

SECTION 82. It shall be the duty of the said commissioners to take from each and every person or persons owning lands along the road by them laid out acquittances or releases from any claim or damages: *Provided*, such releases can be obtained upon the condition that such road shall pass through such person or persons land or lands, and file the same in the commissioner's office of the proper county.

LEWIS DEWART,

Speaker of the House of Representatives,

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—The thirtieth day of March, one thousand eight hundred and thirty-eight.

JOS. RITNER.

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No. 45.

An Act

Authorizing the Canal Commissioners to settle and adjust the claim of Arts and Dobbins, and for other purposes.

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 Appraisers of Canal Damages be, and they are hereby directed to examine if any and what amount of damages have been sustained by Arts and Dobbins, salt manufacturers, on the Conemaugh river, in the county of Westmoreland, in the destruction of a quantity of manufactured salt by the overflow of the river aforesaid, on February tenth, eighteen hundred and thirty-two, which overflow it is alleged was caused by a large quantity of earth, stones, &c. taken from the Pennsylvania Canal at that place, and by the orders of the Canal Commissioners placed in the said river, at a bend a short distance below the salt works of the said Arts and Dobbins; and if should they think that the said Arts and Dobbins are in equity and justice entitled to damages for the injury aforesaid, they shall report the amount thereof, which shall be paid out of the fund appropriated for the payment of damages done in the construction of canals and railroads by this commonwealth.

Appraisers
to examine
damages
sustained by
Arts & Dobbins.

To report
amount.
Payment.

Lackawanna and Susquehanna Railroad Co. authorized to construct a branch. SECTION 2. That the president and managers of the Lackawanna and Susquehanna Railroad company shall be authorized to construct a lateral branch railroad, commencing at or near the Starucca summit, in the county of Wayne or Susquehanna, to extend on the shortest and best route to the West Branch of the Lackawaxen river, thence to or near Honesdale, thence down the main branch of said river to its mouth, and thence down the Delaware river to Dunning's ferry, opposite to Carpenter's point, under the like provisions and restrictions as are contained in the original act for incorporating the said company, which is hereby made part and parcel of this act, so far as the same shall or may be applicable thereto.

Authority to extend the main line. SECTION 3. The president and managers aforesaid be authorized to extend the main line of railroad from or near the mouth of the Starucca creek up the Susquehanna river to the state line.

Number of shares may be increased. SECTION 4. That the president and managers aforesaid, at a stated or special meeting convened for that purpose, may increase the number of shares so that the capital stock of said company shall not exceed one million five hundred thousand dollars, and shall receive and demand the monies so subscribed, in like manner and under like penalties as are provided for in the original act.

Appraisers to examine damages sustained by W. Barker. SECTION 5. That it shall and may be the duty of the Appraisers of Damages on the Pennsylvania Canal, as soon as practicable, to ascertain the amount of damage done to and sustained by William Barker in the carrying away and destroying of his salt on the Conemaugh river by the freshet of the month of February, one thousand eight hundred and thirty-two, and if in their opinion the said loss was occasioned by the narrowing of said river in constructing the canal, then to report the amount of damages they shall think the said William Barker shall in equity and justice be entitled to, which sum so reported, shall be paid out of the damage fund, as in other cases of damages sustained by reason of the construction of the Pennsylvania Canal: *Provided*, Said damages so assessed, shall in no event exceed the sum of seven hundred dollars.

Canal Commissioners to ascertain the amount of damages sustained by C. Robinson and report, &c. SECTION 6. That it shall be the duty of the Canal Commissioners to ascertain the amount of damages sustained by Catharine Robinson, in the burning her barn, hay, and the grain therein, destroyed by fire communicated from the burning of logs and brush in clearing the ground on the line of canal near Meadville, in the year eighteen hundred and thirty-three, and if in their opinion the said Catharine Robinson is entitled to damage, then to report the amount of

damage said claimant is entitled to, which sum shall be paid Payment. out of the damage fund, as in other cases of damages sus- tained by reason of the construction of the Pennsylvania Canal, and that the sum so assessed, when paid, shall be in full of all claims for damages in the premises: *Provided*, That ^{Proviso.} the said damages so assessed, shall not exceed the sum of four hundred dollars in the case of Catharine Robinson.

