

[No. 35.]

A SUPPLEMENT

To the acts relative to the Pittsburg and Butler Turnpike Road Company.

WHEREAS, 'The Pittsburg and Butler Turnpike Road has been repeatedly found by viewers appointed agreeably to law, to be out of repair, and the president and managers thereof have neglected to appoint a superintendent, or other officer, to put and keep said road in repair, thus rendering nugatory the law authorizing the court to impose penalties on this officer, so entrusted with the care of the road; as a remedy whereof, Preamble

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 court of quarter sessions of the peace of Allegheny county, shall appoint a superintendent for so much of said road as lies in said county, and the court of quarter sessions of the peace of Butler county, shall also appoint a superintendent for so much of said road as lies in the county of Butler, and the superintendents thus appointed, shall each have all the powers and rights, on the portion of said road assigned to him, that could be exercised by the president and board of managers thereof, as to erecting gates, appointing and contracting with gate keepers, entering into contracts with stage proprietors, or other persons, for toll, and generally all powers necessary to the proper control of said road. Sup't

SECTION 2. Each of said superintendents shall before he enters upon the duties of his office, take and subscribe an oath or affirmation, to be administered by one of the judges of said court, and filed in the proper clerk's office, that he will faithfully and diligently, and to the best advantage, perform the duties of his appointment. Oath

SECTION 3. Said superintendents shall forthwith demand and receive, through their gate keepers respectively, at the rate of one half of the tolls allowed by the act to which this is a supplement, and each of said superintendents shall have all the remedies to enforce the payment of toll, and punish all who in any manner attempt to evade the payment thereof, which are given by law to said company. Tolls

SECTION 4. All suits shall be instituted in the name of the superintendent of that part of the road in his charge, and no suit shall abate, or be adjudged illegally brought, on account Suits

of any change in the superintendent, but the same shall be proceeded in to judgment upon the merits, without regard to form, and it shall be adjudged no defence to any suit or proceeding, that the road was heretofore out of repair.

Repair road

SECTION 5. The said superintendents shall proceed forthwith to put their respective parts of road in good repair, and to do which, they shall have the further power of borrowing such sums of money as may be necessary, and with the approbation of the court, to pledge the proceeds of the tolls of said road, for the reimbursements of the same.

Quarterly ac-
counts

SECTION 6. The said superintendents shall each exhibit quarterly to the said court of the county within which his proportion of the road lies, a just and detailed account of all moneys received as tolls or otherwise, and of all moneys expended in repairing said road, and of all contracts made for doing work on said road, which account shall be audited by said courts respectively, and if at any time a balance is found to be due by either superintendent, the same shall be certified into the proper court of common pleas, and there have the same effect from the time of the entry thereof, as a judgment upon the verdict of a jury, and execution may forthwith issue thereon in the name of the commonwealth, as plaintiff; to enforce the collection thereof for the use of said road.

Gate keepers

SECTION 7. Each of the gate keepers appointed by said superintendents respectively, shall quarterly report on oath to the said court of the county wherein such gate or gates are located, the amount of tolls received by each, or by any person for them, and also the amount received from each by the superintendent.

Viewers

SECTION 8. As soon as either or both portions of said road be completed, the superintendent or superintendents shall certify the same to the proper court, or to a judge thereof in vacation, who shall appoint a disinterested person to view the same, after taking an oath or affirmation to perform that duty with fidelity, and if said viewer is satisfied that that proportion of said road to be viewed by him is in good order and repair, he shall report the same to said court, or judge in vacation, who shall cause the same to be filed in the proper clerk's office, and thereupon to issue an order to the proper superintendent authorizing his gate keeper thereafter to demand and receive full toll, according to the act to which this is supplementary.

Sup't powers

SECTION 9. The superintendents aforesaid shall respectively have full power and control over their portions of said road, gate keepers, and toll gatherers, until all debts incurred by them, and moneys expended by them in keeping said road in good order and repair, are reimbursed or paid to them by said company. and as soon as said road is put in good and perfect

repair, and said superintendents are refunded all moneys expended in repairing the same, then and not before, the said respective courts shall revoke the appointments of the superintendents then in office, and said road shall pass into the hands of said company, to be managed by them according to the laws to which this is a supplement.

SECTION 10. The said courts respectively shall have power on the application of the proper superintendent, to issue a citation to any commissioner heretofore entrusted with the expenditure of public money, and to compel him to settle and account in said court, and when the same is filed in said court shall appoint an auditor, if requested by either party, who shall make report thereof, and said court shall enter judgment thereon, if no appeal therefrom be entered within five days by either party, and if either the superintendent or accountant shall within the time aforesaid, appeal to court from the decision of said auditor, the court shall, at the request of either party, make an issue on said account to be tried by a jury, and have preference of all other causes at the next court of common pleas for the proper county, and on trial thereof, judgment shall be entered without stay of execution, but should neither party desire an issue to be made, said court shall proceed forthwith to determine the appeal and give judgment thereon; and execution may issue thereon without stay, in the court of common pleas.

SECTION 11. Said superintendents are further authorized jointly to bring suit and recover all tolls which are due and owing for the use of said road heretofore, by any person or company whatsoever, and on recovery thereof to divide the same equally between them, and each to expend his quota in repairing said road.

SECTION 12. The said courts shall each have power within the proper county, at any time on complaint made to remove any superintendent and appoint another in his place, and to bring any superintendent so removed to a settlement of his account, as effectual as if he were still in office.

SECTION 13. It shall be the duty of the supervisors of each township through which said turnpike runs in said counties of Allegheny and Butler, to treat as a county road, so far as regards keeping the same in repair, and to work out thereon a just and reasonable proportion of the road taxes levied, until such time as said road shall be found in good repair, and an order issued authorizing the proper superintendent, to receive full toll, and said supervisors shall respectively cause the work to be done on said road under the direction of the proper superintendent, and shall keep a fair and just account of the labor by him done on said road, which shall be re-imbursed to the respective townships in the manner prescribed by this

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act, before said road shall pass to the management and control of the company.

SECTION 14. The superintendents appointed by virtue of this act, shall be allowed a reasonable sum for each day spent in actual service on said road, not exceeding one dollar and fifty cents at the discretion of the court, and all laws hereby altered be and the same are hereby repealed during the operation of this act.

JAMES ROSS SNOWDEN,
Speaker of the House of Representatives.

JOHN STROHM,
Speaker of the Senate.

APPROVED—This seventh day of March, one thousand eight hundred and forty-two.

DAVID R. PORTER.

[No. 36.]

A N A C T

For regulating and maintaining Line Fences, and for other purposes.

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 in addition to the duties now imposed upon the township auditors, they shall hereafter perform the duties hereinafter prescribed as fence viewers. That in addition to the oath now prescribed, to be taken by the auditors they shall annually be sworn or affirmed, to discharge their duties as such viewers faithfully and impartially.

SECTION 2. In case of the death, removal or resignation of any fence viewers and auditors, so elected, the judges of the court of the proper county, shall appoint a suitable person to fill the vacancy, for the unexpired term of the person whose place is vacant.

SECTION 3. When any two persons shall improve lands adjacent to each other, or where any person shall enclose any land adjoining to another's land already fenced in, so that any part of the first persons fence becomes the partition fence between them, in both these cases the charge of such division fence, so far as is enclosed on both sides, shall be equally borne and maintained by both parties.

SECTION 4. On notice given the said viewers, shall within five days thereafter view and examine any line fence as aforesaid, and shall make out a certificate in writing, setting forth