

67. SEC. 4. That the board of commissioners of pilotage, named in the last preceding section, are empowered and it shall be their duty to prosecute all violations of this act. Violations, how prosecuted.

68. SEC. 5. That all fines collected under this act shall constitute a fund in the hands of said commissioners of pilotage, to pay the necessary expenses of carrying the same into effect. Disposition of fines.

69. SEC. 6. That nothing in this act contained shall be construed to interfere with the powers, rights, duties and privileges of the board of riparian commissioners of this state. Rights of riparian commissioners not affected.

Supplement.

Approved February 15, 1888.

P. L. 1888, p. 40.

70. SEC. 1. That for the purpose of carrying out the provisions of the act to which this is a supplement the comptroller of the state be and is hereby authorized to pay, or cause to be paid, a sum not exceeding five hundred dollars, upon proper sworn vouchers, certified to by the president and secretary of the board of commissioners of pilotage as such sum or part of it may be required for the purposes above specified, and only till such time as the said commissioners shall have collected from fines or damages or otherwise, such sums as may be deemed necessary to meet the legitimate expenses for the prosecution and bringing to justice delinquents under said act, or for the removal of such obstructions as may from time to time be found necessary. Appropriation for carrying out provisions of act.

71. SEC. 2. That no part of any appropriation granted for carrying out the purposes of said act shall be used, conveyed or diverted for any other purposes whatever. Not to be used for other purposes.

Plank Road Companies.

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Formation of companies authorized. 2. Survey of route and description to be filed. 3. Map and profile to be made and filed. 4. Constitution to be adopted by company. 5. Election of directors. 6. Names of stockholders to be recorded. 7. Payment of installments, how made and enforced. 8. Company not to incur debts beyond capital. 9. Semi-annual dividends. 10. Company authorized to construct road. 11. Road may be made free on payment of cost. 12. Statement of cost to be filed. 13. Road, how to be laid out and constructed. 14. Inspectors to be appointed. Rates of toll. 15. Milestones to be erected. | <ol style="list-style-type: none"> 16. Penalty for injuring works. 17. Penalty for delaying travelers. 18. Penalty for obstructing passage. 19. Annual statement to be made. 20. Time for commencing and completing road. 21. Proceedings in case road and bridges not kept in repair. 22. Right to alter and repeal. 23. Highways, how dedicated for purposes of plank road. 24. Certificate of inspectors to be filed. 25. Return of survey. 26. Rates of toll. 27. Company to keep bridge in repair. 28. No toll to be charged in certain cases. 29. Parts of former act not applicable. |
|--|---|

An act authorizing the incorporation of plank road companies.

Approved February 26, 1852.

P. L. 1852, p. 95.

1. That any number of persons, not less than ten, citizens and residents of this state, who shall file in the office of the secretary of state a certificate setting forth that they have formed a company, under the provisions of this act, for the purpose of constructing a plank road, and shall file therewith a constitution and survey, as herein provided, shall thereupon, with their successors and assigns, and all others who shall afterwards become stockholders in such company, be a body corporate and politic in law, by the name specified in said certificate and constitution, with all the powers and privileges, and subject to the restrictions, limitations and conditions, contained in the act concerning corporations, approved the fourteenth day of February, eighteen hundred and forty-six. Formation of companies authorized.

2. That any company, formed in pursuance of this act, shall cause to be made an accurate survey of the route intended to be occupied by the plank road, which they propose to make, and of the land which it may be necessary to appropriate to the use of said road, which survey and description shall set forth the names of the owners and occupants of said lands, Survey of route and description to be filed.

PLANK ROAD COMPANIES.

Proceedings in
case owners of
land and company
cannot agree.