SECTION 7. That the Appraisers of Damages be and are Appraisers hereby directed to examine if any and what amount of to examine damage Elijah Morrison, of Wayne township, Mifflin county, damages E. has sustained by the construction of the Pennsylvania Canal Morrison has through and upon his land in said township, in the same sustained. manner as if he had taken his appeal regularly from the deci- sion of the board of Canal Commissioners to the said Appraisers, and that if the said Elijah Morrison has sustain- ed any damages, that the same be paid him out of the funds Payment. of the commonwealth, as in other cases.

SECTION 8. That the Appraisers of Canal Damages are hereby directed to re-examine if any and what amount of Claims of damages have been sustained by Abraham Bruner, junior, A. Bruner, jr. Lawrence Miller, and Andrew Ferguson, junior, of Lycom- L. Miller. ington county, by the construction of the West Branch Divi- jr., of Ly- sion of the Pennsylvania Canal, and report the damages to coming Co., which they shall think the said Abraham Bruner, junior, to be re-ex- Lawrence Miller, and Andrew Ferguson, junior, respectively, amined and shall in equity and justice be entitled, which sum or sums so paid. reported, shall be paid out of the damage fund, as in all similar cases: *Provided*, The Appraisers aforesaid are fully Proviso. satisfied by the investigation that the Commonwealth of Penn- sylvania is responsible and ought to pay the damages con- templated by the foregoing sections.

SECTION 9. That the board of Appraisers of Canal Dama- Damages ges be, and they are hereby authorized and required to re- sustained by examine and assess the damages, if any, which may have S. F. J. and been sustained by Sansom Perot, Francis Perot, Joseph Perot, W. S. Perot, William S. Perot and Samuel B. Morris, of the county of and Sam'l B. Philadelphia, by reason of the construction of the Philadel- Morris, to phia and Columbia Railroad through their lands on Coates be re-exami- street, near the river Schuylkill, in said county, and it shall ned. be the duty of the said board of appraisers to issue subpoenas for witnesses, and examine them upon oath or affirmation, in relation to the claim of the said Sansom Perot, Francis Perot, Joseph Perot, William S. Perot and Samuel B. Morris, and the said board of appraisers, or any of them, in the pre- sence of the others, shall have power to administer oaths or affirmations to all such witnesses as it may be necessary to examine.

SECTION 10. That the time for commencing the Tuscarora and Cold Run Tunnel and Railroad provided for in the act entitled An act to incorporate the Tuscarora and Cold Run Tunnel and Railroad company, passed sixth day of April, eighteen hundred and thirty, and the supplement thereto, passed the seventh day of May, eighteen hundred and thirty-two, is hereby extended to three years from and after the passage of this act, and for completing the same to six years from the date of this act.

SECTION 11. That the Canal Commissioners be, and they are hereby authorized to require a re-examination to be made of the claims of George D. Foreman, contractor for lock number one on the Erie Extension of the Pennsylvania Canal, for injuries sustained in consequence of the flowing of water back on the said lock, caused by the erection of the Shenango Feeder Dam, and if upon re-examination, they are satisfied that he has sustained damage for which he has not been compensated, then to make such allowance as shall be just and reasonable.

SECTION 12. That in all applications for re-assessments authorized by this act, the board of Appraisers shall take into consideration the benefits which the applicants derive from the construction of the Pennsylvania Canal, according to the general law of this commonwealth in such cases, and if any former decision of said appraisers shall be affirmed, or the amount heretofore assessed in favor of the petitioners, if any, shall not be increased, then the petitioners in each case so determined to pay all the expenses of said appraisal.

