

[No. 16.]

AN ACT

Relative to the claim of John Slaymaker.

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 canal commissioners be and they are hereby authorized and required to examine the situation and condition of the barn of John Slaymaker situate in Lancaster county, and within a few feet of the rail road, and if in their opinion there is danger of the same being destroyed by fire from the locomotives, and if the destruction of said building cannot otherwise be prevented, they shall cause the barn to be removed to such situation more remote, as will secure it from the danger of being burned by fire from the locomotives or pay to the proprietor thereof such sum of money as will be an adequate compensation to him for removing or securing the same or adopt such measures as in their opinion will promote the interest of the commonwealth and protect the property of the individual; the money that may be required to carry the provisions of this act into effect to be paid out of the damage fund.

Duty of canal
com'rs.To remove or
secure barn.

WM. A. CRABB,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—This fifteenth day of February, A. D. eighteen hundred and forty-one.

DAVID R. PORTER.

[No. 17.]

AN ACT

To authorize the New York and Erie Rail Road company to construct said road through a portion of Susquehanna county in the state of Pennsylvania.

Preamble.

WHEREAS, The legislature of the state of New York did at their session of one thousand eight hundred and thirty-two constitute a body corporate by the name of "the New York and

Erie railroad company," with power to construct a single, double or treble railroad or way from the city of New York to lake Erie through the southern tier of counties in said state.

WHEREAS, It is represented that in one of said counties to wit: the county of Broome, bordering on the state of Pennsylvania, said company are opposed in their construction of said road, by a mountain of such magnitude as to require tunneling or to be surmounted by stationary power with immense expense to said company.

WHEREAS, It is also represented that by being permitted in the construction of said road to follow the valley of the Susquehanna river, a distance of about fifteen miles in the neighborhood of and near to said county of Broome (though within the state of Pennsylvania) said company might enjoy the advantages of a level and easy route.

AND WHEREAS, It is alike politic and just that amity between adjoining states in respect to their internal improvement operations should be respected and maintained. Therefore,

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* incorporated by the legislature of the state of New York at their session of eighteen hundred and thirty-two, shall have full power to extend their road through such portion of the county of Susquehanna as in the proper construction of their road they may find it necessary. Power to extend road thro' Susquehanna co.

SECTION 2. The president and managers of said company shall have power to survey, lay down, ascertain, mark and fix such route as they shall deem expedient for the extension or continuation of their said road with single, double or treble track, confining themselves to the said county of Susquehanna; and the said railroad shall not pass through any burial ground, place of public worship or dwelling house, without the consent of the owner and the said company shall, within six months after ascertaining the route of said railroad, cause an accurate survey of the lines of said road to be made, a map or plot of which survey they shall cause to be filed in the office of the secretary of state, which map or plot or certified copy thereof shall be sufficient evidence of the route of said road which may then be opened, and all the expenses thereof shall be defrayed by said company. Power to locate road. Restriction, Map to be filed in secr'y com. office.

SECTION 3. That the said company shall have power, by themselves or agents, to enter in and upon such lands as may be necessary to make the railroad aforesaid, and also have liberty of taking from any land in the neighborhood, gravel, stone, wood or other materials necessary for the construction of said railroad, paying, if the owner of said land and said company can agree, Power to survey & obtain materials.

the damages they shall do to said lands or if they cannot agree, thereon, the damages shall be ascertained in the manner hereafter prescribed as to the compensation for injuries done said lands over which said railroad shall be laid.

SECTION 4. That whenever it shall be necessary for the said company to enter in and upon and occupy for the purpose of making of said railroad, any land upon which the same may be located, if the owner or owners of said land shall refuse to permit such entry and occupation and the parties cannot agree upon the compensation to be made for any injury or supposed injury that may be done to said land by such entry and occupation, then it shall be lawful for the court of common pleas of the county in which the land lies, on application of either party and at the cost and charges of said corporation, to award a *venire* directed to the sheriff of the county, requiring him to summon a jury of six disinterested men to view, examine and survey the said lands, tenements or hereditaments, and estimate the injury or damages, if any, that in their opinion will be sustained as aforesaid by reason of said railroad, and report the same, under their oaths and affirmations, to the said court, which, report being confirmed by the said court, judgment shall be entered thereon, and the said sheriff and jurors shall be entitled to the like fees for their services as are allowed by law in other cases of special juries to be paid by the said company; and it shall be the duty of the said jury in estimating such injury or damages, to take into consideration the advantage that will be derived to the owner or owners of such lands from the construction of said railroad: *Provided*, That either party may appeal to the court within thirty days after such report shall have been filed in the prothonotary's office of the proper county, in the same manner as appeals are allowed in other cases; and upon the filing of such report or inquisition and the confirmation thereof or upon final judgment upon appeal therefrom and the said company paying to such owner the amount in said report or judgment specified in full compensation for the injury sustained as aforesaid, the said company shall have the right of way and all other rights and privileges necessary to the full enjoyment of said road over the lands which the owner held; and they and all who act under them shall be acquitted and freed from all responsibility for or on account of such injury: *Provided*, That the payment of damages aforesaid for the lands through which the said road may be laid, shall be made before the said company or any person under their direction or in their employ shall be authorized to enter upon or break ground in the premises, except for the purpose of surveying and laying out said road unless the consent of the owner or owners be first obtained.