Parties aggrieved
may appeal.

and shall be signed by three-fourths in interest of the said owners of the land which it may be necessary to use and occupy, except as hereinafter provided, setting forth that they are of opinion that the construction of said road will promote the public good, and that they consent to its location through and over their property, and to the appropriation of the same to the use of said road, which survey and description, so certified and signed, shall be duly proven and filed, in connection with the certificate and constitution, as herein provided; and before any common road or highway, which has been already dedicated to public use, shall be taken and occupied for the purpose of a plank road, it shall be the duty of the company so intending to use the same to have such road or highway vacated in due form, according to law, in the way and manner provided for vacating public roads; and if any owner or owners of the land where such public road has been vacated, or of any other land surveyed and laid out for a plank road, shall not be willing to give the same for the use of said company, or if the owner or owners of such land shall be feme covert, under age, non compos, out of the state, or under any legal disability which would prevent their agreement with any company formed by virtue of this act, then it shall be the duty of any justice of the supreme court of this state, upon the application of either party, and after ten days' notice in writing to the opposite party of such application, and after hearing the parties, to appoint three disinterested and impartial commissioners, residents of this state, to assess the price or value of such land, and all damages sustained, who shall be sworn, before some officer authorized by law to administer an oath, faithfully to administer the duties of such appointment; and after ten days' notice in writing to both parties, of the time and place, shall meet, view the premises, and hear the parties and evidence if desired, and thereupon make such decision and award as to them shall appear just and proper, and transmit such award and decision, together with a description of said land and the quantity taken, by whom owned, and how situate, bounded and described, in writing under their hands and seals, or the hands and seals of a majority of them, to the justice who appointed them, to be by him returned and filed, together with all the papers before him in relation thereto, in the clerk's office of the county in which such lands lie, there to be recorded and kept as a public record, and copies taken if required by either party; and if either party shall feel aggrieved by the decision of said commissioners, the party so aggrieved may appeal to the circuit court of the county in which said lands lie, at the first term after the decision of said commissioners, by proceeding in the form of petition to the said court, with five days' notice to the opposite party of such appeal, which proceeding shall vest in the said court full right and power to hear and adjudge the same; and if required, they shall award a venire in the common form for a jury before them, who shall hear and shall finally determine the same; and it shall be the duty of said jury to assess the value of the said land and all damages sustained, and for that purpose to view the land in question, if required by either party to do so; and if the said jury be demanded by the company, and they shall find a greater sum than the said commissioners, then judgment shall be given, with costs, against the said company, and execution issue, if need be; but if the said jury shall be demanded by the owner or owners, and shall find the same or a less sum than the commissioners awarded, then the costs shall be paid by the owner or owners, and shall be deducted out of said sum so awarded, or execution issued therefor, as the court shall direct; and upon payment or tender of the sum so found by the commissioners or by the jury, with costs, if any, the said company shall be deemed to be seized and possessed of all such lands and real estate so appraised as aforesaid for the purposes of said road; and if the owner or owners of such land or property shall be feme covert, under age, non compos, out of the state, or under any legal disability, it shall be the duty of the said corporation to pay the amount of any award or report so made in behalf of such person into the court of chancery, to the clerk thereof, subject to the order of the said court, for the use of said owner or owners, all which proceedings

shall be at the proper cost and charges of said corporation, except in case of appeal, above provided for.

3. That every company formed under this act, before constructing any part of their road into or through any county named in their articles of association, shall make a map and profile of the route intended to be adopted by such company in such county, which shall be certified by the president and engineer of the company, or a majority of the directors, and filed in the office of the clerk of the county in which the road is to be made; the company shall give written notice to all actual occupants and owners of the land over which the route of the road is so designated, and which has not been purchased by, or given to the company, of the route so designated; any party feeling aggrieved by the proposed location, may, within fifteen days after receiving written notice as aforesaid, apply to the court of common pleas of the county in which the road is to be made, by petition duly verified, setting forth his objections to the route designated; and the said court may, if they consider sufficient cause therefor to exist, appoint three disinterested persons, one of whom must be a practical engineer, commissioners to examine the proposed route, and, after hearing the parties, to affirm or alter the same, as may be consistent with the just rights of all parties and the public; but no alteration of the route shall be made, except by the concurrence of the commissioner who is a practical civil engineer; the determination of the commissioners shall, within thirty days after their appointment, be made and certified by them, and the certificate filed in the office of the county clerk; said commissioners shall each be entitled to three dollars per day for their expenses and services, to be paid by the person who applied for their appointment; and if the proposed route of the road is altered or changed by the commissioners, the company shall refund the amount so paid. [See Sec. 29, *post.*]

Map and profile to be made and filed in office of county clerk.

