proceed from time to time, to increase the width of the graded surface of their road upon and within the said width of sixty-six feet horizontal, after the completion of a single track as aforesaid, and as the said com-

pany may deem proper and requisite, for the support of any additional tracks of railways, turnouts or sideways, and for other necessary works.

SECTION 5. That in all cases where burden cars, not the property of the said Baltimore and Ohio rail road company, but belonging to any other person or persons, co-partnership or company, and intended for the conveyance of freight, as aforesaid, then, and in each and every such case, the owner or owners, conductor or conductors, of any such car or cars, shall be deemed and considered as common carriers, subject to all the rules, regulations and obligations of law, applicable to such carriers, and shall be entitled to charge and receive from the owner or consignee, such rates for the transportation of freight as they shall, from time to time, decide upon and establish. *Provided*, That each and every such car shall be of a construction and dimensions well suited to run upon the said Baltimore and Ohio rail road; and be kept in good order, and in its use be made to conform to the rules and regulations in such cases to be observed upon the said road.

Burden cars, the property of individuals, &c., deemed common carriers

Subject to such rules and regulations of law, applicable to such carriers

Dimensions of car, to be adopted to road

SECTION 6. And the said Baltimore and Ohio rail road company shall be entitled to receive from any such owner or owners, conductor or conductors, of burden cars, as aforesaid, tolls for the use of their road, as follows, viz: On all goods, produce, merchandize or other property, in any such car or cars per ton per mile, not exceeding four cents; on each burden car, of four wheels, per mile, one cent; for each additional pair of wheels per mile, five mills; and in addition to the above tolls, the said Baltimore and Ohio rail road company shall be entitled to receive from such owner or owners, conductor or conductors, tolls for the use and on account of the motive power employed upon said road, or its branches, as follows, viz: On all goods, produce, merchandize or other property, in such car or cars, per ton per mile, not exceeding two cents; on each burden car, of four wheels, per mile, one cent; for each additional pair of wheels per mile, five mills, two thousand pounds being reckoned as a ton; and in order to compensate for the additional motive power required on the higher grades of the road, be it enacted, that in all cases where the transportation shall be performed upon grades of the road, exceeding an ascent or decent at the rate of twenty-six feet and four tenths of a foot per mile, but not exceeding forty feet per mile, the tolls for motive power may be fifty per cent. greater than the above mentioned rates, and upon all distances where the inclination of the road, from a horizontal line is greater than forty feet per mile, the rates of toll for motive power may be increased one hundred per cent. *Provided however*, That such charge for toll, motive power.

Tolls payable by burden cars, &c.

Tolls on account of motive power

Of compensation for additional motive power

Provido

and car shall not exceed the charge for toll and transportation charged by said company under the provisions of this on the said road per mile, between Baltimore and Pittsburg, so that there shall be no discrimination allowed or permitted between the trade from Philadelphia, and the trade from Baltimore.

WM. HOPKINS,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—The twentieth day of June, eighteen hundred and thirty-nine.

DAVID R. PORTER.

No. 144.

AN ACT

To classify the Associate Judges of the state.

Preamble

WHEREAS, The amended constitution requires, that the legislature, at its first session under the same, shall divide the associate judges of the state into four classes, to be arranged according to the seniority of their commissions;—
Therefore,

1st class
Commission
to expire,
27th Febr'y,
1840

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 John Parker, James Bovard, Alexander Brown, John Vincent, Thomas McKee, George Raush, Boyd Mercer, Davis Dimmock, Ira Kilburn, Hugh Wilson, George Barnitz, John M'Kean, Jonathan Stevens, Isaac M'Kinney, William Montgomery, Leonard Rupert, Daniel W. Dingman, Moses Thomas, John Grub, Samuel Dale, Jacob Gebhart, Isaac Connelly, John L. Hinkel, Adam Light and Henry Black shall constitute the first class, whose commissions shall expire on the twenty-seventh day of February, one thousand eight hundred and forty.

2nd class,
27th Febr'y,
1841

SECTION 2. That John Cummins, John Lobingier, Thomas Pollock, John Lightner, Richard B. Jones, William M'Clan, Asher Davidson, John Kurtz, William Long, John Murray, Moses Boggs, Hugh Jordon, Joseph Engle, Joseph Adams, Joseph Ott, Joel Bishop, Jacob Kryder, Jesse Sharp, Samuel Nixon, Joseph Rankin, Matthias S. Richards