

MINORITY REPORT
OF THE
JOINT COMMITTEE
ON
RIPARIAN RIGHTS,
TO THE
SENATE AND GENERAL ASSEMBLY
OF THE
STATE OF NEW JERSEY,
TO THE LEGISLATURE—SESSION OF 1874.

TRENTON, N. J.
THE PUBLIC OPINION—WM. S. SHARP, BOOK AND JOB PRINTER.

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To the Honorable the Senate and General Assembly of the State of New Jersey :

The minority of the committee do not concur with the recommendation of the majority, that the Central Railroad Company of New Jersey should not have the benefit of further legislation until they have settled with the state for the claim, made on its behalf, in Communipaw bay.

It appeared before the committee that the company constructed their railroad and established their ferry after complying with all the provisions of their charter.

The charter required them to purchase the rights of the riparian owners before constructing their road. This they did, and paid for other rights upwards of \$200,000. Up to that time the state has made no claim to such riparian rights, and having compelled the company to pay for them to the owners of the upland, it could not reasonably be supposed that the state would call on the company to pay for those same rights a second time.

The compensation reserved to the state was one-half of one per cent. for every dollar expended by the company. That has been annually paid into the state treasury : so that it appears that the company took possession of the property by the authority of the state, and has faithfully complied with every provision of their charter in acquiring such possession.

After the company had expended more than a million and a half of dollars, the riparian rights increased rapidly in value, and it was then suggested that the company had acquired property not covered by their grant. The riparian commissioners taking this view directed legal proceedings to be commenced against the company, and a suit was instituted in January, 1870, for the purpose of having the legal rights of the company ascertained.

It is no fault of the company that the suit has not been brought to a determination long ago ; the company placed their title upon the records of the court, and there it has stood ready for a decision whenever the court should be called upon to make it.

The company could do no more. If their claim is a just one, and if, as they insist, the state has made them a grant for this property, no just legislator will say that they should be deprived of the benefit of it, except by due course of law.

The state ought not to attempt to force the settlement of a claim which the company insist is without foundation. They have the same right to the benefit of the legal tribunals of the country as any other corporation, or as any individual. They are here

asking the legislature for facilities to enlarge and perfect their improvements. No objection has been suggested to the propriety or reasonableness of such request. No compensation is asked of them for the facilities which they require. But it is proposed to say to them unless you compromise a suit which, in the name of the state, has been instituted against you, and pay \$500,000 for property to which you claim title and are defending in the legal tribunals of the state, you shall have no longer the encouragement or benefit of legislation. Is this just? Is this the mode in which the state should enforce its demands, determined to compel a submission to them, right or wrong?

The unreasonableness of this mode of legislation is more apparent from the consideration that the claim on the part of the state cannot be jeopardized by any protracted litigation. It is fast property, upon which are valuable improvements to an amount very far exceeding any pecuniary claim made by the state. If the state is successful in the litigation, the possession of the property must pass directly into its hands, without any further resistance on the part of the company.

The riparian commissioners, who have had the sole charge of this matter on behalf of the state, and under whose direction the suit referred to was commenced, who are perfectly familiar with the controversy and the claim upon which it is based, have earnestly endeavored to effect a compromise, and have at last accomplished it on the basis of \$300,000 to be paid by the company.

The commissioners have been before the committee, and each has stated under oath, that this compromise has been acquiesced in by them, after much patient labor and investigation, and in view of what is just, and for the best interest of the state.

While the papers are being prepared for execution, and the details of the settlement arranged, it is proposed by the majority report to take it out of the control of the commissioners, and to pass in effect, a vote of censure upon them. The exalted character of the gentlemen who compose this commission, and the confidence which the people of New Jersey repose in their judgment and integrity, make such action, at least, very questionable. It would be best to leave the whole matter in their hands, and the responsibility where it properly belongs.

In conclusion, your committee would suggest, whether the mode of legislation proposed, is not an admission of the weakness of its claim, and of serious doubts whether it can be maintained at law.

We recommend that any proper demands which the state has against the Central Railroad Company of New Jersey be prosecuted with vigor and in the usual way, and that no resort be had to any device which can possibly compromise the dignity of the state.

JOHN G. SCHENCK,
Chairman of House Committee.