

1841

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L. B. Mumford

CANAL LAWS,
RATES OF TOLL, REGULATIONS,
AND
NAMES OF THE PRINCIPAL PLACES,
WITH THEIR
DISTANCES FROM EACH OTHER,
ON THE
NEW-YORK STATE CANALS,
AS ESTABLISHED BY THE
CANAL BOARD,
AND IN FORCE ON SAID CANALS

JUNE, 1841.

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THURLOW WELLS, PRINTER TO THE STATE.
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1841.

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CANAL OFFICERS

Appointed by the Canal Board, for the year 1841.

COLLECTORS OF TOLLS.

<i>Erie Canal.</i>		Saratoga Guard Lock, Walter Van Veghten,
Albany,	Levi Chapman,	Whitehall, Dennis Jones.
West-Troy,	Ambrose H. Sheldon,	<i>Oswego Canal.</i>
Schenectady,	George Campbell,	Salina, Samuel P. Smith,
Fultonville,	Enos Cole,	Oswego, Milton Harman.
Little-Falls,	Gould Wilson,	<i>Cayuga and Seneca Canal.</i>
Utica,	Hiram Greenman,	Geneva, Abraham B. Hall.
Rome,	Francis Bicknell,	<i>Chemung Canal.</i>
Syracuse,	Silas Ames,	Havana, Barlow Nye,
Montezuma,	E. B. Cobb,	Fairport, Thomas Burton.
Lyons,	William Voorhies,	<i>Crooked Lake Canal.</i>
Palmyra,	Otis Clapp,	Dresden, Charles A. Bogert,
Rochester,	Theodore Chapin,	Penn-Yan, Daniel B. Bissell.
Brockport,	Samuel H. Davis,	<i>Chenango Canal.</i>
Albion,	Mitchell C. Gardner,	Hamilton, John Atwood,
Lockport,	Edward Giddins,	Oxford, David Brown.
Black-Rock,	Absalom Bull,	Binghamton, William Cook.
Buffalo,	Thomas Farnham.	<i>Genesee Valley Canal.</i>
<i>Champlain Canal.</i>		Scottsville, Levi Lacy.
Waterford and Sloop-	Franklin Livingston,	<i>Oneida Lake Canal.</i>
Lock,		Higgins, Thomas Fitch.

SUPERINTENDENTS OF REPAIRS.

<i>Erie Canal.</i>		<i>Oswego Canal.</i>
Section No. 1.	Jeremiah Schuyler,	Stephen Rice.
" " 2.	David Page,	<i>Cayuga and Seneca Canal.</i>
" " 3.	John J. Schuyler,	Sheldon Wood.
" " 4.	Archibald Anderson,	<i>Chemung Canal.</i>
" " 5.	Benjamin Cahoon,	Section No. 1.
" " 6.	Charles Stroud,	Isaac Reynolds,
" " 7.	W. M. Redfield,	" " 2.
" " 8.	Ezekiel A. King,	Benjamin Hackney.
" " 9.	Joseph Peacock,	<i>Crooked Lake Canal.</i>
" " 10.	George Hart,	Miles Benham,
" " 11.	Jacob Hinds,	<i>Chenango Canal.</i>
" " 12.	Moses Baker.	Section No. 1.
<i>Champlain Canal.</i>		John French,
Section No. 1.	Russell W. Pratt,	" " 2.
" " 2.	Benjamin Ferris.	Augustine Raymond,
		" " 3.
		John H. Lansing.
		<i>Genesee Valley Canal.</i>
		Section No. 1.
		Daniel D. Spencer.

WEIGH-MASTERS.

Albany,	Zabina Belknap,	Syracuse,	Horatio N. Cheney,
West-Troy,	James Meneely,	Rochester,	Richard D. Howell.
Utica,	Alvin White,		

INSPECTORS OF BOATS.

Albany,	×	SelleckWhitney(basin)	Syracuse,	Frederick Knickerbocker,
Albany,		Uriah Marvin, (lock)		Silas N. Brett,
Albany,		Robert Hilson, (pier)	Montezuma,	Charles E. Bristol,
West-Troy,		John Mason,	Rochester,	Nathaniel Wilgus,
Troy,		Thomas Clark,	Buffalo,	Oscar F. Blount,
Junction.		Supply F. Wilson,	Whitehall,	Perez Hastings,
Schenectady,		Simon Glen, Jr.	Geneva,	Jesse Gray.
Utica, "Erie"		Morgan Gardner,	Oswego,	
Utica, "Chenango"		Hiram Waters,		

1841.

**The Canal Board is composed of the Commissioners
of the Canal Fund, and the Canal Commissioners.**

Commissioners of the Canal Fund.

LUTHER BRADISH, Lieutenant-Governor,
JOHN A. COLLIER, Comptroller,
JOHN C. SPENCER, Secretary of State,
WILLIS HALL, Attorney-General,
O. L. HOLLEY, Surveyor-General,
JACOB HAIGHT, Treasurer.

Canal Commissioners.

SAMUEL B. RUGGLES, New-York,
HENRY HAMILTON, Schoharie Court-House,
ASA WHITNEY, Albany,
S. NEWTON DEXTER, Whitestown, } *Acting Commis-*
DAVID HUDSON, Geneva, } *sioners.*
GEORGE H. BOUGHTON, Lockport, }

V. TEN EYCK, Chief Clerk of the Commissioners of the Canal
Fund, and Clerk of the Canal Board.

Canal Appraisers.

HENRY MARTINDALE, Sandy-Hill,
ALLEN WARDEN, Albany,
THOMAS CLOWES, Troy.

REVISED STATUTE

Relating to the Navigation of the New-York State Canals.

PART I.—CHAPTER IX.—TITLE IX.

OF THE CANALS.

- ART. 1.—Designation and description of the canals.
ART. 2.—Of the canal commissioners, and their general powers and duties.
ART. 3.—Of the appraisement of damages.
ART. 4.—Of the canal board, their powers and duties.
ART. 5.—Of water privileges, and the sale of surplus water.
ART. 6.—Of the superintendents of repairs, and the collectors of tolls.
ART. 7.—Regulations and penalties concerning the navigation of the canals, and the collection of tolls.
ART. 8.—Regulations and penalties concerning the protection and maintenance of the canals.
ART. 9.—Miscellaneous provisions of a general nature.

ARTICLE FIRST.

Designation and Description of the Canals.

- SEC. 1. Names of the canals.
2. The Erie and Champlain canals declared to be completed, &c.
3. When other canals completed; powers of commissioners then to cease.]
4 & 5. Map of canals to be made; to be compiled by commissioners, and filed.
6. Comptroller to send copy to every county intersected by canal, to be there filed.
7. A transcript from original, or certified copy of map, presumptive evidence.
8. Provisions of this Title to apply to all state canals.

§ 1. The navigable communications heretofore constructed, and now in the progress of construction, by the state, shall be known and designated as follows:

1. The navigable communication connecting the waters of Lake Erie with those of the Hudson river, and all the side cuts, feeders and other works belonging to the state connected therewith, by the name of the "Erie Canal."¹

(1) 1 R. L. 247; act of June 19th, 1812, in Session Laws of 1812; laws of 1814, p. 256, § 43; 1816, p. 295; 1817, p. 301; 315, § 12; 1818, p. 17; 1819, p. 121, 123; 1820, p. 99, 171, 183, 225; 1821, p. 25; 1822, p. 306, 320, § 4, 5, 6; 1823, p. 116, 269; 1824, p. 315, 342; 1825, p. 398, 414; 1826, p. 360; 1827, p. 220.

2. That connecting the waters of Lake Champlain, with those of the Hudson, and the works belonging thereto, by the name of the "Champlain Canal."¹

3. That commencing at Geneva, and terminating near Montezuma, and connecting the waters of the Seneca lake with the Erie canal, and the works belonging thereto, by the name of the "Cayuga and Seneca Canal."²

4. That commencing at Syracuse, and terminating at Oswego, by the name of the "Oswego Canal."³

5. That from Crooked lake down the outlet thereof to Seneca lake, by the name of the "Crooked Lake Canal."⁴

6. That from the head waters of the Seneca lake to the Chemung river, (a branch of the Susquehannah,) at the village of Elmira, and also a navigable feeder from the summit level to the Chimney narrows on the Chemung river, in the town of Painted-Post, by the name of the "Chemung Canal."⁵

7. That from Binghamton, in the county of Broome, up the valley of the Chenango river to its head waters, and thence by the most advantageous route to the Erie canal, by the name of the "Chenango Canal."⁶

Certain
canals
completed.

§ 2. The Erie and Champlain canals are hereby declared to be completed, and all the powers and authority heretofore given by law to the canal commissioners, in relation to the construction of those canals, shall be deemed to have been executed.

Completion
of others,
how
declared.

§ 3. Whenever any canal now in the progress of construction, or that shall hereafter be constructed, shall be completed, the canal board shall, by an order, declare the fact of such completion, and from that time, all the powers and authority of the canal commissioners, in relation to the construction of such canal shall cease.

Map, &c. of
canals.

§ 4. A complete manuscript map and field notes, of every canal that now is, or hereafter shall be completed, and of all the lands belonging to the state, adjacent thereto or connected therewith, shall be made, on which the boundaries of every parcel of such lands, to which the state shall have a separate title, shall be designated, and the names of the former owners and the date of each title be entered. The expense thereof shall be paid out of the canal fund. If the canal commissioners on examination of the premises, be satisfied that the cost and expense of making such map, field notes and survey, will exceed the sum of five thousand dollars, no such map and field notes shall be compiled.

Where filed.

§ 5. Every such map shall be compiled by the canal commissioners, who shall, for that purpose, cause all necessary sur-

(1) See note on preceding page. (2) Session Laws of 1813, chap. 144; 1814, p. 146; 1817, p. 83; 1825, p. 391; 1827, p. 223, § 12. (3) Laws of 1827, p. 223, § 12. (4) Laws of 1829, chap. 120. (5) Laws of 1829, chap. 135. (6) Laws of 1833, chap. 32.

veys to be made ; when prepared, it shall be submitted to the canal board for its approbation ; and when so approved, shall be signed by the canal commissioners, be certified by them as correct, and be filed in the office of the comptroller.

§ 6. A copy of each map so filed, together with the field books and notes of such survey, or of such part thereof as the canal board shall direct, shall be transmitted by the comptroller to every county intersected by the canal to which the map shall relate, and shall be filed in the clerk's office of such county. Where filed.

§ 7. A transcript from the original map, or from a copy thereof, certified as correct, by the officer with whom such map or copy shall be filed, shall be received as presumptive evidence, in all judicial and legal proceedings. Copy to be evidence.

[Orig. Sec. 6. The original maps of the canals of this state, which purport to have been made and completed under and in virtue of the first article of title nine chapter nine of the first part of the Revised Statutes, which said maps are now filed in the office of the comptroller ; and such maps of said canals as hereafter shall be made, completed, approved, signed, certified and filed under and in virtue of the act referred to, are hereby declared to be presumptive evidence that the lands indicated on said maps as belonging to the state, have been taken and appropriated by the state as and for the canals ; and a transcript from any such maps, certified as required by the act referred to, shall be of equal effect with the original.] (a) Maps of canals evidence of title to land.