SECTION 13. That it shall be the duty of the Appraisers of Canal Damages to ascertain if any and what amount of damages have been sustained by John Newbold, by the construction of the Pennsylvania Canal through his farm near Bristol, Bucks county, by the destruction of his crops by the water from the same, and the value of the ground taken by the commonwealth for a lock house and garden, and report the amount of damages to which they shall think the said John Newbold shall be in equity and justice entitled, which sum so reported, shall be paid out of the damage fund as in all similar cases.

SECTION 14. That the Appraisers of Damages be, and they are hereby directed and required, to examine if any and what amount of damages have been sustained by John Wilson and David Lynch, in the destruction of salt and other property by the breaking of dam number one, on the Western Division of the Pennsylvania Canal, and should they think that the said John Wilson and David Lynch are in

equity & justice entitled to damages for the injury aforesaid, they shall report the amount thereof, which shall be paid out of the fund appropriated for the payment of damages done in the construction of the canals and railroads of this commonwealth.

SECTION 15. That the Appraisers of Damages be, and they are hereby authorized and required, to examine if any and what amount of damages have been sustained by Ebenezer M. Bigham, of Armstrong county, by reason of the location and construction of dam number one, on the Western Division of the Pennsylvania Canal, (should the appraisers aforesaid think the state is in equity and justice bound or obligated to pay the same,) which shall be paid out of the damage fund, and allowed by the Auditor General as in all similar cases: *Provided*, That the said claimant has not heretofore received any compensation for the damages aforesaid.

Damages sustained by E. M. Bigham of Armstrong co. to be examined and paid.

Proviso.

SECTION 16. The Appraisers of Damages be, and they are hereby authorized and directed to examine if any and what amount of damages have been sustained by Daniel & Samuel Kistler, salt manufacturers on the Kiskiminetas river, on the Western Division of the Pennsylvania Canal, in the destruction of salt and other property by the breaking of dam number one on said canal on the morning of the ninth of February, eighteen hundred and thirty-two, and should they think that said Daniel and Samuel Kistler are in equity and justice entitled to damages for the injury aforesaid, they shall report the amount thereof, which shall be paid out of the fund appropriated for the payment of damages done in the construction of canals and railroads by this commonwealth.

Damages sustained by D. and S. Kistler to be examined and paid.

SECTION 17. The Canal Commissioners be, and they are hereby authorized and required to examine into and settle the claim of David Kelly, of Butler county, in the Commonwealth of Pennsylvania, for alleged grievances in the estimate made on his contract for the erecting of the abutments of the bridge at New Castle, Mercer county, strictly conforming however, to the provisions of the fourth section of the act entitled "An act relative to the appointment of Canal Commissioners," passed April sixth, Anno Domini one thousand eight hundred and thirty; the said examination and settlement to be as effectual in law as if the said David Kelly had appealed from the final estimate of said contract within the time mentioned, and in all other respects had complied with the provisions of that part of the act referred to: *Provided*, That no such adjustment of the claim aforesaid has been made or appeal lawfully entered and prosecuted by the said

Claim of D. Kelly of Butler co. to be examined and settled.

David Kelly or his attorney, or an appeal been regularly entered but not prosecuted according to the fourth section of the act aforesaid.

Claim of David, Sidney S. & H'y H. Easton of Cambria co. to be examined and settled.

SECTION 18. The Canal Commissioners be, and they are hereby authorized and required to examine into and settle the claim of David, Sidney S. and Henry H. Easton, of Cambria county, in the Commonwealth of Pennsylvania, for alleged grievances in the estimate of the extra work done and materials furnished on and for sections from number thirty-one to thirty-five, both inclusive, of the Allegheny Portage Railroad, and also for extra work done and materials furnished for engine house and road sheds at inclined plane number five of said road, strictly conforming however, to the provisions of the fourth section of the act entitled "An act relative to the appointment of Canal Commissioners," passed April sixth, A. D. one thousand eight hundred and thirty; the said examination and settlement to be as effectual in law as if the said David, Sidney S. and Henry H. Easton had appealed from the final estimate of said extra work done and materials furnished on said sections, engine house and road sheds, within the time mentioned, and in all other respects had complied with the provisions of that part of the act referred to: *Provided*, That no such adjustment of the claim aforesaid has been made, or appeal lawfully entered and prosecuted by the said David, Sidney S. and Henry H. Easton, or either of them, or their attorney, or the attorney of either of them, or an appeal been regularly entered but not prosecuted according to the fourth section of the act aforesaid.

