

CHAP. 79.

Proviso.

sable; *provided*, the said Franklin Rail Road shall be so constructed that said Rail Road shall pass within four miles of the town of Hagerstown; *and provided also*, that in the event of the Baltimore and Ohio Rail Road or a branch thereof, being extended to said town and no further West, or in a Westerly direction therefrom, that then the said Franklin Rail Road or a branch thereof shall be constructed to said town within one year after the completion of the said Baltimore and Ohio Rail Road or a branch thereof thereto, but in case the Baltimore and Ohio Rail Road or a branch thereof, shall be extended West of the said town, then the said Franklin Rail Road Company shall have the right and privilege of intersecting the same, at any point within the four miles West, that they may deem most advisable; *and further provided*, that the said Franklin Rail Road shall not intersect the said Canal more than half a mile West of Williamsport.

May hold estate

SEC. 2. *And be it enacted*, That the said company shall be, and they are hereby authorised to acquire and hold such lands and other property as may be necessary for the construction of said road, and for the establishment of such depots, warehouses, and other buildings and conveniences as may be requisite for the accommodation of trade and travel upon said road.

Acquire right of way, materials, &c.

SEC. 3. *And be it enacted*, That for the purpose of acquiring land and materials for the construction, repair and maintenance of said Rail Road, it shall and may be lawful for the president and directors of the said company to agree with the owner or owners of said land or materials, for the purchase of the same, or on failure to agree, or if the owner or owners be absent or legally incompetent to contract, for any cause, the president and directors of said company, in the corporate name of the said company, shall and may apply to any one of the judges of Washington county court, or any justice of the peace of said county, setting forth in a petition the said facts, with an affidavit or affirmation of the truth thereof thereto annexed, and the said judge or justice shall issue at the cost of said company a precept or warrant to the sheriff of said county, commanding him to summon twenty freeholders of said county, not interested in any manner for or against the location of said road, nor owning lands in its vi-

Case of non-agreement—proceedings directed