§ 8. The provisions of this Title shall be construed to apply to every canal belonging to the state, of which the construction now is or hereafter shall be authorized by law. Application of this title

ARTICLE SECOND.

Of the Canal Commissioners, and their General Powers and Duties.

SEC. 9. Superintendence of canals vested in canal commissioners, three to be acting.

10 & 11. Acting commissioners to give bond ; when to be renewed.

12. Choice of president and secretary.

13 to 15. Of calling board together. Majority may do business, to employ agents, &c.

16. Commissioners have power to make feeders, &c.

17. Extraordinary repairs, how made.

18. To be completed as soon as practicable, &c.

19. Public roads may be altered or discontinued, when necessary to make such repairs.

20. Description of the road altered, &c. to be filed in town clerk's office.

21. Passage of road discontinued, &c. not to be obstructed till new road passable.

22. Alterations heretofore made, to be deemed valid.

23. General supervisory power over certain rail-roads.

24. When navigation of canal interrupted, injury causing it to be immediately repaired.

25 & 26. When deficiency of water, how supplied ; damage how appraised.

27. Commissioners to erect and keep toll-houses, &c. in repair.

28. To make regulations concerning the navigation of the canal.

29. Regulations to be printed and distributed.

(a) This section is taken from the "act in relation to the canals," passed May 16, 1837 ; being chap. 451 of laws of that year.

30. To be filed in comptroller's office ; proof of their existence.
- 31 & 32. Portion of canal to be assigned to each acting commissioner ; his duty.
33. Must take duplicate receipts for moneys paid by him.
34. Contracts for making repairs and improvements, to be in writing.
35. With whom copies of contracts are to be deposited.
36. Publication of proposals for contracts.
37. What proposals to contain.
38. No more than one proposition to be received from any one person, for same contract.
39. Security to be given by contractor ; penalty for violation of contract.
40. When extra allowance to be made to contractors.
41. Materials procured under contract, exempt from execution.
42. Either of commissioners may draw money to pay contractors.
43. No commissioner allowed to have in his hands more than 10,000 dollars at one time.
44. Damages and penalties recovered by commissioners, to be paid to canal fund.
45. Commissioners when to account to comptroller ; to be reported to legislature.
46. Commissioners &c. can not be held to bail, or taken with a warrant, for any official act.
47. When commissioners to make their report. Its contents.

Board ; acting commissioners.

§ 9. The general care and superintendence of the canals shall continue to be vested in the board of canal commissioners ; so many of whom, not exceeding [three,]¹ as may be annually designated by the board, shall be acting commissioners.²

Bond of acting commissioners.

§ 10. Each acting canal commissioner, before he shall enter on the duties of his office, shall execute a bond to the people of this state, in a penalty of twenty thousand dollars, with two substantial freeholders as sureties, conditioned for the faithful discharge of the duties of his office, and for the faithful accounting of all moneys entrusted to him as such commissioner, whenever and as often as he shall be so required by law, by a concurrent resolution of the senate and assembly, or by the comptroller ; such bond shall be approved of by the comptroller, and filed in his office.³

When renewed.

§ 11. Every such bond heretofore given, or that shall hereafter be given, shall be renewed from time to time with new or additional sureties, whenever such renewal shall be demanded by the comptroller, or the commissioners of the canal fund ; and the refusal of any commissioner to renew his bond when so required, shall be deemed a breach of its condition.

Officers of board.

§ 12. The board shall annually choose one of their number to be their president, and another from time to time as their secretary, who shall keep and preserve regular minutes of all their proceedings.⁴

Meetings how called.

§ 13. It shall be the duty of the president to call a meeting of the board, on the request in writing of a commissioner, and without such request, whenever he shall deem it expedient.⁴

Quorum.

§ 14. A majority of the board shall be a quorum for the transaction of business, and may adjourn from time to time, and fix the time and place for future meetings.⁵

(1) Laws of 1833, chap. 80. (2) Laws of 1816, p. 295, § 2. (3) Laws of 1821, p. 26, § 4. (4) Laws of 1816, p. 295, § 2. (5) Laws of 1816, p. 295, § 2; 1817, p. 302, § 2.

§ 15. The board may employ such and so many agents, engineers, draftsmen, surveyors, and other persons, as they may judge necessary, to enable them to discharge their duties as commissioners, and shall pay such compensation as they shall judge reasonable, to each person so employed.¹

Powers of commissioners, agents, &c.

§ 16. In the construction of every canal of which the construction is or shall be authorized by law, the canal commissioners shall have power, and it shall be their duty, to make all such canals, feeders, locks, dams, aqueducts and other works, as they shall deem the proper construction of such canal to require; and they shall enter on, and take possession of, and use, all lands, streams and waters, the appropriation of which, for the use of such canals and works, shall, in their judgment, be necessary.²

Ib. Feeders, &c.

§ 17. Whenever, in the opinion of the canal commissioners, it shall become necessary or expedient, to make any extraordinary repairs or improvements on any completed canal, such as the opening of new feeders, or the construction of additional locks, dams, embankments, tunnels or aqueducts, it shall be their duty to cause the necessary surveys and levels to be taken, and accurate drafts, plans and models, or maps, as the case may require, of the contemplated works, together with an estimate, in minute detail, of the probable expense to be incurred, and to submit the same to the canal board for their approbation.²

Ib. Extraordinary repairs.

§ 18. If such extraordinary repairs or improvements shall be directed by the board or the legislature, it shall be the duty of the commissioners to proceed, as soon as circumstances will permit, to execute and complete the same; and for that purpose, by themselves or their agents, to take possession of, and use, all lands, waters or streams of which the occupation and use, in their judgment, may be necessary to enable them to discharge such duties.⁴

To take lands, &c.

§ 19. Whenever, for the purpose of constructing a canal or making any extraordinary repairs, or improvements, it shall be deemed necessary by the canal commissioner having charge of the work, to discontinue or alter any part of a public road, on account of its interference with the proper location or construction of such work, he shall make, or direct to be made, such discontinuance or alteration.⁵

Altering roads, &c.

§ 20. It shall be his duty to draw up in writing and figures, a true description of all such parts of a public road as shall be so discontinued and new laid, and to file such description in the town clerk's office of the town in which such parts may be situate, and from the time of such filing, such discontinuance and alterations shall be valid in law.⁵

Proceedings

(1) Laws of 1816, p. 295, § 2; 1817, p. 302, § 3. (2) Laws of 1817, p. 302, § 3.
 (3) Laws of 1816, p. 296, § 3; laws of 1827, p. 229, § 38. (4) Laws of 1817, p. 302, § 3. (5) Laws of 1820, p. 190, § 21.

Restrictions § 21. The canal commissioners shall not, however, obstruct the passage of any part of a public road, so discontinued or altered, until they shall have opened and worked, so as to render passable, such part of such road as shall have been new laid by their engineer; and the certificate in writing of any justice of the peace in the county where such road shall be situated, that the part so new laid has been so opened and worked, shall be their sufficient justification.¹

Former alterations. § 22. Every alteration heretofore made by any engineer, in any public road on either of the canals, shall, from the time of such alteration, be deemed valid in law.¹

Power of canal commissioners respecting rail-roads. § 23. [Orig. sec. 17.] The canal commissioners are hereby invested with a general and supervisory power over so much of any rail-road as passes over any canal or feeder belonging to this state, or approaches within ten rods of such canal or feeder, so far as such power may be necessary to preserve the free and perfect use of the canals or feeders of this state, and necessary for making any repairs, improvements or alterations in the same: and said company shall not construct their rail-road over or at any place within ten rods of any canal or feeder belonging to this state, unless said company shall lay before the commissioners aforesaid, a map, plan and profile, as well of the canal or feeder as of the route designated for their rail-road, exhibiting distinctly and accurately the relation of each to the other, at all the places within the limits of ten rods as aforesaid; and shall thereupon obtain the written permission of said canal commissioners, with such conditions, instructions and limitations as, in the judgment of said canal commissioners, the free and perfect use of any such canal or feeder may require.²

Injuries to canals. § 24. [Sec. 23.] Whenever the navigation of any of the canals shall be interrupted or endangered, it shall be the duty of the commissioners, without delay, to repair the injury causing or threatening such interruption, and for that purpose, they shall have power, by themselves or their agents, to enter upon and use, any contiguous lands, and to procure therefrom all such materials as in their judgment may be necessary or proper to be used in making such repairs.³

Deficiency of water, how supplied. § 25. [Orig. sec. 1.] Whenever the navigation of any of the canals shall be interrupted or endangered by reason of a deficiency of water, it shall be the duty of the canal commissioners, without delay, to supply such deficiency; and for that purpose they shall, by themselves or their agents, resume the temporary use of all the surplus waters which shall have been leased upon the level of the canal where such deficiency exists; and in such case, if there shall still be a deficiency of water,

(1) Laws of 1820, p. 190, § 21. (2) § 17 of chap. 276, laws of 1824, entitled "An act to incorporate the Medina and Darien Rail-Road Company." The language of the first part of the above section seems to be general and applicable to all rail-roads, and perhaps that of the latter part is susceptible of the same construction. (3) Laws of 1820, p. 183, § 3.

hen they shall have power to enter upon and use all lands streams and waters, which in their judgment may be necessary or proper to be used, to procure a temporary supply of water for such canals.¹

§ 26. [Orig. sec. 2.] When damages shall be claimed by the owner of any lands, streams or waters, which shall have been used for temporary purposes under the authority given in the preceding section, such damages shall be agreed upon, or appraised and paid, in the same manner as is provided for the agreement or appraisal and payment of damages, in cases where land shall have been occupied for temporary purposes, or from which materials shall have been obtained for repairs; but no damages shall in any case be allowed for resuming the use of any surplus waters of the canals leased to any individuals.¹

Damages.

§ 27. [Sec. 24.] It shall be the duty of the canal commissioners, to keep in complete repair, all toll-houses, weighing-scales, offices and other edifices already built or purchased, for the use of the canals; and at such times and places as the canal board may direct, to erect such further toll-houses, weighing-scales, offices and other edifices, and purchase such ground for the convenience thereof, as may be deemed necessary for the profitable use of the canals.²

Toll houses,
&c.

§ 28. [Sec. 25.] They shall from time to time make such rules and regulations, not inconsistent with the laws of the state, in respect to the size and structure of boats, rafts and other floats, on the waters of the canals, and the weighing and inspection of boats, and their lading, and in respect to all matters connected with the navigation thereof; and impose such forfeitures of money for the breach of such rules and regulations, as they may judge reasonable; but no forfeiture so imposed, shall for a single offence, exceed the sum of twenty-five dollars.²

To make
regulations.

See act
passed
March 4,
1835. Same
power given
to the canal
board. See
page 22.

§ 29. [Sec. 26.] They shall cause a sufficient number of copies of all such rules and regulations, including the forfeitures for the breach thereof, to be printed, and shall distribute the same to the superintendents of repairs, the collectors of tolls, and lock-keepers, to be kept in their respective offices for public inspection.

Notice of
them.

§ 30. [Sec. 27.] All rules, regulations and forfeitures, established by them in relation to the management and navigation of the canals, shall be filed in the office of the comptroller, and a copy thereof, certified by the comptroller, under his hand and the seal of his office, shall be received in all courts of

How au-
thenticated.