Proceedings in case of objection to route.

Compensation to commissioners.

4. That any company formed in pursuance of this act shall adopt a constitution, which shall be signed by the stockholders, and filed in the office aforesaid, which constitution shall embrace the following provisions, and such additional articles as said stockholders may deem necessary for the management of their affairs, not inconsistent with the provisions of this act, nor with the act concerning corporations aforesaid:

Constitution to be adopted by company.

Article first, shall set forth the name, style and title of the corporation.

Article second, shall fix the amount of the capital stock, and the number of shares into which it shall be divided.

Article third, shall designate the officers and directors by whom the business of the company shall be conducted, the manner in which they shall be elected, and the time for which they shall serve.

Article fourth, shall define the powers and duties of the officers and directors.

Article fifth, shall provide for meetings of the stockholders, and define their powers.

5. That the business of any company formed under this act shall be conducted by a board of directors, consisting of not less than five, nor more than nine, a majority of whom shall be citizens of this state, who shall be elected at such time and place as shall be directed by the by-laws of the corporation, of which election public notice shall be given, not less than twenty days previous thereto, in a newspaper printed in each county in or through which the road of such company is located; or in case no newspaper is published in said county, then in a newspaper published in a county adjacent thereto.

Election of directors.

6. That it shall be the duty of the directors of every company formed under this act, to cause a book to be kept by the secretary, treasurer or clerk thereof, containing the names of all persons, alphabetically arranged, who are stockholders of such company, and the number of shares held by them respectively, which book shall be open for the inspection of all persons who may desire to examine the same, or to make copies thereof.

Names of stockholders to be recorded.

7. That the directors of any company incorporated under this act may require payment of the sums subscribed to the capital stock, at such times and in such proportions, and on such conditions, as they shall see fit,

Payment of installments, how made and enforced.

PLANK ROAD COMPANIES.

under the penalty of the forfeiture of the stock, and all previous payments made thereon; and they shall give notice of the payments thus required, and of the place and time when and where the same are to be paid, at least thirty days previous to the time of payment, in one newspaper printed in each county in or through which the road is located; or in case no newspaper is published in said county, then in a newspaper printed in a county adjacent thereto; and the shares of any company formed under this act shall be deemed personal property, and may be transferred as shall be directed by the by-laws of the company; and the directors of every such company may, at any time, with the consent of a majority in amount of the stockholders in said company, provide for such increase of the capital stock of said company as may be necessary to finish the making of a road actually commenced and partly constructed, notice of such increase to be duly filed in the office of the secretary of state.

Company not to incur debts beyond capital.

8. That it shall not be lawful for any company formed under this act to issue any bond, create any mortgage, or contract any debt, other than shall be necessary in constructing and maintaining the road owned by said company, which debt or contract shall in no case exceed the amount of moneys actually in the treasury, or that may be due to the company on the remaining installments of the capital stock; and for all debts thus contracted, the stockholders of said company shall be individually liable, to an amount equal to the amount of the capital stock held by them respectively.

Semi-annual dividends.

9. That semi-annual dividends may be made of all moneys in the treasury, derived from the profits of the road, that may not be required for the payment of all contracts for the construction of such road, and the formation of a fund for its maintenance and repair.

Company authorized to construct road.

