

No. 231.

A SUPPLEMENT

To an act, entitled "An act authorizing the formation of partnership associations in which the capital subscribed shall alone be responsible for the debts of the association, except under certain circumstances," approved the second day of June, one thousand eight hundred and seventy-four (Pamphlet Laws, two hundred seventy-one); granting to partnership associations, formed under such act for the purpose of transportation and storage of oil by means of pipe-lines and tanks for the public, power to take lands or property for the public purposes of such association, and to acquire a right of way easement for the purpose of locating its pipes or branches over, upon, under, or across any lands, streams, rivulets, roads, turnpike-roads, railroads, canals, or other highways.

Section 1. Be it enacted, &c. That any association formed or hereafter to be formed, under the provisions of the act to which this is a supplement and its supplements, for the purpose of the transportation and storage of oil by means of pipe-lines and tanks for the public, shall have the power to take, hold, purchase, and transfer such real and personal property within this Commonwealth as the purposes of the association may require, not exceeding the amount of its authorized capital stock, together with the right to appropriate and take lands, easements, and rights of way for locating and constructing necessary pumps, pump-houses, tanks, and offices, and laying down its pipes or tubes, connections and branches, necessary and incident to the carrying on of its said business of transporting and storing oil for the public through and within this Commonwealth, and for all necessary purposes of the association, including the right to cross railroads, and the right to appropriate a right of way and locate its pipes or tubes upon and over, under and across, any lands, waters, streams, rivulets, roads, turnpike-roads, canal, or other public highway, not, however, passing through any burying-ground or place of public worship, or any warehouse, mill, manufactory, store, or dwelling-house, without the consent of the owner or owners thereof being first had and obtained: Provided, That when said pipe-line is located through, over, under, or upon the streets, lanes, alleys, or highways, within the corporate limits of any city or borough, the consent of the municipal authorities to said location shall be first had and obtained, which consent said municipal authorities are hereby empowered to give upon terms to be agreed upon by said city or borough authorities and said association.

Partnership associations.

Transporting oil by pipes or tanks.

May acquire property by purchase or condemnation.

For corporate purposes.

Rights of way for pipe-lines.

Proviso.

Consent of municipalities.

Section 2. In case said pipes cross any railroad or canal, the same shall be located under or above the

Pipe-lines crossing railroads or canals.

same, so, however, as not to interfere with the use of the same or to endanger the traffic thereon or there-over.

Estates which may be acquired.

Section 3. Associations formed, under the act to which this is a supplement and its supplements, for the purpose of the transportation and storage of oil by means of pipe-lines and tanks for the public, shall not take a fee in any lands acquired under any of its provisions, except such as are acquired by actual purchase; and, upon the abandonment for the purposes of transporting oil any lands taken by any association formed, under the act to which this is a supplement and its supplements, for the purpose of the transportation and storage of oil by means of pipe-lines and tanks for the public, said lands, so taken otherwise than by actual purchase, shall revert to the original owners or their successors. Any pipe-line association, so laying its pipes under the provisions of this act, in occupying any lands cleared and used for agricultural purposes, shall bury the same at least twenty-four inches below the surface; and, if any line of pipe shall be laid over or through any waste or woodland which shall afterwards be changed from waste or woodland to farming land, then it shall be the duty of the pipe-line association to immediately bury the pipe to the depth of at least twenty-four inches as aforesaid. All pipe-lines shall be laid above the flood lines or beneath the bed in crossing creeks and rivulets. Any association laying a pipe-line under the provisions of this act shall be liable for all damages occasioned by leakage, breaking of pipes or tanks. All tanks erected for the storage or transportation of oil shall be protected and surrounded by ditches and embankments so that, in case said tanks should break or be broken, the oil stored cannot damage adjoining property.

Reversion to owners.

Pipes must be buried.

Pipe-lines crossing creeks.

Liability for leakage.

Tanks must be protected.

Eminent domain.

Section 4. In all cases when, under the provisions of this act, said association is permitted to take lands or property for the public purposes of said association or to acquire a right of way easement for the purpose of locating its pipes or branches over, upon, under, or across any lands, streams, rivulets, roads, turnpike-roads, railroads, canals, or other highways, and the said association cannot agree with the owner or owners of any such lands, road, turnpike-road, railroad, canal, or other highway or franchise for the compensation proper for the damage done or likely to be done to or sustained by any such owner or owners of said waters, streams, land, road, turnpike-road, railroad, land, or other highways, which such association may enter upon and use in pursuance of the authority herein given, or, by reason of the absence or legal incapacity of any such owner or owners, no such compensation can be agreed upon, the court of common pleas of the

proper county, on application thereto by petition, either by said association or the owner or owners or any one in behalf of either, shall appoint three discreet and disinterested freeholders from the county board of viewers, and appoint a time, not less than twenty nor more than thirty days thereafter, for said viewers to meet at or upon the premises where the damages are alleged to be sustained or the property taken, of which time and place ten days' notice shall be given by the petitioner to the said viewers and the other party.

