

said town, in a rectangular figure eighty feet fronting upon Main street, thence north one hundred and eighty feet next to and parallel with West street, for the purpose aforesaid.

HENDRICK B. WRIGHT,
Speaker of the House of Representatives.

B. CRISPIN,
Speaker of the Senate.

APPROVED—The twelfth day of April, one thousand eight hundred and forty-three.

DAVID R. PORTER.

[No. 104.]

AN ACT

Relative to an old pier in the Delaware river, and for other purposes.

Preamble

WHEREAS, The lumbermen and other individuals navigating the river Delaware, have suffered great inconvenience and losses in consequence of an old pier at Mitchell's or Centre bridge, above New Hope, and the directors of the said bridge have heretofore neglected and refused to remove the said old pier; For remedy whereof,

Notice requiring removal of pier

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 it shall be lawful for any individual interested in the navigation of the river Delaware, to give thirty days notice to any officer or director of the corporation owning Mitchell's or Centre bridge, requiring the said company to remove the said old pier, and restore the navigation; and in case the said pier shall not be removed within thirty days after such notice shall be given, the said company shall forfeit and pay the sum of twenty dollars for every day afterwards that the said old pier shall remain in a situation to obstruct the navigation, to be sued for and recovered by any citizen of this commonwealth, as debts of similar amount are recoverable, and the process may be sued upon any officer or director of the company.

SECTION 2. In case the said bridge company shall not remove the old pier aforesaid, within thirty days after notice is served according to the provisions of the first section, it shall be lawful for any individual or individuals interested in the navigation of the Delaware river, to cause the said obstruction to be removed at the expense of the said bridge company; and in case the said company shall neglect or refuse to pay the same, it shall be lawful for such individuals to bring a suit against the said company, and declare for money had and received in any court of competent jurisdiction, and obtain judgment for the amount of expense incurred, and upon which execution may issue without stay.

SECTION 3. That it shall be lawful for the Susquehanna and Delaware canal and railroad company, to construct a temporary railroad from a point at or near the summit level between the Susquehanna and Delaware rivers, to a point at or near the Water Gap, on the river Delaware, in the county of Monroe, and also from the summit to a point on the Lackawanna river: *Provided*, That the construction of such temporary railroad shall in no way interfere with the right of said company to construct a more permanent railroad hereafter, under the provisions of the act to which this is a supplement: *And provided also*, That the construction of the said temporary railroad shall be commenced within two, and completed within four years from the passage of this act; and the period for the completion of the permanent railroad of the said company shall be extended ten years from the passage of this act.

SECTION 4. That the owner or owners of the mill and mill dam, on the Fayette county side of the Monongahela river, opposite Millsborough, in Washington county, and commonly known as "Heaton's mill and dam," shall erect or cause to be erected, a lock or locks sufficient for the free passage of steam or other boats ascending or descending said river, over or through said dam, and to keep such lock or locks in good order and repair for said purposes, during the navigable seasons of the year. And it shall be lawful for the owner or owners of said mill and dam to charge each and every steam or other boat passing through said lock or locks, a reasonable toll, not exceeding the rate or rates heretofore charged.

SECTION 5. It shall be lawful for any person or persons interested in the navigation of said river, to give twenty days notice to the owner or owners of said mill and dam, requiring him or them to construct such lock or locks, as is provided for in the fourth section of this act; and in case it shall appear upon the expiration of such notice, that the owner or owners of said mill and dam have failed, neglected or refused to com-

ply with the provisions of the section aforesaid, by erecting sufficient lock or locks as aforesaid, it shall be lawful for any person or persons interested in the navigation of said river to abate or remove the obstruction by opening a sufficient channel, schute or passage through said dam, for the passage of boats as aforesaid, the expense of which removal or abatement shall be defrayed by the owner or owners of said mill and dam: *Provided*, That such neglect, failure or refusal shall have occurred during the navigation season of the year.

Penalty for
obstructing
said river

SECTION 6. In addition to the remedy herein contained, it shall be lawful for the owner or owners of any boat detained or injured by reason of said obstruction, to bring suit against the owner or owners of said mill and dam, and recover adequate damages for such injury or detention, as well as to prosecute such owner or owners of said mill and dam, in the sessions of the proper county, by indictment for nuisance: *Provided*, That it may be lawful for such defendants to give in evidence in mitigation of fine or damages, that such obstruction and detention was occasioned by the unavoidable accidents of the river; and all laws inconsistent or conflicting herewith are hereby repealed.

HENDRICK B. WRIGHT,

Speaker of the House of Representatives.

B. CRISPIN,

Speaker of the Senate.

APPROVED—The twelfth day of April, one thousand eight hundred and forty-three.

DAVID R. PORTER.