SECTION 5. That the said railroad shall be so constructed as not to impede or obstruct the free use or passage of any public road or roads which may cross or enter the same, and in all

Compensation
to landholders
how made.

Power of court
com. pleas

Proviso.

2 Proviso.

Not to obstruct
the public
roads

cases where the said railroad may cross or in any manner interfere with any existing public road, the said company shall make or cause to be made a good and sufficient causeway or causeways to enable all persons passing or travelling said public roads to cross and pass under or over said railroad; and if the said company shall neglect or refuse to keep such way or causeways in good repair, they shall be liable to a penalty of ten dollars for every day the same shall be so neglected or refuse to be repaired, to be recovered by the supervisors of the township with costs for the use of the township as debts of the like amount are by law recoverable, and shall moreover be liable to all actions at the suit of any person who may be aggrieved thereby.

Comp to build
causeways &c

Penalty for ne-
glecting cause-
ways.

SECTION 6. That for the accommodation of all persons owning or possessing lands through which the said railroad may pass, it shall be the duty of the said company to make or cause to be made, a good and sufficient causeway or causeways, wherever the same may be necessary, to enable the occupant or occupants of said lands, to cross or pass over the same with wagons, carts, and implements of husbandry as occasion may require; and the said causeway or causeways when so made, shall be maintained and kept in good repair by said company; and if the said company shall neglect or refuse, on request, to make such causeway or causeways, or, when made, to keep the same in good order, the said company shall be liable to pay any person aggrieved thereby, all damages sustained by such persons in consequence of neglect or refusal, to be paid for and recovered before any magistrate or court having cognizance thereof: *Provided*, That the said company shall in no case be required to make or cause to be made, more than one causeway through each plantation or lot of land, for the accommodation of any one person owning or possessing land through which said railroad may pass; and when any public road shall cross said railroad, the person owning or possessing land through which said public road shall pass, shall not be entitled to require the company to erect or keep in repair any causeway or bridges, for the accommodation of the occupant of said land.

Occupants of
land to have
causeways.

Penalty for
neglect or re-
fusal to make
causeways.

Proviso.

SECTION 7. No suit or action shall be brought or prosecuted by any person or persons for any penalties incurred under this act, unless such suit or action shall be commenced within ten months next after the offence shall have been committed, or the cause of action shall have accrued; and the defendant or defendants in such suit or action may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by authority of this act.

Time limited
to bring act's

Plea.

SECTION 8. If any person or persons shall wilfully and knowingly break, injure, or destroy the railroad or any part thereof to be erected by the said company, in pursuance of this act, he, she, or they shall forfeit and pay to the said company, injuring road.

Penalty for
injuring road.

three times the actual damages so sustained, to be sued for and recovered with costs of suit, in any court having cognizance thereof, by action of debt, in the name and for the use of said company.

Process how served:

SECTION 9. That in all suits or actions which may be brought against said company, the service of process upon any manager, toll-gatherer, or other officer of the company, shall be as good and available in law as if made on the president thereof. And the said company shall at all times keep at least one manager, toll-gatherer, or other officer, a resident in the county of Susquehanna.

Comp to have one officer in Susquehanna county.

Transport'on &c, regulated by comp.

SECTION 10. All transportation on the said railroad, of whatever nature or kind, shall be carried on and conducted under the superintendence and direction of said company, who shall make rules for the regulation of all travelling and transportation on the same, and alter the same as they may deem expedient: *Provided*, That in the transportation of property or persons on said railroad, the citizens of this Commonwealth shall enjoy equal privileges with those of the State of New York.

Fires from engines how settled and paid.

SECTION 11. If any buildings, fences, timber or other property, situated in the county of Susquehanna, shall be destroyed by fire occasioned by sparks falling from any of the locomotive engines used upon the said road, the company shall be liable to make full compensation for all damages sustained in consequence of such fire. The damage thus sustained, to be ascertained (where the parties cannot agree) in the same manner that other damages are ascertained and assessed, agreeably to the provisions of the fourth section of this act.

WM. A. CRABB,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—The sixteenth day of February, A. D. eighteen hundred and forty-one.

DAVID R. PORTER.