(1) "An act to prevent the interruption of the navigation of the canals," passed April 22, 1833, chap. 196. The third section provided for certain damages sustained within two years prior to the passage of this act, but required that application for such damages should be made within one year after the passage of the act; it has therefore been omitted as obsolete. (2) Laws of 1820, p. 198, § 20; § 25 is affected by chap. 21, laws of 1835, which vests some of these powers in the canal board. See page 22, § 84.

law, as due proof that such rules, regulations and forfeitures were by them established.¹

Special
charge of
canals.

§ 31. [Sec. 28.] The board shall, from time to time, assign to each acting commissioner, in special charge, the line or portion of the line, of one or more of the canals.

Duty of
acting
commis-
sioners.

§ 32. [Sec. 29.] It shall be the duty of each acting commissioner,

1. To examine frequently and carefully into the state of the canals and works, committed to his charge.

2. To direct and cause to be made, such ordinary repairs, as he shall perceive to be necessary.

3. To superintend and cause to be made, such extraordinary repairs or improvements, as shall be ordered.

4. To make, by himself or a superintendent of repairs, all necessary contracts for the supply of materials and the performance of labor.

5. To inquire into the official conduct of all superintendents of repairs, collectors of tolls, lock-keepers and other subordinate agents, and to receive and hear all complaints that may be preferred against them.

And generally to enforce the faithful execution, by all persons concerned, of the provisions of this title.

lb. receipts.

§ 33. [Sec. 30.] It shall be the duty of each acting commissioner, to take duplicate receipts for all moneys, advanced or paid by him.²

Contracts.

§ 34. [Sec. 31.] All contracts for the construction of a canal, and for the making of any repairs or improvements in the canals, directed by the legislature, or canal board, shall be made in writing, and of each contract, three copies shall be executed by the parties.³

Copies of
them.

§ 35. [Sec. 32.] One of such copies shall be retained by the board of canal commissioners, or the acting commissioner having the charge of such repairs or improvements; another shall be deposited with the comptroller.³

Notice for
proposals.

§ 36. [Sec. 33.] Public notice shall be given of the time and place at which sealed proposals will be received for entering into contracts, under the thirty-first section, which notice shall be published for three weeks in succession in the state paper, and in one or more of the newspapers of each county, in which the work to be performed, or any part thereof, is to be made.³

Requisites
of proposals.

§ 37. [Sec. 34.] All proposals for contracts, for which sealed proposals are to be offered, shall be for a sum certain, as to the price to be paid or received; and no proposition which is not thus definite and certain, or which contains any al-

(1) Laws of 1827, p. 224, § 15. (2) Laws of 1821, p. 26, § 5. (3) Laws of 1825, p. 401, § 4; 1827, p. 229, § 36; laws of 1828, chap. 321, § 3, April 21, 1828.

CANAL COMMISSIONERS.

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alternative condition or limitation, as to such price shall be received or acted on.¹

§ 38. [Sec. 35.] No more than one proposition shall be received from any one person for the same contract, and all the propositions of the person offering more than one for the same object, shall be rejected.¹ Requisites of proposals.

§ 39. [Sec. 36.] Every person who shall enter into any contract for the supply of materials or the performance of labor, on any canal, shall give satisfactory security to the canal commissioners, for the faithful performance of his contract, according to its terms; and if any person, having given such security, shall neglect or refuse to perform his contract, he shall be excluded from any interest in any future contract, in relation to the same object.² Security.

§ 40. [Sec. 37.] No allowance over and above the contract price shall be made by the canal commissioners to any contractor, unless such extra allowance shall be directed by the canal board.³ Extra allowance.

§ 41. [Sec. 38.] All materials procured, or partially procured, under a contract with the canal commissioners, shall be exempt from execution; but it shall be the duty of the canal commissioners, to pay the moneys due for such materials to the judgment creditor of the contractor, under whose execution such materials might otherwise have been sold, upon his producing to them due proof that his execution would have so attached; and such payment shall be held a valid payment on the contract.⁴ Certain materials exempt from execution.

§ 42. [Sec. 39.] Either of the canal commissioners may draw upon the commissioners of the canal fund, for any sum to be paid to a contractor, upon his contract; and if a copy of such contract shall have been duly filed in the office of the comptroller, and a receipt of the contractor for such draft shall also be filed in the same office, it shall be the duty of the commissioners of the canal fund to pay the draft.⁵ Payment of contracts.

§ 43. [Sec. 40.] No canal commissioner shall be allowed as such, to have in his hands at any one time, more than ten thousand dollars; and every sum advanced to, or received by him, shall be deemed to remain in his hands until its application shall have been properly accounted for to the comptroller.⁵ Advances to commissioners.

§ 44. [Sec. 41.] In all cases in which suits shall be brought by the canal commissioners, or under their direction, for the recovery of penalties or damages under the provisions of this Title, it shall be their duty to keep an accurate account of the recoveries, and of the costs and expenses, and after deducting such costs and expenses, to pay over the residue of the sums Penalties, &c.

(1) Laws of 1826, p. 363, § 32. (2) Laws of 1827, p. 229, § 35. (3) Laws of 1826, p. 363, § 33. (4) Laws of 1822, p. 321, § 6. (5) Laws of 1826, p. 361, § 20; 1827, p. 229, § 36.

received, to the commissioners of the canal fund, or account for the same with the comptroller.

Accounts.

§ 45. [Sec. 42.] It shall be the duty of the canal commissioners to account and settle with the comptroller, on or before the fifteenth day of January in each year, for all moneys received by them, and each of them, from the commissioners of the canal fund, or belonging to that fund; and such settlement, specifying the sums respectively paid to all contractors, engineers, agents and servants of every description, employed on the canals, and to all persons having received a compensation for damages, and the names of such persons, shall, without delay, be reported by the comptroller to the legislature.¹

Certain officers not to be held to bail.

§ 46. [Sec. 43.] No acting commissioner, superintendent of repairs, collector or lock-keeper, on any canal, shall be held to bail, or taken by warrant, in any civil suit, for any act done, or omitted to be done by him, in the exercise of his official duties.²

Annual report to the legislature.

§ 47. [Sec. 44.] Within twenty days from the commencement of each annual session of the legislature, the canal commissioners shall make their report to the legislature; and in such report shall state the condition of the canals, and all the works and improvements connected therewith, the improvements and repairs made during the past year, or contemplated to be made, and the amount of moneys, during the same period, received and expended by them, and each of them, in the discharge of their duties, and shall recommend such measures, in relation to the canals, as they shall deem the public interest to require.³

ARTICLE THIRD.

Of the Appraisement of Damages.

SEC. 48. Number of canal appraisers; to take oath.

49. Acting canal commissioner to be associated with them.

50. To appraise the value of private property appropriated to public purposes.

51 & 52. To view the premises, and hear evidence; entries to be made in books.

53. Claimants when and how to apply; consequence of neglect.

54. Claims for former damages, when to be exhibited.

55. Every decision of appraisers to be entered in a book kept for that purpose.

56. Entry to be recorded in clerk's office of the county where premises situate.

57. Fee simple of premises appropriated, vested in state.

58. When damages appraised exceed benefits, commissioners to pay excess, &c.

59. Appraisers to be paid \$3 a day.

60. Claimant and commissioners may appeal from appraisers to canal board.

61. Contents of appeal; how served.

62. Time within which appeal is to be made.

63. Appraisers to make return; its contents.

64. Canal board to meet, to decide appeals; to hear evidence, &c.

65 & 66. Damages to lands overflowed by dams erected by commissioners to be appraised; proceedings.

67 to 71. Proceedings for damages by temporary occupation of lands.

72. Appraisers to be sworn; their decision conclusive.

(1) Laws of 1819, p. 124, § 6. (2) Laws of 1820, p. 190, § 22. (3) Laws of 1817, p. 302, § 2; laws of 1827, p. 239, § 37.

73. To certify damages, amount to be paid by commissioners.

74. Payment or offer to pay, to discharge from all liability.

75. When claimant to pay costs; when commissioners.

76. Fees of appraisers.

77 to 79. Any commissioner or appraiser may issue subpoenas; their form; penalty for disobeying.

§ 48. [Sec. 45.] There shall continue to be appointed two Appraisers. officers, by the name of canal appraisers, who being associated See post page 19. with any acting canal commissioner, shall be the appraisers of damages, in the cases hereinafter specified. The oath or affirmation of office, taken by the canal appraisers, shall be filed in the office of the secretary of state.¹

§ 49. In all cases in which the canal appraisers are required to act by any law of this state, one of the acting canal commissioners shall be associated with them, in their appraisal and final determination thereon.² Commissioner to act with appraisers.

§ 50. [Sec. 46.] When any lands, waters or streams, appropriated by the canal commissioners, to the use of the public, shall not be given or granted to the state, it shall be the duty of the appraisers to make a just and equitable estimate and appraisal of the damages, and benefits, resulting to the persons interested in the premises so appropriated, from the construction of the work, for the purpose of making which, such premises shall have been taken.³ Their duty.

§ 51. It shall be the duty of the canal appraisers personally to view the premises on which damages shall be claimed, and to meet at such times and places as they may deem necessary, and as nearly in the vicinity of the premises as conveniently may be, and hear such proper and relevant evidence as shall be offered, and direct the attendance of witnesses in behalf of the state, if in their opinion the interest of the state shall require it; and they are for that purpose empowered to administer oaths to witnesses; and wilful false swearing before the said appraisers, is hereby declared perjury.⁴ Powers and duty of appraisers.

§ 52. It shall be their duty to enter in a book to be kept for that purpose, the nature and extent of all claims on which they shall pass, the items on which allowances are made, and the several amounts allowed, and the items on which no allowance is made; and they shall enter at length the testimony taken, and the grounds and reason for their decision.⁴ Claims to be entered in a book.

§ 53. [Sec. 48.] Every person interested in premises so appropriated, if he intend to make any claim for damages, shall, within one year after such premises shall have been taken for the use of the state, exhibit to the appraisers a statement of his claim, in writing, signed by himself, his guardian or agent, and specifying the nature and extent of his interest in the premises appropriated, and the amount of damages; and every person refusing or neglecting to exhibit such claim, within the time Claimants for future damages, when to apply. ^{5 Wend. 526.}

(1) Laws of 1825, p. 398, § 1. (2) Laws of 1829, chap. 368, § 8. (3) Laws of 1817, p. 302, § 3. (4) Laws of 1829, chap. 368, § 1 & 2.

prescribed, shall be deemed to have surrendered to the state his interest in the premises so appropriated.

Former
damages.

§ 54. [Sec. 49.] No claim for damages, for premises that shall have been appropriated to the use of a canal, at any time before this Chapter shall be in force, shall be received by the appraisers, unless it shall be exhibited within one year after this Chapter shall become a law; and the premises so appropriated shall be deemed the property of the state; and no claims other than those so exhibited, shall be paid without the special direction of the legislature.

Decisions to
be entered.

§ 55. [Sec. 50.] A regular entry of every determination and appraisement made by the appraisers, certified and signed by the appraisers making it, and containing an apt and sufficient description of the premises so appropriated, the names of the persons interested, and the sums estimated to each, for benefits and damages, shall be made in a book kept for that purpose, by the canal commissioners.¹

Copy
evidence.