Petition to court.

Appointment of viewers.

Time of view.

Notice of view.

Section 5. The said viewers, or any two of them, having been first duly sworn or affirmed faithfully, justly, and impartially to decide and true report to make concerning all matters and things to be submitted to them and in relation to which they are authorized to inquire in pursuance of the provisions of this act, and having viewed the premises, they shall estimate and determine the quantity, quality, and value of said lands, streams, property, easement, franchise, or rights of way so taken, and shall award to the owner or owners thereof just compensation for the property taken, injured, or destroyed by the construction or enlargement of such pipe-lines, works, and improvements, which compensation shall be paid or secured as hereinafter provided before such taking, injury, or destruction.

View.

Award.

Section 6. For any subsequent injury, taking, or destruction of property, the owner or owners of the property taken, injured, or destroyed, shall have the right to recover full compensation for such taking, injury, or destruction; and an action for any subsequent injury or taking or destruction of property may be brought within the county in which the damages are sustained, and the summons may be directed to the sheriff of the county in which the association defendant may have its principal place of business, and service may be made upon the president, secretary, or other officer in charge of said principal office, with the same effect as if the said association defendant was resident within the proper county, and make report thereof to the said court.

Subsequent injuries, etc.

Actions.

Jurisdiction.

Summons.

Service.

Section 7. If any damages be awarded, and the report be confirmed by the said court, judgment shall be entered thereon, and, if the amount thereof be not paid within thirty days after the entry of such judgment, execution may then issue thereon, as in other cases of debt, for the sum so awarded. The costs and expenses incurred shall be defrayed by the association.

Execution.

Costs.

Section 8. In all cases when the parties cannot agree upon the amount of damages claimed, or by reason of the absence or legal incapacity of such owner or owners no such agreement can be made, either for lands, streams, waters, water-rights, franchises, rights of way, the association shall tender a bond, with at

Bond.

least two sufficient sureties, to the parties claiming or entitled to any damages, or to the attorney or agent of any person absent, or to the guardian or committee of any one under legal incapacity, the condition of which shall be that the said association will pay such amount of damages as the party shall be entitled to receive after the same shall have been agreed upon by the parties or assessed in the manner provided for by this act. In case the party or parties claiming damages refuse or do not accept the bond tendered, the said association shall then give the party a written notice of the time when the same will be presented for filing in court, and thereafter the said association may present said bonds to the court of common pleas of the county where the lands, streams, waters, rivulets, roads, railroads, turnpike-roads, canals, or other highways are, and, if the sureties and the amount of the bond be approved, the bond shall be filed in said court for the benefit of those interested, and recovery may be had thereupon for the amount of damages assessed if the same be not paid or cannot be made by execution on the judgment in the issue formed to try the question.

Condition.

Refusal to accept bond.

Approval of bond by court.

Recovery on bond.

When viewers may be appointed.

Appeal from award.

Trial by court.

Appeal to Supreme or Superior Court.

Exceptions.

"Owner" defined.

Section 9. The viewers provided for in this act may be appointed before or after the entry for constructing said work and after the filing of the bond hereinbefore provided for, and, upon the report of the said viewers or any two of them being filed in said court, either party, within thirty days thereafter, may file his, her, or their appeal from said report to said court. After such appeal, either party may put the cause at issue in the form directed by said court, and the same shall be tried by said court and a jury; and, after final judgment, either party may appeal therefrom to the Supreme Court or Superior Court in the manner prescribed in other cases. The said court of common pleas shall have power to order what notices shall be given of the proceedings, and may make all such orders connected with the same as may be deemed requisite. If any exceptions be filed with any appeals to the proceeding, the same shall be speedily disposed of, and, if allowed, a new view shall be ordered, and, if disallowed, the appeal shall proceed as before provided.

Section 10. The term "owner," as used in this act in reference to an effort to agree with, or to the tender of a bond to, or service of notice upon, the owner of roads, railroads, turnpike-roads, canals, or other highways, shall be taken to mean the officers in charge of said road, railroad, turnpike-road, canal, or other public highways, on whom service of process could be made in any action at law or in equity.

APPROVED—The 11th day of May, A. D. 1921.

WM. C. SPROUL.