Proviso.

Damages sustained by John Royer, to be ascertained and paid.

SECTION 19. It shall be the duty of the Appraisers of Damages on the Pennsylvania Canal, as soon as practicable, to ascertain the amount of damage done to and sustained by John Royer in the carrying away and destroying of the salt on the Conemaugh river by the freshet of the month of February, one thousand eight hundred and thirty-two, and if in their opinion the said loss was occasioned by the narrowing of said river in constructing the canal, then to report the amount of damages they shall think the said John Royer shall in equity and justice be entitled to, which sum so reported, shall be paid out of the damage fund, as in other cases of damages sustained by reason of the construction of the Pennsylvania Canal.

Claim of Jos. Adams of Huntingdon county.

SECTION 20. The Canal Commissioners be and they are hereby authorized and required to examine into and settle the claim of Joseph Adams, of Huntingdon county, in the Commonwealth of Pennsylvania, for retained per centage

kept off him when settling for the building of lock number thirty-two on the Frankstown line of the Juniata Canal.

SECTION 21. The board of Canal Commissioners be, and they are hereby authorized and required to investigate the claims of Josephine C. B. Nourse, of the county of Northumberland, for work done by Joseph Nourse, her late husband, as a contractor on the North Branch Division of the Pennsylvania Canal, and by her the said Josephine, as his administratrix, in completion of the contracts, to remeasure or cause to be remeasured, the work done on the said contracts, to examine on oath or affirmation, such witnesses as may be offered in support of said claims, and also such documentary evidence as may be produced, and to adjust the same upon the principles of justice and equity.

Claim of Josephine C. B. Nourse of Northumberland co., to be investigated.

SECTION 22. The board of Appraisers of Damages be, and they are hereby authorized and required to investigate the claims of the said Josephine C. B. Nourse, for damages sustained in the construction of the North Branch Division of the Pennsylvania Canal through her land, and also for property taken by the agents of the commonwealth for use of said canal, and the said damages, if any, shall be paid out of the fund provided for the payment of damages, and audited in the usual way.

Damages to be paid.

SECTION 23. The Appraisers of Damages be, and they are hereby required to examine if any, and what amount of damages have been sustained by Benjamin Reynolds of the county of Luzerne, by the overflow of his lands caused by the erection of the Nanticoke Dam, on the North Branch Division of the Susquehanna river, and should they think that he is in equity and justice entitled to damage for the injury aforesaid, they shall report the same, which shall be paid out of the fund appropriated for the payment of damages done in the construction of the canals and railroads of this commonwealth.

Damages sustained by Benj. Reynolds, to be examined & paid.

SECTION 24. That it shall be the duty of the Appraisers of Damages of this commonwealth to re-examine if any, and what amount of damages have been sustained by Jameson J. Harvey of Luzerne county, in the overflow of certain of his land situate in Plymouth township in said county, caused by the erection of the Nanticoke Dam, on the North Branch of the Susquehanna river, shall report the sum to which in equity and justice they shall think him entitled, which shall be paid out of the fund appropriated to payment of damages caused by the construction of the canals and railroads of this commonwealth; and it shall be the duty of the Canal Commissioners to take the examination of witnesses in reference to the said claim.

Damages sustained by Jameson J. Harvey of Luzerne co to be re-examined and paid.