§ 56. [Sec. 51.] A transcript of every such entry, signed in like manner, and acknowledged or proved, as a conveyance of lands, shall be recorded in the clerk's office of each county in which the premises appropriated shall, in whole or in part, be situated.

Right of
the state.

§ 57. [Sec. 52.] The fee simple of all premises so appropriated, in relation to which, such estimate and appraisement shall have been made and recorded, shall be vested in the people of this state.¹

Payment for
damages.

§ 58. [Sec. 53.] If the damages so estimated and appraised, shall exceed the benefits, it shall be the duty of the canal commissioners to pay the amount of such excess of the damages, to the persons appearing, by the determination of the appraisers, to be thereto entitled; but no such payment shall be made, where an appeal or writ of error shall be prosecuted by the canal commissioners, until a final decision on the appraisement shall have been had.²

Pay of
appraisers.
See post
page 21.

§ 59. [Sec. 54.] Each appraiser, for each day's actual attendance in the discharge of the duties of his office, shall receive the sum of three dollars, to be paid out of the treasury, and charged to the canal fund.³

Appeal to
canal board.

§ 60. Every person having exhibited a claim for damages to the appraisers, or the canal commissioners, where they shall deem the interest of the state to require it, may enter an appeal from the decision of the appraisers on such claim, to the canal board, who shall proceed to reverse, affirm or modify the appraisement, as in their opinion justice shall require; and their decision shall in all cases be final and conclusive.⁴

(1) Laws of 1817, p. 302, § 3. (2) *Ib.*; laws of 1827, p. 230, § 43. (3) Laws of 1825, p. 400, § 5. (4) Laws of 1829, chap. 368, § 3.

§ 61. Every such appeal shall be made in writing, stating briefly the grounds on which the appeal is made; if made by the canal commissioners, one copy of the appeal shall be served on the canal appraisers, and another on the party claiming damages, his guardian or agent, either personally, or by leaving the same at his usual place of abode: if made by the party claiming damages, one copy of said appeal shall be served on the appraisers, or one of them, and another on the canal commissioners.¹

To be in writing.

§ 62. It shall be the duty of the canal appraisers, within thirty days after any claim is decided upon, to make a transcript of the entry of such decision, and file the same in the clerk's office of the county in which the premises passed upon are situate; and in all cases the appeal must be made, and the proper copies served within three months from the time such transcript is filed in the clerk's office as aforesaid.¹

Decisions where to be filed.

§ 63. The appraisers shall make a return in writing, to every appeal so served on them, setting forth a copy of the claim for damages; a transcript of the evidence, if any; the items on which allowances were made, and the several amounts; the items, if any, on which no allowance was made; and the reasons and grounds on which their decision is made.¹

Return to appeal.

§ 64. It shall be the duty of the canal board to meet, from time to time, and decide on all cases of appeals made from the decisions of the appraisers; and if, in their opinion, the interest of the state requires it, they shall direct the attendance of the appraisers or either of them, to give evidence in relation to the subject matter of the appeal; they shall decide all cases of appeal on the evidence or information contained in the transcript furnished by the appraisers, and the evidence of the appraisers, if any is obtained.¹

Duty of canal board.

§ 65. When any lands are overflowed by the erection of any dam by the canal commissioners on any river or stream connected with the public works, it shall be the duty of the canal appraisers to make a just and equitable appraisal of the damages sustained by the owners of such lands.²

Lands overflowed.

§ 66. The existing laws in relation to the appraisal and payment of damages, where lands are appropriated by the canal commissioners to the use of the public, shall apply to the appraisal of damages sustained by the owners of the lands mentioned in the foregoing section.²

ib.

§ 67. [Sec. 58.] When damages shall be claimed by the owner of any land which the canal commissioners shall have occupied for temporary purposes, or on which they shall have entered for the purpose of obtaining materials for repairs, the acting commissioner on the line of the canal nearest to which

Damages settled by agreement.

(1) Laws of 1829, chap. 368, § 4, 5, 6 and 7. (2) Laws of 1830, chap. 293, § 1 and 2.

the land shall be situate, or any engineer or superintendent of repairs authorized by him, may fix by agreement the amount of damages which such owner ought to receive.¹

Reference. § 68. [Sec. 59.] If an agreement can not be made, the owner shall select one discreet freeholder of the county in which the land is situate, having no interest, direct or indirect, in the damages claimed, and the canal commissioner, engineer or superintendent, another; and the two thus chosen shall select a third to act with them in appraising the damages so claimed.¹

Proceedings § 69. [Sec. 60.] If the owner shall refuse or neglect to appoint an appraiser, such canal commissioner, engineer or superintendent shall serve upon him a notice, stating the name of the appraiser appointed by himself, and requiring such owner to make a similar appointment within two days thereafter, and if within that time no such appointment shall be made and signified, such commissioner, engineer or superintendent shall apply to a judge of the county court of the county where the lands are situate, to appoint an appraiser in behalf of such owner.

Ib. § 70. [Sec. 61.] The judge to whom such application shall be made, upon due proof of the service of such notice, shall, in writing, appoint an appraiser in behalf of the owner, who shall have the same powers as if appointed by the owner himself.

Ib. § 71. [Sec. 62.] The two last preceding sections shall be construed as also prescribing the course to be pursued by the owner of the lands, where the refusal or neglect to appoint an appraiser, shall proceed from such canal commissioner, engineer or superintendent.

Ib. § 72. [Sec. 63.] The appraisers shall, before they enter on the duties of their trust, take the oath prescribed by the constitution of this state, before any person authorized to administer oaths; they shall then proceed to inquire into and assess the damages so claimed, and their determination or that of any two of them, as to the amount of damages that ought to be paid, shall be conclusive.¹

Ib. § 73. [Sec. 64.] The appraisers making such determination, shall make a certificate thereof, under their hands and seals, and the amount of damages thus certified, (the costs, when not payable by the canal commissioners being deducted,) shall be paid by the canal commissioners to the person appearing by such certificate to be entitled thereto, within ten days after such certificate shall have been received by the canal commissioners, or as soon thereafter as they shall be in funds.¹

Claim how
barred.

§ 74. [Sec. 65.] Proof of such payment or of the offer thereof, in case the party entitled thereto shall decline to receive the same, shall forever discharge the canal commissioners

(1) Laws of 1820, p. 183, § 3.

and all persons employed by them, from all claims for entering upon and occupying such lands, and for taking and using the materials procured therefrom.¹

§ 75. [Sec. 66.] If the amount of damages so certified shall, in any case, not exceed the sum offered for such damages by such acting canal commissioner, engineer, or superintendent, before the appointment of the appraisers, then the costs of all the proceedings after such offer, shall be deducted by the canal commissioners from the amount of damages certified; but if such amount shall exceed such previous offer, then all such costs shall be paid by the commissioners, in addition to the damages certified.¹ Costs how paid.

§ 76. [Sec. 67.] Each of such appraisers shall be entitled for his services, to the sum of one dollar and fifty cents per day.¹ Fees of appraisers.

§ 77. [Orig. sec. 5.] Either of the canal commissioners, or appraisers of damages, may issue subpoenas, to compel the attendance of witnesses before the board of appraisers, to give testimony in relation to any matter depending before such board, under the provisions of Article third of Title ninth of Chapter ninth, of the first Part of the Revised Statutes.² Subpoenas to witnesses.

§ 78. [Orig. sec. 6.] Such subpoenas may be in the same form, as near as may be, as subpoenas issued by justices of the peace, and may require the attendance of any person residing in the county where the same may be returnable, or in the adjoining county.² In what form.

§ 79. [Orig. sec. 7.] Every person neglecting to appear, in pursuance of the command of any such subpoena, without good cause for such non-appearance, or when appearing shall refuse to be sworn or to testify, shall forfeit the sum of twenty-five dollars, to be recovered by the canal commissioners, or either of them, for the benefit of the canal fund. Penalty for neglect.

An act in relation to the appraisal of damages on the canals, and for other purposes, passed May 10, 1836. Chap. 287, p. 406.

§ 1. There shall be nominated by the governor, and appointed by him, with the consent of the senate, three officers by the name of canal appraisers, who shall hold their offices for two years and until their successors shall be duly qualified. Three appraisers to be appointed.

§ 2. Every person appearing as a witness in pursuance of the command of any subpoena issued by a canal appraiser, shall be entitled to the same fees as are allowed to witnesses for attending courts of record in civil suits; to be paid by the claimants of damages, if subpoenaed on their part, or by the canal commissioners, if subpoenaed on the part of the state. Fees of witnesses.

(1) Laws of 1820, p. 183, § 3. (2) Laws of 1829, chap. 48, § 5, 6 and 7.

APPRAISING DAMAGES.

Penalty. § 3. Every person neglecting to appear, in pursuance of the command of any such subpœna, without good cause for such non-appearance, or when appearing, shall refuse to be sworn or to testify, shall forfeit the sum of fifty dollars, to be recovered with costs of suit before any court having cognizance thereof. If subpœnaed by the claimant for damages, to be sued for and recovered by such claimant, in his name and for his use; if subpœnaed to attend in behalf of the state, to be sued for and recovered in the name of the people of this state, for the benefit of the canal fund.

Notice of meeting of appraisers. § 4. It shall be the duty of the canal appraisers to notify the acting canal commissioner in charge of the line of canal on which damages are to be appraised, of the time and place of the meeting of the appraisers, to view the premises, and take testimony in relation to such appraisals.

Hearing of claims for damages. § 5. It shall be the duty of one of the acting canal commissioners, in person, or by an agent, to attend in behalf of the state before the canal appraisers, on the hearing of claims for damages; and if, in his opinion, the interests of the state require it, he may employ counsel and request the attendance and examination of witnesses on the part of the state.

Decision to be made. § 6. It shall be the duty of the canal appraisers to decide upon claims for damages, from the information obtained by them, in viewing the premises, and from the evidence, if any, received by them from witnesses.

Books and papers to be deposited. § 7. It shall be their duty to deposite the books and papers in relation to the appraisal of damages, when not required to be used by them in the discharge of their duties as appraisers, in the comptroller's office, for safe keeping.

Appraise-ment. § 8. No canal commissioners shall hereafter be associated with the canal appraisers in the appraisal of damages, nor shall any canal commissioner, who shall have attended in behalf of the state, before the appraisers, on the hearing of a claim for damages, have any voice as a member of the canal board, in the final decision of such claim on appeal.

Quorum. § 9. It shall be the duty of each of the appraisers to attend the meetings to be held for the appraisal of damages; but any two of them may perform any of the duties required of appraisers of damages, provided that the decision and determination on each claim, shall be concurred in by at least two of the appraisers.

Lands, &c. to be used for temporary purposes. § 10. When damages shall be claimed by the owner of any lands, waters or streams, which the canal commissioners shall have occupied for temporary purposes, in the construction or improvement of any state canal, or other works connected therewith, or on which they shall have entered for the purpose of obtaining materials for the construction or improvement of such canal, or other works connected therewith, such damages, if not settled by agreement, shall be appraised by the canal appraisers.

CANAL BOARD.