10. That the president and directors of any company, formed in pursuance of this act, are hereby authorized and invested with all the rights and powers necessary to survey, lay out and construct a plank road, in conformity with the plan and on the route designated in the survey filed as aforesaid, and certified by the owners of the land through which such road shall pass; and it shall and may be lawful for said president and directors, or their agents, superintendents, workmen, contractors, or other persons in their employ, to enter upon, take possession of, hold, have and occupy and excavate any such lands, and to erect embankments, bridges, docks, wharves, piers, warehouses, and all other such works necessary to the construction and business of said road, and to do all other things which shall be necessary to carry into full effect the objects of this act; *provided always*, that they shall not cause any obstruction to any public highway, or build any bridge over any navigable stream, or cause any obstruction thereto, or remove any dwelling-house or other buildings without the consent of the owners thereof; and for all lands which it may be necessary to appropriate to the use of such road, the said corporation shall pay, or make tender of payment, for all damages which may have been agreed upon or awarded, before the said company, or any person in their employ, shall enter upon or break ground in the premises, unless the consent, in writing, of the owner or owners of such lands be first had and obtained. [See Sec. 29, *post.*]

Road may be made free on payment of cost.

11. That when the board of chosen freeholders of the counties through which any road shall be constructed under this act, shall desire so to do, they may, by paying to the stockholders the original cost of constructing said road, as aforesaid, make the same free; and that nothing in this act shall be construed to affect the title of the owners of land on which the said plank road passes, or from whence the materials for its construction may be taken.

Statement of cost to be filed.

12. That before the company hereby incorporated shall be entitled to collect the tolls authorized to be collected by the thirteenth section of this act, the president thereof shall file, under oath or affirmation, in the office of the clerks of the counties through which said road shall be constructed, a full and perfect statement of the cost of the construction of said road.

13. That every plank road made by virtue of this act shall be laid out, and so constructed and maintained, as to secure at all times a smooth and permanent road, the track of which shall be made of plank or timber, so that the same shall form a hard and even surface, and be so constructed as to permit carriages and other vehicles conveniently and easily to pass each other, and also to permit all carriages to pass on and off when such road is intersected by other roads; and wherever bridges or embankments shall be necessary, substantial and permanent railing shall be made and kept up in all places where it shall be necessary to the safety of persons using the road; *provided*, that no steam power shall be used on any road constructed by virtue of this act, nor iron rails or other obstruction to common travel placed thereon.

Road, how to be laid out and constructed.

Steam power not to be used.

14. That in any county of this state in which there shall be a plank road constructed by virtue of this act, there shall be three inspectors of such roads, who shall not be interested in any plank road in that county; they shall be appointed by the board of freeholders for the county, and shall hold their office during the pleasure of such board; whenever any company shall have completed their road, or any five consecutive miles thereof, they shall apply to any two of the inspectors in the county where said road, or the part thereof so completed, is located, to inspect the same; and if such inspectors, or a majority of them, are satisfied, on inspection, that the road is made and completed according to the true intent and meaning of this act, they shall grant a certificate to that effect, which shall be filed in the office of the county clerk; the inspectors shall be allowed two dollars per day for their services, for the time they are employed, to be paid by the company whose road they inspect; upon filing, as aforesaid, such certificate, the company owning any plank road so inspected may erect toll-gates upon their road, but not within three miles of each other, and may demand and receive toll for passing over each mile of said road, so completed and inspected, not exceeding the following rates, to wit:

Inspectors to be appointed.

Compensation.

Rates of toll.

- For every carriage, sleigh, or sled, drawn by one beast, one cent;
- For every additional beast, one-half cent;
- For every horse and rider, or led horse or mule, one-half cent;
- For every dozen of horses, mules, or cattle, one cent;
- For every dozen of calves, sheep, or hogs, one cent;

And it shall be lawful for any toll-gatherer to stop any horse, mule, calves, sheep, hogs, carriage, or other vehicle, of any kind, from passing through any of said gates or turnpikes, until the toll, as above specified, has been paid for them respectively.

15. That before any company shall demand toll for traveling any road constructed in pursuance of this act, they shall cause milestones or posts to be erected and maintained, one for each and every mile on said road, and on each stone or post shall be fairly and legibly marked the distance said stone or post is from the commencement and termination of said road, and shall cause to be affixed, and always kept up at the gates aforesaid, in some conspicuous place, a bill of the rates of toll which may be lawfully charged.

