

so awarded shall be made, or secured to be made, by the said company to the owner or owners, before possession of the property shall be taken by the railroad company.

SECTION 3. And it shall be lawful for said railroad company, where any public road or street may be crossed by said branch road or roads, or are crossed by the present road as constructed, to change the grade of such road or street so as to pass the same over or under said railroad: *Provided*, That any damages that may accrue to property adjoining the part of said road or street so altered by reason of such change of grade, shall be paid by said railroad company, provided application be made within twelve months: *And provided further*, That such change of grade shall be approved by the court of common pleas of the proper county before being made: *And provided further*, That such change within the borough of Manayunk, shall also be approved by the council of said borough.

WILLIAM F. PACKER,
Speaker of the House of Representatives.

GEORGE DARSIE,
Speaker of the Senate.

APPROVED—The seventh day of April, one thousand eight hundred and forty-nine.

WM. F. JOHNSTON.

No. 325.

AN ACT

Authorizing the governor to incorporate the Wysauking and Wappasening plank road company.

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 V. E. Piolett, E. R. Myer, William Elwell, J. M. Wattles, M. H. Lansing, John Passmore, Lemuel S. Maynard, Chauncy Frisbee, Aaron Chubb, G. W. Kenney, Parley Johnson, junior, John C. Adams, Henry W. Tracy, George W. Eastman, of Bradford county, be and are hereby appointed commissioners to open books, receive subscriptions and organize a company, by the name, style and title of "The Wysauking and Wappasening plank road company," with power to construct a plank road from the Susquehanna river, in Wysox township, Bradford county, to the north line of Windham township, in the same county, by the nearest and best route, subject to all the provisions and restrictions of an act, entitled "An Act regulating turnpike and plank road companies," passed the twenty-sixth day of January, one thousand eight hundred and forty-nine, excepting so far as may be hereinafter provided for.

SECTION 2. That the capital stock of said company shall consist of one thousand shares, at twenty-five dollars per share: *Provided*, That

That the said company may from time to time, increase the same, under and by virtue of the authority contained in the aforesaid general act.

- SECTION 3.** That the said president and directors shall have power and authority, by themselves or their superintendents, engineers, artists and workmen to enter in and upon, and occupy all land on which the said plank road or its depots and warehouses may be located, or which may be necessary for the erection of weights and scales, or any other purpose necessary or useful in the construction and repairs of said plank road, and therein to dig, embank, make and construct the same: *Provided*, The said company shall first make compensation to the owner or owners of ground and materials and property so taken and occupied as aforesaid, or give adequate security therefor; but if the parties cannot agree upon the compensation to be made to such owner or owners, it shall and may be lawful for the parties to appoint three suitable, judicious and disinterested persons of the county of Bradford, who shall be under oath or affirmation; and if they cannot agree upon such persons, then either of the parties, after giving twenty days' notice to the other, may apply to a judge of the court of common pleas of Bradford county, and the said judge shall appoint three judicious, disinterested men of the said county, in order to ascertain and report to the court of common pleas what damages, if any, have been sustained by the owner or owners of the said ground by reason of the construction of said plank road through the same, which said appraisers being duly sworn or affirmed, and having viewed the premises, shall proceed to estimate the quantity and quality of land occupied by said plank road, and all other inconveniences which may be likely to result therefrom to the said lands, and in view of these considerations, and a just regard to the advantages may seem likely to result to the owner or owners of the said land, from the opening of the said plank road through the same, to make their assessment and report to the court, which report being confirmed by the said court, judgment shall be entered thereon, and execution may issue in the case of non-payment for the sum awarded; and the costs and expenses incurred by the said appraisers shall be defrayed by said plank road company: *Provided*, That either party may appeal to the court within thirty days after such report may have been filed in the prothonotary's office of the said county of Bradford, in the same manner as appeals are allowed in other cases: *Provided however*, That in all cases where an appeal is taken by either party, the company may immediately, upon such appeal being taken as aforesaid, enter upon, occupy, take and carry away any ground, material or property necessary for the use and construction of the aforesaid plank road: *And provided also*, That if any person or persons owning land or any other property, which shall be affected by this act, be feme coverts, under age or non compos mentis or out of the state, then and in either of those cases the president and directors of the company, and at the costs and charges of said corporation, shall within one year after the construction of the plank road through said land, represent the same to the court of common pleas of the aforesaid county, who shall proceed thereon in the same manner and to same effect as is directed by this act in other cases.
- SECTION 4.** That the company shall not prevent any person or persons, being the owner or owners of land bordering on the said plank road, or in the vicinity thereof, or adjacent thereto, from making such lateral plank roads and connecting them with the said plank road from their said lands, as the said person or persons may wish, for the purpose of transporting coal, lumber or produce on said plank road: *Provided*, That all such connections of lateral roads are to be made at the
- Powers of president and directors.**
Enter upon and occupy land.
Proviso.
Damages, how adjusted.
Proviso.
Proviso.
Proviso.
Owners of land bordering on said plank road may make lateral roads.
Proviso.