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§ 11. The proceedings in relation to the appraisal of such damages shall be, in all respects, the same as the proceedings in relation to the appraisal of damages for lands, streams or waters appropriated by the canal commissioners to the use of the public; except that no transcript of such appraisal shall be recorded in the clerk's office of any county. Proceedings

§ 12. Each appraiser, for each day's actual attendance in the discharge of the duties of his office, shall be entitled to receive the sum of four dollars, and for each mile actually travelled in the discharge of the duties of his office, five cents, to be paid out of the treasury; and where the services are rendered on the Erie or Champlain canals, shall be charged to the canal fund. Pay of appraisers.

§ 13. So much of Title one, Chapter five, and Title nine, Chapter nine of the first Part of the Revised Statutes; so much of the act providing for the payment of damages to real estate in consequence of breaches in the canals of this state, and for other purposes, passed March 5, 1829, and so much of the act in relation to the appraisal of damages on the canals, and for other purposes, passed May 4, 1829, as are inconsistent with this act, are hereby repealed. Repeal.

§ 14. This act shall take effect immediately. Act to take effect.

ARTICLE FOURTH.

Of the Canal Board, their Powers and Duties.

SEC. 80 & 81. Canal board, their powers and duties.

82. To fix rates of toll, regulate their collection and impose forfeitures.

83. Certain sections of this title to embrace such rates of toll.

84. Board may make rules respecting canals, &c.

85 & 86. Board may remit forfeitures, and when.

87. What repairs to be executed by board; others to be reported to legislature.

88. Board may make sale of surplus waters.

89 & 90. May make extra allowances to contractors; when.

91. To be founded on petition to board, verified by affidavit.

92. Any member may administer oaths to witnesses.

93. Board may issue subpoenas for witnesses.

94. To direct payment of expense of serving and fees of witnesses.

§ 80. [Sec. 68.] There shall continue to be a canal board, who shall possess the powers and discharge the duties, enumerated in this Title, or which shall hereafter be by law enacted or declared. Powers and duties.

§ 81. [Sec. 69.] They shall have power to appoint so many superintendents of repairs and collectors of tolls, on the canals, as they may deem necessary, to supply all vacancies that may occur in those offices, to remove any so appointed when they judge such removal proper, and to determine the amount of compensation which they shall respectively receive; but no compensation exceeding one thousand dollars for any one year, shall be allowed to any superintendent. Ib. Appointment of officers, &c.

(1) Laws of 1826, p. 360, § 4. (2) Laws of 1826, p. 360, § 5; laws of 1827, p. 224, § 13.

Rates of toll § 82. [Sec. 70.] The canal board shall, from time to time, fix the rates of tolls to be collected on the canals, and shall prescribe such rules and regulations relative to their collection, and impose such forfeitures of money, for the breach thereof, as from time to time they shall judge reasonable; provided no forfeiture for a single offence shall exceed the sum of twenty-five dollars.¹

Ib. § 83. [Sec. 71.] The provisions of the twenty-sixth and twenty-seventh [twenty-ninth and thirtieth] sections of this Title, shall be construed to embrace all rates of toll, rules and regulations, so fixed and prescribed.²

To make certain regulations. § 84. [Orig. sec. 1.] All such rules and regulations in relation to the canals, as are now authorized by sections twenty-five, [28] one hundred and forty-eight, [164] one hundred and forty-nine, [165] and one hundred and eighty-eight, [205] of Title nine of Chapter nine of the first Part of the Revised Statutes, to be made by the canal commissioners, or the commissioners of the canal fund, may hereafter be made by the canal board, with the like penalties and forfeitures as are now provided in said title.³

Remission of penalties. § 85. [Sec. 72.] The canal board shall have power to remit, either absolutely, or upon such conditions as they shall prescribe, any forfeitures that may be incurred, by a violation of any of the provisions of this Title, or of any of the rules and regulations established by themselves, or the canal commissioners.

Proceedings § 86. [Sec. 73.] No such forfeitures shall, however, be remitted, unless on the petition, in writing, of the party liable thereto, supported by due proof of the facts, upon which the claim for a remission shall be founded; and every such petition with the accompanying proof, and the order of the board thereon, shall be preserved and filed in the office of the comptroller.

Estimates for repairs. § 87. [Sec. 74.] Whenever the canal board shall have received from the canal commissioners, the plan of any extraordinary repairs or improvements on the canals, and an estimate of the expense thereof, if such estimate shall not exceed the sum of thirty thousand dollars, they may direct such repairs or improvements to be made; but if the estimated expense shall exceed that sum, they shall report the plan and estimate, together with their opinion thereon, to the legislature.

Surplus waters. § 88. [Sec. 75.] Whenever in the opinion of the board, any water may be spared from any state canal, or works connected therewith, without injury to the navigation or safety of such canal, and the persons entitled to the first privilege of taking such water, shall not avail themselves thereof, or there shall be no person so entitled, the board may order a sale of such sur-

(1) Laws of 1820, p. 189, § 20; 1826, p. 360, § 5; 1827, p. 224, § 13. (2) Laws of 1827, p. 224, § 15. (3) "An act in relation to the canals," passed March 4, 1835, chap. 21.

plus water, for a term of years, in their discretion, to the person who shall bid the highest annual rent therefor.¹

§ 89. [Sec. 76.] The canal board may make such an extra allowance as they may judge reasonable, to any contractor, for work performed, or to be performed on the canal, and direct the same to be paid by the canal commissioners, or by the commissioners of the canal fund.² Extra allowance.

§ 90. [Sec. 77.] Such extra allowance shall not be made for, or include losses resulting to the contractor from the unfavorable terms of his contract, but shall be confined to an indemnity for extra expenses and labor, in constructing the work contracted for, occasioned either by new directions given by a canal commissioner, engineer, or superintendent of repairs, after the making of the contract, or where, in consequence of the work proving to be of a different character or description than it was contemplated to be by the commissioners, or engineer, at the time of the making of the contract.² In what cases.

§ 91. [Sec. 78.] Every contractor claiming an extra allowance, shall present a petition, in writing, to the canal board, stating the facts on which his claim is founded, and the sum demanded as an indemnity, and shall support his petition by such proof as the board shall require; and every such petition, with the proof in support thereof, and the order of the board thereon, shall be preserved and filed in the office of the comptroller. Proceedings.

§ 92. [Orig. sec. 9.] Any member of the canal board is hereby authorized to administer oaths to witnesses on all matters which may be examined before said board: and wilful false swearing before said board is hereby declared to be perjury.³ Swearing witnesses.

§ 93. [Orig. sec. 10.] The canal board may require the attendance of witnesses before them on the part of the state, if in their opinion the interests of the state require it; and for that purpose they may issue subpoenas, to be signed by their president for the time being, which shall be served by their sheriff or constable by said board thereunto required; and every person duly subpoenaed to attend before said board, who shall wilfully neglect to obey such subpoena, shall forfeit fifty dollars, to be recovered with costs of suit, before any court having cognizance thereof.³ Canal board may require witnesses to attend.

§ 94. [Orig. sec. 11.] The canal board may allow and direct the canal commissioners, or commissioners of the canal fund, to pay to any officer such board may require to serve subpoenas, or to witnesses attending in pursuance of such subpoena, such sum as they may deem just and reasonable for such service or attendance.³ Pay for services, &c.

[Orig. sec. 5. The canal board shall have power to modify or reduce any of the penalties imposed by Article seven, of Canal board may modify penalties.

(1) Laws of 1825, p. 399, § 3; Ib. 1826, p. 363, § 31. (2) Ib. § 33; Ib. 1827, p. 373, § 1. (3) Laws of 1829, chap. 368, § 9, 10 and 11.

SURPLUS WATER.

Chapter nine, Title nine of the first Part of the Revised Statutes.] (u)

ARTICLE FIFTH.

Of Water Privileges, and the sale of surplus Waters.

SEC. 95. Commissioners to agree with owners of hydraulic privileges for surplus waters.

96. When surplus waters created, who entitled to preference and on what terms.

97. Value of such waters to be estimated by appraisers.

98. If such owners refuse to comply with conditions, not to have use of waters.

99. Commissioners may resume use of waters when necessary.

100. Owner of works not to be affected until his damages are paid.

101. Owners of hydraulic works, in certain cases entitled to surplus waters.

102. Owners of land over which surplus water flows, entitled to surplus waters.

103. Value how ascertained, &c.

104. How right of such owners to surplus water may be waived or forfeited.

105. Qualifications of preceding sections.

106. Manner and terms of sale of surplus waters.

107. In what cases canal board to revoke former leases.

108. Where waters partially resumed, purchaser entitled to what is not resumed.

109. Where stone walls to be made and the manner of erecting.

110. Waste-gates, sluice, slide, &c. when and where to be erected.

111. Penalty for injuring or lowering stone walls.

112. Persons owning water privileges on the canals, how to discharge the waters.

113. Writ of error upon decision of supreme court, in relation to water privileges.

114. Duty of clerk of supreme court, upon being served with writ of error.

Agreements
respecting
hydraulic
privileges.

§ 95. [Sec. 79.] Whenever it shall become necessary to secure to any state canal, an additional supply of water, the canal commissioners may agree with the proprietors of hydraulic privileges, affected by their proceedings, relative to the use of the water privileges to be created, and of the surplus water, in such manner as they shall deem most beneficial to the state.¹

Who entitled to, in certain cases, and conditions.

§ 96. [Sec. 80.] Whenever the canal commissioners shall construct a dam across any river or creek, to raise a head of water for the use of a canal, by means whereof, any works adjacent to such river or creek, in which water power is employed, before such time legally used, may be benefitted without prejudice to the canal, the owner of such works, for their benefit, shall be entitled to the use of the surplus water, upon his complying with the following conditions :

1. He shall construct under the direction of the canal commissioners, a good and substantial race-way and gate in such dam, to draw off as much of the surplus water as his works may require.

2. He shall give such security to the people of this state, as the canal commissioners shall deem sufficient, to keep such gate and race-way in complete repair so as to prevent any waste of water.

(a) This section is taken from the "act in relation to the canals," passed May 16, 1837, being chap. 451 of laws of that year.

(1) Laws of 1823, p. 269, § 2; Ib. p. 132, § 1 and 2.

3. He shall, within ninety days after such race-way and gate shall be completed, apply to the canal appraisers, and request them to ascertain the benefits accruing to him, from the use of such dam, or other erection.