Milestones to be erected and maintained.

16. That if any person shall willfully break, throw down, or deface any milestones or posts, so erected on the said road, or injure any gate, turnpike, bridge, timber, or plank that shall be erected or placed in pursuance of this act, or shall forcibly pass (a) the gates or turnpikes without having paid the legal toll, such person shall forfeit and pay a fine of twenty dollars, besides being subject to an action of damages for the same, to be recovered by the said company, to their use, in an action of debt, with costs of suit; and if any person shall, with his team, carriage, or horse, turn out of said road to pass a gate or gates, and again enter on said road with intent to avoid the toll due by virtue of this law, such person shall forfeit and pay three times as much as the legal toll would have

Penalty for injuring works.

(a) Passing after permission to pass without payment of tolls was refused, without the consent and against the will of the

keeper, is a forcible passing within the statute. *Turnpike Co. v. Fowler*, 4 Zab. 208.

- been for passing through said gates, to be recovered by said company, to their use, in an action of debt, with costs of suit.
- 17.** That if any toll-gatherer shall unnecessarily delay or hinder any person passing at any of the gates, or shall demand and receive more toll than is by this act established, he shall, for every such offense, forfeit and pay the sum of twenty dollars, with costs of suit, to be prosecuted for and recovered for the sole use of the person so unreasonably hindered or defrauded.
- 18.** That all drivers of carriages, sleighs, or sleds, or persons on horseback, using the said road, shall keep their horses, carriages, sleighs, or sleds on the right hand of said road in passing, leaving the other side of the road free and clear for other carriages or persons to pass; and if any person shall offend against this provision, such person shall, besides being liable to make compensation for all damages, forfeit and pay the sum of five dollars to any person or persons who shall be obstructed in passing, and will sue for the same, to be recovered by an action of debt, with costs of suit.
- 19.** That it shall be the duty of the directors of every company, formed under this act, to report annually to the secretary of state, under oath of any two of said directors, the cost of their road, the amount of tolls or earnings expended on such road, the amount received during the year for tolls and from all other sources, stating each separately, the amount of dividends made, and the amount set apart for repairs, and the amount of indebtedness of such company, specifying the object for which such indebtedness accrued.
- 20.** That any company incorporated under this act shall cease to be a body corporate, if within two years from the filing of their articles of association they shall not have commenced the construction of their road, and actually expended thereon at least ten per centum of the capital stock of said company, and if within five years from the filing of said articles, such road shall not be completed according to the provisions of this act.
- 21.** That if the said company shall not keep the said road, and bridges erected thereon, in repair, and complaint thereof shall be made in writing, by three responsible persons of the county, to a judge of the court of common pleas or any justice of the peace of the county wherein the said road or bridge is out of repair, who may be disinterested, the said judge or justice of the peace, giving notice to the president of the said company or to the keeper of the nearest gate or turnpike, setting forth the nature of the complaint, and that if the cause of complaint, if any, be not removed, he will on a certain day, not less than five, appoint by writing, under his hand and seal, three respectable persons of the township where the cause of complaint arose, or if it be on the line of any two townships, of either of the said townships, which three persons, being disinterested (a) in the said road, or a majority of them, on notice being given to the keeper of the nearest gate or turnpike, shall meet at such time and place as the said judge or justice may appoint, and, having taken an oath or affirmation to act impartially, shall proceed to view and examine the said road or bridge so complained of, and report (b) to the said judge or justice in writing, under their hands and seals, or under the hands and seals of any two of them, whether it be in such a state as the law requires it to be kept; and if the report be unfavorable to the said road or bridge, the said judge or justice shall immediately, in writing under their hands and seals, order (c) the keeper of the said gate or turnpike to keep open the same until otherwise ordered; and if the keeper shall, notwithstanding the order of the said judge or justice to open the said gate or turnpike, exact toll from travelers, he shall for each offense forfeit and pay twenty dollars, to be sued for by any person who shall prosecute for the same in an action of debt, with costs of suit; and the judge or justice shall be allowed for their services fifty cents, and the persons appointed one dollar each, to be paid