expense of the person so wishing to connect, and according to the direction and approval of the engineers or directors of said plank road company, so as not to obstruct or endanger the free travel on the main road: *Provided also*, That any person or persons owning such coal, lumber or produce, shall have the privilege of transporting the same on said plank road in their cars or other vehicles, subject to the rules and regulations of said company. *Proviso.*

SECTION 5. That the said plank road 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 cases where the said plank road may cross or in any manner interfere with an existing public road, canal or slack water navigation, the said company shall make or cause to be made, as soon as conveniently may be, a good and sufficient causeway or causeways, to enable all persons passing or traveling such public roads, and if the company shall neglect or refuse to keep such causeways in good repair, they shall be liable to a penalty of ten dollars for every day the same shall be so neglected or refused to be repaired, to be recovered by the supervisors of the township, with costs, for the use of the township, as debts of 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. *The plank road to be so constructed as not to obstruct the free use or passage of any public roads which may cross or enter the same.*

SECTION 6. That for the accommodation of all persons owning or possessing lands through which the said plank road may pass, it shall be the duty of 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 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 them in good order, the said company shall be liable to pay to any person aggrieved thereby all damages sustained by such person in consequence of such neglect or refusal, to be sued 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 the said plank road may pass; and where any public road may or shall cross said plank road, the company shall not be required to erect or keep in repair any causeway or bridge for the accommodation of the occupant of said land: *Provided further*, That in the event of any private bridge or causeway being converted to public use, so as to be made to accommodate a public road, laid out subsequent to the passage of this act, then and in such case the company shall be forever thereafter exonerated from the duty of keeping said bridge or causeway in good repair. *Causeways to be made by said company. Proviso.*

SECTION 7. That no suit nor action shall be prosecuted by any person or persons for any penalties incurred under this act, unless such suit or action shall be commenced within twelve months next after the offence committed or the cause of action accrued, and the defendants in any 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 the authority of this act. *Suit to be brought within twelve months next after the offence committed.*

SECTION 8. That in all suits or actions brought against said company, the service of process on any director, toll gatherer or other officer of the company, shall be good and available in law as if made on the president thereof. *Service of process.*

Penalty for injuries.

SECTION 9. Any person who shall wilfully injure, break or throw down any gate which shall have been erected on said road, pursuant to the provisions of this act, or dig up or wilfully injure or spoil any part of such road, or any thing thereunto belonging, or shall drag along or across such road, any log, timber, wood or stone, so that the same shall come in contact with the even surface of said road, or forcibly or fraudulently pass any such gate without the payment of the legal toll, or shall with his team, carriage, sleigh, sled or other vehicle or animal, turn out of said road and pass any gate thereon, on ground adjacent thereto, and again enter on such road, he shall for every such offence forfeit to the corporation hereby created, the sum of ten dollars in addition to the damage for his wrongful act, which penalty may be recovered by the said corporation in an action of debt in any court having cognizance thereof, and a separate suit for such damages may in like manner be prosecuted and maintained by such corporation.

Penalty for wilfully destroying company's constructions, and to endanger the lives of persons traveling thereon.

Proviso.

SECTION 10. That if any person or persons shall wilfully or maliciously remove or destroy any of the company's constructions, or place designedly and with evil intent, any obstruction on the line of said plank road, so as to endanger or jeopard the lives of persons traveling on the same, such person or persons so offending shall be deemed guilty of a misdemeanor, and shall be adjudged on conviction, to be imprisoned for a term of not more than two years: *Provided*, That nothing herein contained shall prevent the company from pursuing any appropriate remedy at law in such cases.

Commencement and completion of road.

SECTION 11. That if the president, directors and company shall not proceed to carry on the said work within three years from the passage of this act, and shall not complete the same within five years as aforesaid, according to the true intent and meaning of this act, or if after the completion of the said road, the said company shall suffer the same to go to decay and be impassable for the term of two years, then this charter shall become null and void, except so far as compels the said company to make reparation for damages.

In case of neglect to elect officers at the proper time, corporation not to be dissolved on that account.

SECTION 12. That if it shall at any time happen that an election of president, directors, treasurer, secretary or other officer, shall not be made at the proper time, the corporation shall not for that cause be dissolved, but it shall be lawful to hold and make such election of president, directors, treasurer, secretary or other officers on any day thereafter, by giving at least ten days' notice, signed by the president or secretary, in the newspapers before mentioned, of the time and place of holding said election; and the president, directors, treasurer, secretary and other officers of the preceding year, shall in that case continue to act and be invested with all the powers belonging to their stations, until an election shall take place; in the case of death or resignation of the president, directors, treasurer, secretary or other officer, his place may be filled by the board of directors until the next annual meeting.

WILLIAM F. PACKER,

Speaker of the House of Representatives.

GEORGE DARSIE,

Speaker of the Senate.

APPROVED—The seventh day of April, one thousand eight hundred and forty-nine.

WM. F. JOHNSTON.