4. Within ninety days after such benefits shall have been so ascertained, he shall pay the sum at which they shall be estimated, into the treasury.¹

§ 97. [Sec. 81.] It shall be the duty of the canal appraisers, Appraisal. when so required, to make a fair estimate of the benefits so accruing to such owner, and to make a return thereof without delay, to the treasurer of the state.²

§ 98. [Sec. 82.] If the conditions, as above specified, shall Duty of owners. not be fulfilled by such owner, it shall be the duty of the acting canal commissioner, to close any race-way or gate such owner may have constructed; nor shall the owner again open the same, or any other in the same dam, unless upon the performance of the conditions so imposed.²

§ 99. [Sec. 83.] The canal commissioners may resume the When to be resumed. privileges so granted, whenever, in their judgment, the surplus water, or a portion thereof, shall become necessary for the use of the canal; but whenever such privileges shall be so resumed, the sum paid into the treasury therefor, shall be refunded.²

§ 100. [Sec. 84.] Nothing in this Article contained, shall be Construction of this Article. construed to deprive the owner of hydraulic privileges, of any rights possessed by him, prior to any grant from the state under this Article, unless his damages from the loss of such rights, shall be duly assessed and paid.²

§ 101. [Sec. 85.] In all cases where water or mill privilege, Preference in the use of water. before legally used, have been or shall be injured by reason of the diversion of the water to the use of either of the canals, the persons so injured shall be entitled to the first privilege of taking water for the use of their works, on the terms and conditions above specified, from any work constructed for the purpose of such diversion, or from the canal itself benefited thereby, when there is a surplus of water, and with the consent of the canal commissioners.²

§ 102. [Sec. 86.] Whenever the canal board shall order a Other persons entitled first to surplus waters. sale of surplus waters, pursuant to the provisions of the seventy-fifth [88th] section of this Title, to the use of which no person shall be first entitled as the owner of works before such time legally used, according to the preceding eightieth [96th] section, the owners of the land upon which such surplus waters shall flow, and the owner of land adjoining any dam erected by the canal commissioners, by which surplus water shall be created, shall be entitled to the first privilege of taking such waters, subject to the provisions of this Article, so far as the same may be applicable; and the canal commissioners shall

(1) Laws of 1823, p. 269, § 2; *Ib.* p. 132, § 1 and 2. (2) Laws of 1823, p. 269, § 2; *Ib.* p. 132, § 1.

have the same powers in relation to all such surplus waters, as are herein given in respect to surplus water by which hydraulic privileges are benefitted.¹

Value how
ascertained.

§ 103. [Sec. 87.] Whenever the owner of any land over which surplus water shall flow, or the owner of land adjoining any dam by which surplus water shall be created, entitled according to the last section, to the use of such water, shall apply for a lease of the same, the canal commissioners shall direct the canal appraisers to estimate the value of the use of such water; and the said appraisers shall include in such estimate, the value of any use of such water, which such owner may have had previous to obtaining a lease therefor; and within ninety days after such appraisal shall have been made, and notice thereof given to such owner, he shall pay the amount of the value of such previous use, into the treasury.¹

Value of former
use of
surplus water.

How right
waived or
forfeited.

§ 104. [Sec. 88.] If any owner of land over which such surplus water shall flow, or if any owner of land adjoining any dam by which surplus water shall be created, shall omit for three months after being notified by the acting canal commissioner to that effect, to apply for a lease of such water, or shall neglect to comply with any of the provisions of this Article, the canal board shall order a sale of such surplus water.¹

Qualifications of
pre-
ceding
sections as to
race-ways.

§ 105. [Sec. 89.] But in cases, where in the opinion of the acting canal commissioner, it would be inexpedient to close any race-way or gate, it shall not be compulsory on him to do so; and where, in the opinion of the canal board, a lease of surplus waters will not confer on the lessee any right or authority to use the same without the consent of the owner of the land over which such surplus water shall flow, they shall not authorize the letting of the same, without evidence that the consent of such owner has been given to such use.¹

As to sale of
surplus water.

Proceedings
on sale of
water.

§ 106. [Sec. 90.] Whenever a sale of surplus water shall have been directed by the canal board, the acting canal commissioner within whose line such water shall fall, shall proceed to sell and convey such surplus water in the manner following:

1. Each privilege of using such water shall be sold separately, at public auction, to the person bidding the highest annual rent therefor.

2. The place of sale shall be in the vicinity of the place where the water may be most conveniently used.

3. A notice, stating the time and place of the sale, and describing the waters to be sold, shall be published twice in each week, for six weeks in succession, immediately preceding the sale, in the state paper, and once in each week for the same time, in each of the newspapers printed in the county where the water is to be sold.

(1) Act of April 21, 1828, p. 426, chap. 317.

4. A lease for such a term of years as shall have been directed by the canal board, shall be executed by the commissioners, in the name of the people of this state, to the purchaser, and in such conveyance, the rent bid by such purchaser, shall be reserved.

5. The conveyance shall contain a covenant, that the rent therein reserved, shall be paid annually to the commissioners of the canal fund, and a condition that if such rent shall remain unpaid for one year after it shall become due, the grant or lease shall become forfeited to the state.

6. The conveyance shall also contain a reservation of the right, wholly to resume the water so conveyed, and the privileges thereby granted, and to control and limit the use of such water and privileges, whenever, in the opinion of the canal board, or of the legislature, the necessary supply of water for the use of any state canal, or the safety of such canal, or works connected therewith, shall render such resumption, control or limitation necessary; and a provision that where such resumption is made, or control or limitation imposed, no compensation or damages shall be allowed for any improvements or erections made in consequence of such grant or lease.

7. The conveyance shall contain a further reservation of the right of the state, without making any compensation to the purchaser, wholly to abandon or destroy the work, by the construction of which, such surplus waters shall have been created, whenever in the opinion of the canal commissioners, the occupation and use of such work, shall cease to be advantageous to the state.

8. A duplicate of such conveyance, under the hand and seal of the purchaser, shall be executed and delivered by him to the acting canal commissioner, who shall, without delay, procure the same to be recorded in the clerk's office of the county, in which the water sold shall be situated, and shall transmit it, when recorded, to the commissioners of the canal fund.

9. All the expenses attending the execution of the conveyances, and the recording thereof, shall be paid by the purchaser.¹

§ 107. [Sec. 91.] When the canal board shall be satisfied that any lease of surplus waters granted by the canal commissioners, or either of them, before the twenty-first day of April, one thousand eight hundred and twenty-eight, is invalid, or conveys no right to use such waters, and may expose the state to claims for remuneration, they may revoke and annul such lease, and may direct the repayment to such lessee, of any moneys received on such lease, with interest from the time of such payment; which shall be paid accordingly, on the warrant of the comptroller, from the canal fund.²

Canal board
when to re-
voke former
leases.

(1) Laws of 1825, p. 399, § 3; 1826, p. 363, § 31. (2) Act of April 21, 1828, p. 426, chap. 317.

Right of
purchaser.

§ 108. [Sec. 92.] Where there shall be a partial resumption only of the waters so sold, the purchaser shall be entitled to the use of the remaining water privileges for the residue of his term, on the payment of such reduced rent as shall be fixed by the canal board; but if he shall refuse to accept thereof at the rent so reduced, the privileges so remaining, shall be again sold by the canal commissioners, under the direction of the canal board.

Walls to be
erected.

§ 109. [Sec. 93.] At every place, where waters are to be taken from any state canal, or work connected therewith, for hydraulic purposes, except at Black Rock, at the mouth of Tonnewanta creek, and at the locks at Lockport, and except where such waters are taken from a dam across a stream which is used as a feeder, or from a feeder not navigable, the canal commissioners shall construct a permanent wall or erection of stone laid in mortar, and cemented, of sufficient thickness to ensure the safety of the canal, and such wall shall not in any case be more than six inches lower than the top water line of the canal.¹

No waste-
gates, &c.
in them.

§ 110. [Sec. 94.] No waste-gate, sluice, slide, water-gate or other passage, shall be made in connexion with any wall or erection over which water is to be drawn, in such a manner that the same can be opened, or that water can be drawn by, through, or under the same, to the use of any mill or machinery, using water from the canal, except at the four places above excepted.¹

Penalties.

§ 111. [Sec. 95.] Any person who shall wilfully make, or cause to be made, any breach, hole or passage in, through or under any such wall or erection, or who shall lower the same, or cause it to be done, for the purpose of drawing water to any mill or machinery, or the effect of which, shall be, to lower the water in the canal, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment; the fine for each offence not to exceed two hundred and fifty dollars, nor the imprisonment six months.²

Water how
discharged.

§ 112. [Sec. 96.] Every person now owning any water privilege, upon either of the canals, or hereafter purchasing any such privilege of the state, shall discharge the waters owned by him at such place or places, as the canal commissioners shall direct, whenever the navigation or safety of the canal, or any of its works, shall be benefitted by such direction.³

Error from
decisions of
supreme
court.

§ 113. [Sec. 97.] The canal commissioners, or the party aggrieved, may bring a writ of error from any decision of the supreme court hereafter to be made, touching any claim made against the state, for deprivation of any right, or pretended right, to the use of any water or water privileges, or fisheries, in consequence of the construction of any canal or feeder, now

(1) Laws of 1826, p. 362, § 26; 1827, p. 223, § 11. (2) Laws of 1826, p. 362, § 27. (3) Laws of 1826, p. 362 § 29,

or hereafter to be made, whether the decision be made upon any case arising on a *mandamus* or otherwise; and although no pleadings were had or issue joined in the cause.¹

§ 114. [Sec. 98.] On service of such writ of error it shall be the duty of the clerk of the supreme court, to make out a transcript of the record, or papers and documents, on which such decision was had, and to cause the same to be filed with the clerk of the court for the trial of impeachments and the correction of errors, in twenty days after service of the writ.¹ Proceedings

ARTICLE SIXTH.

Of the Superintendents of Repairs, and the Collectors of Tolls.

SEC. 115. Superintendents of repairs, and collectors shall give bond.

116. Duty of superintendent.

117. Shall be under direction of commissioners.

118. To account to comptroller; duty of comptroller in case of neglect, &c.

119. Account to be certified by canal commissioners, before presented.

120. Collectors to keep account of tolls received.

121. To make abstracts of daily receipts, and to send them to comptroller weekly.

122. When and where to deposite moneys received by them.

123. Banks with whom deposite are made to transmit monthly account to comptroller.

124. Collectors may be authorized to refund tolls erroneously paid.

125. In case collector omits to deposite tolls, comptroller to issue warrant, &c.

126. Sheriff to whom it is directed, immediately to execute it.

§ 115. [Sec. 99.] Each superintendent of repairs and every collector of tolls, before he shall enter on his official duties, shall execute and file in the office of the comptroller, a bond for the faithful execution of his trust, in such penalty and form as the canal board shall direct, and with such sureties as the comptroller shall approve. To give bonds.

§ 116. [Sec. 100.] It shall be the duty of each superintendent, under the direction of the canal commissioners, to keep in repair such sections of the canals and works connected therewith, as shall be committed to his charge; to make all necessary contracts for that purpose, and faithfully to expend all such moneys as shall be placed in his hands, by the canal commissioners or the commissioners of the canal fund.² Duty of superintendent.

§ 117. [Sec. 101.] Each superintendent shall be under the direction of the canal commissioners and especially of the acting commissioner, having charge of the line of the canal, on which such superintendent is employed.³ Ib.

§ 118. [Sec. 102.] Each superintendent shall, as often as once in sixty days, render his account to the comptroller, who shall audit the same; and if any superintendent shall omit to render his account, or his account as rendered be not satisfactory, the comptroller shall notify the canal board and the commissioners of the canal fund thereof; and no further advances of money shall be made to such superintendent, but he shall be immediately removed from office.⁴ To account.

(1) Laws of 1827, p. 230, § 42. (2) Laws of 1826, p. 361, § 2. (3) Laws of 1827, p. 224, § 14. (4) Ib. § 13,

How
verified.