(a) Where persons act under a special statutory authority, it must appear that they have the qualifications required by statute. *State v. Williamstown Turnpike Co.*, 4 Zab. 547.
 (b) The report should show in what particulars the road is out of repair. *State, Mead v. T. and A. Turnpike Co.*, 5 Vr. 182, 183.

(c) Everything necessary to give the justice jurisdiction must have been done. *Bergen Co. v. The State*, 1 Dutch. 554. *State v. Williamstown Turnpike Co.*, 4 Zab. 547.

PLANK ROAD COMPANIES.

2479

by the company; and it shall be the duty of the persons so appointed, or a majority of them, on application from said company, again to view the said road or bridge, and report, as aforesaid, their opinion to the said judge or justice, who shall, if authorized by the report of the said persons, or any two of them, by license, under their hands and seals, directed to the toll-gatherer, permit the gates or turnpike to be shut, and the toll to be collected as before, and the same fees shall be allowed and paid as before directed; but if, on the first view, as before mentioned, the report of the persons appointed, or a majority of them, shall be in favor of the company, the same fees shall be allowed as before prescribed, and paid by the persons making the complaint.

22. That the legislature may at any time alter, amend, or repeal this act, or may annul or repeal any corporation formed or created under this act. Right to alter and repeal reserved.

Supplement.

Approved March 11, 1853.

P. L. 1853, p. 447.

23. SEC. 1. That when a majority of the resident freeholders in any township in this state, including three-fourths of the owners of lands adjoining the highway or highways, or the part or parts thereof, proposed to be dedicated for the purpose of a plank road or plank roads in said township, shall apply to the inferior court of common pleas of the county in which said township is situated, notice of which application shall be given by advertisements signed by one or more of said applicants, setting forth the day said application will be made, and in general terms, the public highway or highways, or part or parts thereof it is proposed to dedicate as aforesaid in said township, which advertisement shall be put up in three of the most public places in said township, twenty days before the time when said application is to be made, setting forth in their said application, that the applicants do petition and request the said courts to dedicate, for the purpose of a plank road or plank roads, the public highway or highways therein named and described in general terms, or such part or parts thereof as may be therein named and described as aforesaid, so that the same may be taken and occupied for the purpose of a plank road or plank roads; then the court so applied to, on due proof being made that the application is signed by a majority of the resident freeholders in said township, including three-fourths of the owners of land adjoining the highway or highways, or part or parts thereof, proposed to be dedicated in said township, and that the advertisements have been set up according to law, on which points the judgment of the court shall be conclusive, shall by their order, entered in the minutes of said court, dedicate for the purposes of a plank road or plank roads the said public highway or highways, or the part or parts thereof so named and described as aforesaid, in said application, that the same may be taken and occupied for the purpose of a plank road or plank roads.

Highways, how dedicated for purposes of plank road.

24. SEC. 2. That any highway or highways, or any part or parts thereof, so dedicated for the purpose aforesaid, shall continue and remain a public highway in all respects, until the plank road company formed to construct a plank road thereon, shall file in the office of the county clerk of said county a certificate of the inspectors mentioned in the fourteenth section of the act to which this is a supplement, when the same, for the part so certified, shall be deemed thenceforth dedicated for the purpose of a plank road alone, so long as the company use and take toll upon the same; but such company, upon filing in the office of the secretary of state a certified copy of the order or orders of said court dedicating said highway or highways, or any part or parts thereof, for the purpose aforesaid, is and shall be thereafter invested with, and authorized to exercise, all the powers, rights and privileges conferred in the tenth section of the act to which this is a supplement, necessary to construct the said plank road or roads thereon.

Certificate of inspectors to be filed.