Accounts & claims of J. Sterling & Co. to be settled and paid. SECTION 25. The Canal Commissioners be, and they are hereby authorized and instructed to inquire into and settle and adjust upon fair and equitable principles, the accounts and claims of James Sterling and company, contractors on sections numbers twenty-seven and twenty-eight of the Tioga line, North Branch Division of the Pennsylvania Canal, and to pay the balance found due said James Sterling and company, if any, out of any monies appropriated to said canal.

Damages sustained by Dav. White, to be ascertained and paid. SECTION 26. It shall be the duty of the Appraisers of Damages to ascertain the amount of damages sustained by David White in the construction of the Beaver Division of the Pennsylvania Canal, and thereby depriving him of water privileges on the Neshanock creek, in Beaver county, and if in their opinion the said David White is entitled to damage, then to report the amount of damage said claimant is entitled to, which sum shall be paid out of the improvement fund, as in other cases of damage sustained by the construction of the Pennsylvania Canal, and that the same when paid shall be in full of all demands for damages in the premises.

Damages sustained by Sarah Perkins of Crawford co., to be ascertained and paid. SECTION 27. It shall be the duty of the Canal Commissioners of this Commonwealth to ascertain if any, and what amount of damage has been sustained by Sarah Perkins, of Crawford county, caused by the construction of the French Creek Feeder, and should they believe that she has sustained damages as aforesaid, they shall report the amount thereof, which shall be paid out of the fund appropriated for the payment of damages caused by the construction of the canals and railroads of this commonwealth.

Relative to estimating damages referred to in the foregoing sections. SECTION 28. That in estimating the damages provided for in each of the foregoing sections, the amount heretofore assessed and paid, and the advantages accruing to the property by the construction of the public improvements shall be taken into consideration and deducted from the damages awarded in pursuance of this act, and in all of said claims, if there should be no damages found in favor of the claimant, the expense of making such examination shall be assessed by the canal board, and paid by the claimants.

Damages sustained by Phebe, Lydia, Anna, Elizabeth & Richard M. Thomas and John Glenn, to be ascertained and paid. SECTION 29. That the Canal Commissioners be, and they hereby are authorized and required to inquire into and ascertain whether the losses lately sustained by Phebe Thomas, Lydia Thomas, Anna Thomas and Elizabeth Thomas, and also by Richard M. Thomas, and also by John Glenn, all of the county of Chester, by the burning of their property, were caused by fire from any locomotive engine or engines belonging to the commonwealth, and if they find the said property was consumed by fire from any of the aforesaid

locomotive engine or engines, then the said Canal Commissioners shall ascertain the actual loss sustained by the said persons, and what damages they are entitled to, and shall pay the same to the said Phebe Thomas, Lydia Thomas, Anna Thomas and Elizabeth Thomas, and also to the said Richard M. Thomas, and also to the said John Glenn, out of any money in the treasury not otherwise appropriated, and said payment shall be allowed by the Auditor General as in other cases: *Provided*, That if it appear to the said Canal Commissioners that any portion of the said property was suffered through negligence to be burned which might by reasonable and proper exertion have been saved, no damage shall be allowed for the loss of such property so suffered to be destroyed.

LEWIS DEWART,

Speaker of the House of Representatives,

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—The thirty-first day of March, one thousand eight hundred and thirty-eight.

JOS. RITNER.

No. 46.

An Act

Authorizing the Governor to incorporate the Mahoning, Kittanning and Freeport Turnpike Road Company, and for other purposes.

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 for the purpose of constructing a turnpike road from the borough of Freeport, in Armstrong county, by the way of Kittanning, to the top of Mahoning hill, near where the Olean road crosses said hill, Robert Orr, Alexander Colwell, Philip Mechling, David Reynolds, W. W. Gibson, Jacob Weaver, William P. Rupp, James E. Brown, Jacob Mechling, John Gilpin, James Douglass, Joseph Morgrove, Samuel Hutchison, Thomas Donaldson, Walter Sloan, William Peart, William Bitts, Joseph Brown, James Sloan, James Green and David Lawson, or