§ 119. [Sec. 103.] Before any superintendent's account for expenditures shall be presented to the comptroller, the canal commissioner having charge of that part of the canal on which such superintendent is employed, shall certify on such account, that he has examined the same; that the several disbursements specified therein, were made under his direction on the canal, or for repairs necessary to be made thereon; and that he believes such disbursements to be proper and reasonable, and to have been made as charged.¹

Drafts for
payment of
engineers.

[Orig. sec. 1. Either of the acting canal commissioners may draw upon the commissioners of the canal fund for any sum to be advanced to an engineer to meet the expenses of the engineer department; and if the bond of said engineer shall have been duly filed in the office of the comptroller, and a receipt of the engineer for such draft shall also be filed in the same office, it shall be the duty of the commissioners of the canal fund to pay the draft; provided the advances to an engineer unaccounted for, shall at no time exceed the sum of five thousand dollars.] (a)

Engineer to
execute
bond.

[Orig. sec. 2. Before any advance shall be made to an engineer, he shall execute and file in the office of the comptroller, a bond to the people of this state, for the faithful expenditure of the moneys which shall be entrusted to him, in such penalty and form as the canal board shall direct, and with such sureties as the comptroller shall approve: upon which said bond the said engineer and his sureties shall be responsible to the state, for moneys advanced to him as aforesaid.] (a)

To account
once in 90
days.

[Orig. sec. 3. Such engineer shall, as often as once in ninety days, render his account to the comptroller, who shall audit the same; and if he shall omit to render his account, or his accounts as rendered be not satisfactory, the comptroller shall notify the canal commissioners and the commissioners of the canal fund thereof; and no further advances of money shall be made to such engineer.] (a)

Accounts to
be certified
by a canal
commissioner.

[Orig. sec. 4. Before any engineer's account for expenditures shall be presented to the comptroller, the canal commissioner having charge of that part of the canal on which such engineer is employed, shall certify on such account that he has examined the same; that the several disbursements specified therein were made under his direction on the canal, or for payments necessary to be made thereon; and that he believes such disbursements to be proper and reasonable, and to have been made as charged.] (a)

Superintendent to make estimate.

[Orig. sec. 7. Before any advance of money shall be made to a superintendent of canal repairs by the commissioners of the canal fund, he shall make out a detailed statement, in such form as the said commissioners shall prescribe, of the several

(1) Laws of 1827, p. 224, § 13.

(a) The above three sections are taken from an "Act in relation to the canals," passed May 16, 1837, being chap. 451 of laws of that year.

anticipated objects of expenditure on the line of canal under his charge.] (a)

[Orig. sec. 8. If the said estimate shall be filed in the office of the comptroller, with the certificate thereon of the acting canal commissioner, stating that in his opinion, the whole amount or if less than the whole amount, what portion of the said estimate should be advanced, the commissioners of the canal fund may make advances on the same, in such sums, and as often as they may deem necessary: provided such advances shall not exceed the amount certified by the commissioner.] (a)

To be
certified and
filed.

§ 120. [Sec. 104.] The collectors of tolls shall keep accounts of all tolls received by them, in such form as shall be prescribed from time to time by the comptroller, and shall deposit such original books of account, together with such clearances and other papers as he shall require, in the comptroller's office, on or before the tenth day of January in each year.¹

Duty of
collectors.

§ 121. [Sec. 105.] They shall also make abstracts from such books showing the amount of tolls received by them each day, and transmit the same by mail, to the comptroller, four times in each month, on such days as he shall direct.²

Abstracts.

§ 122. [Sec. 106.] They shall deposit the moneys received by them for tolls, to the credit of the treasurer of this state, at least once in two weeks, in such banks as may from time to time be designated by the canal board.³

Deposites
in banks.

§ 123. [Sec. 107.] The comptroller shall require the several banks so designated, to transmit to him, by mail, a monthly account of deposits by the collectors of tolls; and if any bank shall neglect to comply with such requisition, or he shall doubt its solvency, he shall direct such deposits to be made in such other bank as he shall designate, until the further order of the canal board.⁴

Duty of
banks.

§ 124. [Sec. 108.] The collectors may be authorized to refund tolls erroneously paid to them, or which equitably ought to be refunded, under such regulations as shall be prescribed by the comptroller.⁵

Refunding
tolls.

§ 124. [Sec. 109.] If any collector of tolls shall neglect to deposit, according to law and the directions of the comptroller, the moneys that, from the abstracts of returns made to the comptroller, he shall appear to have collected for tolls, the comptroller may issue a warrant under his hand and seal, directed to the sheriff of any county where such collector or any of his sureties may be found, thereby commanding such sheriff to cause the amount of tolls in the hands of such collector, (or such part thereof as the comptroller shall direct by the

Proceedings
against
collectors.

(1) Laws of 1826, p. 360, § 7. (2) *Ib.* § 8. (3) *Ib.* § 9. (4) *Ib.* § 11. (5) *Ib.* § 12.

(a) The above three sections are taken from an "Act in relation to the canals," passed May 16, 1837, being chap. 451 of laws of that year.

Proceedings
against
collectors.

warrant, to be made and levied of the goods and chattels, lands and tenements of such collector; and in case the same shall not be sufficient, then of the goods and chattels, lands and tenements of the sureties of such collector; and to return the money, together with the warrant and his doings thereon, to the comptroller, within sixty days from the date thereof.¹

§ 126. [Sec. 110.] The sheriff to whom such warrant shall be directed, shall immediately cause the same to be executed; and may demand and collect the same fees for executing the same, as are allowed by law for the service of executions issuing out of the supreme court.²

ARTICLE SEVENTH.

Regulations and Penalties concerning the Navigation of the Canals, and the Collection of Tolls.

- Sec. 127. Owners of canal boats to give certificates of registry to collectors.
128. If master of certain boats is changed, new master to give one.
129. Collector to give receipt for certificate.
130. Comptroller to make register of boats navigating the canals.
131. When boat is transferred, comptroller to alter register, upon proof of fact.
132. Comptroller to send collectors copy of register.
133. No clearance granted without proof of registry.
134. Persons named in certificate, deemed owners of boats, for certain purposes.
135. Penalty for changing name of boat, &c. or for reporting false name.
136. No boat to have a clearance without name on it.
- 137, 138 & 139. Masters of boats carrying property, to show bills of lading, to what collectors.
- 140 & 141. Penalty for exhibiting a false bill, or omitting to show true one.
142. Collector may compel master to verify bill by oath.
143. Every boat navigating canal, to have a separate clearance.
144. No boat to proceed beyond place for which it is cleared, until clearance shown.
145. If no collector at such place, clearance where to be delivered.
146. Twenty-five dollars penalty for not delivering clearance.
147. Collectors to give copies of clearances.
148. Such copy to have effect of original; collector's fees for making it.
149. Tonnage on canals to be charged according to real weight of articles.
150. When articles to be weighed, &c.
151. Master to pay expense of weighing, &c.
152. Collector may detain boat and cargo until tolls, &c. are paid.
153. If payment be refused, collector may distrain and sell property.
154. Surplus arising from sale, after paying charges, &c. to whom paid.
155. Statement of passengers to be furnished by masters of certain boats.
156. What first statement delivered, to contain.
157. If the boat has conveyed no passengers, master to make affidavit of fact.
158. If more than one person has had charge of boat, each to make such statement, &c.
- 159 & 160. Collector to transmit such statement and affidavit to comptroller; penalty on master for not furnishing them; boat may be refused a clearance.
161. Collector receiving statement, &c. to give acknowledgment.
162. Certificate of comptroller, that no statement, &c. has been received at his office, presumptive evidence that none has been made.
163. Tolls on passengers in boats not belonging to a line, &c. how to be paid; penalties.
164. Commutation for tolls upon passengers.
165. Commissioners of canal fund to prescribe time of payment of commutation.
166. Bill of lading delivered, or payment of tolls made to agents of collector.
167. Collector, &c. to assign berths to boats, when disputes arise concerning them.

(1) Laws of 1826, page 360, § 18. (2) Ib. § 19.

- SEC. 168. No float to go over four miles an hour; ten dollars penalty for so doing.
 169. When passage boat overtakes float, master of latter to let former pass.
 170. When two floats meet, each to take the right.
 171. When two floats meet, in certain places, which shall stop until other passes.
 172. Ten dollars penalty for violating either of three preceding sections.
 173. Floats within 100 yards of lock, &c. to pass before any float on another level.
 174. Questions of precedence in passing locks, to be decided by lock-keeper.
 175. Twenty-five dollars penalty for not conforming to such decision, &c.
 176. Twenty-five dollars penalty for using shafts pointed with iron, on canal.
 177. Decked boats to have knife fixed on bow or stem.
 178. Twenty-five dollars penalty for not complying with above provision.
 179. Same penalty for obstructing canal, by mooring boats, &c.
 180. Penalty for obstructing it by sinking boat, &c. &c.
 181. Boats, &c. found floating, or any articles on tow-path, to be seized and sold.
 182. If owner of article pays cost, &c. not to be sold.
 183. Avals, how accounted for.
 184. If articles sold, proceeds of sale to be paid to owner, after deducting costs, &c.
 185 & 186. Forfeiture for taking rails, posts, &c. from banks of canals.
 187. Penalties, &c. enacted by this article, chargeable on boat or float.
 188. When such penalty is sued for, process to direct officer to detain boat, &c.
 189. If defendant prevail, to be released; if judgment recovered against him how to be collected, if amount, with costs, &c. not paid.
 190. Fire wood and fencing posts included in certain sections.

§ 127. [Sec. 111.] The owners of every boat navigating the canals, shall subscribe and deliver to the collector of whom the first-clearance for such boat shall be demanded, a certificate, to be entitled, "a certificate of registry," containing the names of such owners, and their respective places of abode, and also the name of the boat, and of some place as that where it is owned; if the owners shall reside out of this state, the certificate of registry shall be signed and delivered by the master of the boat, as the owner thereof.¹ Certificate of registry.

§ 128. [Sec. 112.] If the master of a boat of which the owners reside out of the state, shall be changed after he shall have delivered such certificate, the new master shall sign and deliver a proper certificate of registry, to the collector of whom he shall first require a clearance.¹ Ib.

§ 129. [Sec. 113.] Every collector receiving a certificate of registry, shall sign an acknowledgment of the receipt thereof, and deliver the same to the master of the boat; and shall, without delay, transmit the certificate received, to the comptroller.¹ Duty of collector.

§ 130. [Sec. 114.] The comptroller shall make a register of all boats navigating the canals, which shall be kept with the books and papers in his office relative to the canals, and be open to inspection during office hours. The name of no registered boat shall be changed without the order of the comptroller.¹ Duty of comptroller.

§ 131. [Sec. 115.] If any persons residing within the state, claiming to be the owners of a registered boat, by a transfer from its former owners, shall produce to the comptroller, due proof of such transfer, and shall deliver him a new certificate Register, how changed.

(1) Laws of 1827, p. 225, § 18 to 22.

of registry signed by themselves, it shall be the duty of the comptroller to change the register of such boat, so as to correspond with such new certificate.¹

Copies to
collectors.

§ 132. [Sec. 116.] The comptroller shall, from time to time, transmit to the several collectors, a certified copy of the register of boats in his office, and of the several changes made therein.¹

Clearances,
when grant-
ed.