25. SEC. 3. That it shall be sufficient, in forming a company under the act to which this is a supplement, for the purpose of constructing a plank road or plank roads upon any public highway or highways, or any part or parts

Return of survey.

thereof, that have been dedicated by order of the court as aforesaid, if the survey mentioned in the first and second sections of the said act, describes the highway or highways, or part or parts thereof, intended to be taken for a plank road or plank roads, in general terms; and that it shall not be necessary for the same to set forth the names of the owners or occupants of lands, or to be signed by any of the owners of the land, or to set forth their opinions or consent; and that the said company may be formed before or after the application to the court mentioned in the first section of this act.

Rates of toll.

26. SEC. 4. That any plank road company taking a public highway or highways, or part or parts thereof, pursuant to this act, for the purposes of a plank road or roads, shall not, for so much of their road or roads as are upon such highway, charge toll at more than three-fourths the rates specified in the fourteenth section of the act to which this is a supplement; and so much of the said act as requires compensation to be made to the owner or owners of land shall not apply to any land within the limits of a public highway taken for the purposes of a plank road pursuant to this act.

Company to keep bridges in repair.

27. SEC. 5. That county or township bridges on any public highway dedicated by virtue of this act for the purpose of a plank road, shall be used by the company in connection with their road, and the company shall keep the same in good repair, and rebuild the same, when necessary, at the expense of the company, so long as the company take toll upon their road, but no toll shall be demanded for crossing said bridges.

No toll to be charged in certain cases.

28. SEC. 6. That any person using a public highway so dedicated, on which a plank road has been constructed, shall pay the legal toll, according to the rates of the company, whether the part of the highway that is planked be used or not, except when less than half a mile on either side of a toll-gate or bridge is used, or a person, or his or her family, or those in his or her employ, pass from one part of his or her farm to another, (a) without going farther, or in case of funerals, or going to or from religious meetings on Sunday.

Parts of former act not applicable to this.

29. SEC. 7. That the third section of the act to which this is a supplement, and such parts of the tenth section of said act as are inconsistent with the provisions of this supplement, and such other parts of said act as are inconsistent with the provisions of this supplement, shall not apply to any plank road constructed upon a public highway by virtue of this act.

[For act concerning sale of railroads, canals, turnpikes, bridges, and plank roads, see *post*, title RAILROADS.]

(a) A person owning and cultivating two or more farms and passing from one to another with teams engaged in his ordinary

agricultural pursuits, is within the meaning of the statute. *Turnpike Co. v. Fowler*, 4 Zab. 205.

Police Courts and Magistrates.

1. Police justice may appoint a justice of the peace to act in his absence or inability.
2. City council may prescribe maximum penalty for violation of ordinances.
3. Special police justices to receive same fees as justices of the peace in criminal matters.
4. Police officers allowed the same fees as constables.
5. Executions may issue against goods, chattels and persons of defendants.
6. Repealer.
7. Keepers of prisons, lock-ups and police stations to receive and detain prisoners for hearing.
8. In cities of the third class, common council authorized to appoint police justices.
9. Term of office.
10. Shall take oath and give bond.
11. Powers and jurisdiction.
12. Proceedings, how conducted.
13. Process to compel appearance in civil suits to recover penalties.
14. Suits, how brought.
15. When declaration shall be filed.
16. Execution against defendant.
17. Not to have jurisdiction over offense against by-law or ordinance until complaint is filed.
18. May adjourn hearing for ten days, &c.
19. When hearing shall be had.
20. What summonses or warrant shall contain.
21. Process to run throughout county, subpoenas throughout state.
22. Defendant may demand trial by jury.
23. When person summoned fails to appear, justice may issue warrant.
24. What deemed evidence of by-laws and ordinances.
25. What officers may execute process.
26. On judgment against defendant, warrant to commit to jail, or execution against goods and body may issue.
27. Sheriff and jailer to receive all persons committed.
28. How judgments in suits for the recovery of penalties, &c., may be reviewed.