§ 133. [Sec. 117.] No clearance shall be granted to any boat, unless the collector of whom it is required, shall have evidence that such boat is duly registered; or if it be not registered, until the master thereof shall have delivered to such collector, a proper certificate of registry, or have exhibited to him, the receipt of some other collector, for such certificate.¹

Who
owners.

§ 134. [Sec. 118.] The persons specified in its certificate of registry, as the owners of a boat, shall be deemed in law the true owners thereof, for all purposes of enforcing the collection of tolls, and the execution of the rules and regulations for the navigation or maintenance of the canals.¹

Penalties.

§ 135. [Sec. 119.] Every owner of a boat who shall change its name from that stated in its certificate of registry, then in force, without the order of the comptroller, and every master who shall enter or report such boat, at any collector's office, by a different name than that so stated, shall, for every such offence, forfeit the sum of twenty-five dollars.¹ (a)

Name to be
on each boat.

§ 136. [Sec. 120.] No boat shall receive a clearance, or be permitted to pass on any canal, which shall not have the name thereof, and of the place where it is owned, corresponding with its certificate of registry then in force, painted in some conspicuous and permanent part of the outside of the boat, in letters of at least four inches in height.¹

Bill of la-
ding, its con-
tents.

§ 137. [Sec. 121.] Every master of a boat conveying property on a canal, shall exhibit to the several collectors hereinafter mentioned, a just and true account, or bill of lading, of such property, signed by himself and by the consigner thereof, and containing,

1. The name of each place on the canal, where any portion of such property was shipped, and of the place for which it is intended to be cleared.

2. A statement of the weight of all the articles, of such property on which toll is charged by the ton, of the number of articles on which toll is charged by the number, and of the feet of each article, on which toll is charged by the foot.

3. A specification of the weight or quantity of each article, where a different rate of toll is charged on different articles, on which toll is so computed.²

To whom to
be exhibited

§ 138. [Sec. 122.] Every such account or bill of lading shall be exhibited,

(1) Laws of 1827, p. 225, § 18 to 22. (2) Laws of 1827, p. 220, § 1.

(a) Penalty reduced by the canal board to ten dollars.

1. To every collector of whom a clearance shall be required.
2. To every collector whose office shall be the next in order, in the course of the voyage, to the place where a clearance shall have been given.
3. To every collector at a place where any portion of the cargo shall be unladen, or any additional cargo be received; or if there be no collector at such place, to the collector whose office shall be next in order in the course of the voyage.
4. To every other collector who shall demand such account, or bill of lading, to be exhibited.¹

§ 139. [Sec. 123.] If there shall be no collector's office at the place where any articles shall be laden, nor at the place of their delivery, nor at any intermediate place, the master of the boat shall, within ten days after the delivery of such articles, exhibit the bill of lading thereof to the collector whose office shall be nearest to the place of such delivery, and shall pay to such collector the tolls due on such articles; and every master who shall omit to exhibit such bill, and to pay such tolls, within the period so limited, shall, for every offence, forfeit the sum of twenty-five dollars.¹

To whom to be exhibited

§ 140. [Sec. 124.] Every master of a boat navigating a canal, who shall omit to deliver a true bill of lading to any collector when required, or shall deliver any articles mentioned in a bill of lading, at a place beyond that to which they shall be cleared, shall forfeit the sum of twenty-five dollars. Every person who shall sign or deliver to any collector, a false bill of lading, shall pay on all property omitted in such false bill, treble the toll usually charged on such property, to any collector who shall be satisfied of such omission, for the whole distance such property is conveyed on a canal.¹ (a)

Penalties.

§ 141. [Sec. 125.] Every person who shall knowingly sign or deliver a false bill of lading, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both: the fine not to be less than three times the value of any property omitted in such bill, and the imprisonment not to exceed two years.¹

§ 142. [Sec. 126.] Every collector receiving a bill of lading, may require the master exhibiting it, to verify it by his oath, which such collector is authorized to administer.

Bills how verified.

§ 143. [Sec. 127.] Each boat navigating the canals shall have a separate clearance, and no part of the cargo of any boat shall be cleared to a place, beyond that, to which the boat is cleared.²

Clearances.

§ 144. [Sec. 128.] No boat shall proceed beyond the place to which it shall be cleared, nor unlade any article of its cargo before, or after, its arrival at the place for which such articles are cleared, nor proceed beyond such place, until the master

Regulations of boats.

(1) Laws of 1827, p. 220, § 1. (2) *Ib.* p. 224, § 16.

(a) Penalty reduced by the canal board to ten dollars.

	thereof shall have delivered the clearance of such boat or articles, to the collector, at the place for which they are cleared. ¹
Regulations of boats.	§ 145. [Sec. 129.] If there be no collector at such place, the master shall deliver the clearance of the boat or articles to the last collector whose office shall be passed by the boat in the order of its voyage, and shall receive a permit from such collector, to proceed to the place to which they are cleared. ¹
Penalty.	§ 146. [Sec. 130.] Every master who shall omit to deliver a clearance to the collector, to whom the same ought to be delivered, shall forfeit the sum of twenty-five dollars. ¹ (a)
Collectors to give copies.	§ 147. [Sec. 131.] Every collector issuing any clearance, or in whose office any clearance is on file, shall, whenever requested, give a certified copy thereof, with the additional cargo entered thereon, and the several endorsements of other collectors. ²
Effect of copy; fees for making.	§ 148. [Sec. 132.] Such certified copy shall have the same validity and effect, as the original clearance, of which it is a copy; and every collector shall demand and receive for such certified copy, not exceeding two folios, from the person requesting the same, six cents, and twelve and a half cents for all copies exceeding two folios, and shall account to the commissioners of the canal fund, for all sums which shall be so received, at such time, and in such manner, as the comptroller shall direct. ²
Tonnage.	§ 149. [Sec. 133.] The tonnage of all articles conveyed on either of the canals, on which toll may be charged by the ton, shall be ascertained and charged, according to the real weight of such articles. ³
Articles when to be weighed.	§ 150. [Sec. 134.] Whenever a difference as to the amount of tolls to be paid, shall arise between a collector of tolls and the master of a boat, the collector shall detain the articles on which the tolls are charged, and the boat containing them, and shall weigh, count or measure, the articles, as the case may require; and if it shall be found, that their weight, number, or feet exceed the amount contained in the bill of lading thereof, the collector shall charge tolls, according to the weight, number, or feet thus found. ³
Expense how paid.	§ 151. [Sec. 135.] In every such case, the master shall pay to the collector, the expense of such weighing, counting or measuring, at the rate of twenty-five cents for every ton weighed; of five mills a piece, of articles paying toll by the number; and of five cents for each hundred feet, of articles
Ib.	paying toll by the foot; and such expenses shall be chargeable on such articles, and on the boat containing them. ³
Payments how enforced.	§ 152. [Sec. 136.] The master of every boat shall be liable for the payment of tolls and expenses; and it shall be the duty of every collector of tolls to detain all articles on which tolls or

(1) Laws of 1827, p. 224, § 16. (2) *Ib.* § 17. (3) Laws of 1820, p. 187, § 13 & 14.
(a) Penalty reduced by the canal board to ten dollars.

expenses are chargeable, and each boat containing them, until such tolls or expenses shall be paid.¹

§ 153. [Sec. 137.] If such payment be refused, the collector shall distrain so much of the property detained as shall be sufficient to satisfy the charges thereon; and at the expiration of eight days, if such charges shall remain unpaid, he shall expose to sale the property distrained, at his usual place of receiving tolls, and shall sell the same at public auction, to the highest bidder.¹

Payments how enforced.

§ 154. [Sec. 138.] Any surplus arising from the sale, after the payment of the charges and of the costs of distress and sale, shall be paid on demand, to the master of the boat, or the owner of the property distrained.¹

Surplus.

§ 155. [Sec. 139.] Every master of a boat which usually runs on the canal night and day, or which belongs to any regular line of packet or freight boats, shall, during each navigable season on the canal, as often at least as once in thirty days, and oftener, if required by the canal board, and under such regulations as that board shall establish, deliver to some collector of tolls a statement of passengers, and shall verify the same under oath, to be administered to him by such collector; and at the same time shall pay to such collector, the lawful tolls on the passengers mentioned in the statement.²

Statements of passengers in certain cases.

§ 156. [Sec. 140.] The first statement so delivered, shall contain the names of all the passengers conveyed in such boat, from the commencement of its running in that season, until the delivery of the statement, and the distance to which each passenger was carried; and each subsequent statement shall contain the names of all the passengers, and the distance to which each was carried in such boat, since the time embraced in the last previous statement.²

Contents of first statement.

§ 157. [Sec. 141.] If it shall happen, that during the time for which a statement is required, no passenger shall have been conveyed in such boat, the master thereof shall present to some collector an affidavit to be sworn to before such collector, that no passenger has been conveyed in such boat, during the time specified therein.²

When affidavit to be made.

§ 158. [Sec. 142.] If it shall happen that different persons have been masters, or had charge of any boat, for the time during which the statement or affidavit above mentioned is required, each person shall furnish such statement or affidavit for such portion of the time, as such boat was under his control, or management.²

Different masters.

§ 159. [Sec. 143.] The several collectors shall transmit to the comptroller, the several affidavits and statements relative to passengers, received by them; and every master who shall neglect to furnish the affidavit or statement, or to pay the toll on any passengers, by law required, and every owner of such

Collector's duty; penalty on masters, &c.

boat, when such neglect occurred, shall for each offence forfeit the sum of twenty-five dollars.¹ (a)

Further penalty. § 160. [Sec. 144.] The commissioners of the canal fund may, in their discretion, prohibit such boat from receiving a clearance and navigating the canals, until such statement or affidavit be furnished, and the tolls paid.

Collectors to acknowledge statement, &c. § 161. [Sec. 145.] Every collector receiving such a statement, or affidavit, relative to passengers, shall give to the person from whom he received the same, a written acknowledgment thereof.²

Evidence of neglect to make statement. § 162. [Sec. 146.] A certificate made by the comptroller, under the seal of his office, after thirty days from the time when such a statement or affidavit ought to be made, that no statement or affidavit in respect to any particular boat, for the time particularly stated therein, has been received at his office, shall be presumptive evidence that no such statement or affidavit has been made by the master of such boat for the time specified in the certificate.³

Tolls on passengers in certain boats. § 163. [Sec. 147.] Every master or person having charge of any boat navigating a canal, which does not usually run in the night time, or which does not belong to any regular line of packet or freight boats, shall pay the lawful tolls on all passengers conveyed in such boat, in the same manner as he is required to pay toll on property conveyed; and every such master who shall omit to give a just and true account of such passengers, to the collector, at the place where such passengers shall be received in such boat, or at the office next in order in the course of the voyage, after receiving the same, or who shall refuse to verify the same under oath, when required by any collector, or to pay the toll on such passengers, shall for every offence forfeit the sum of twenty-five dollars.³ (b)

Commutation for tolls. § 164. [Sec. 148.] The commissioners of the canal fund may, in their discretion, receive from the owners of any boat a special sum by the year, for a license to carry passengers therein, as a commutation for tolls upon passengers.⁴

How paid. § 165. [Sec. 149.] Such commutation shall be paid at such time and in such manner as the commissioners may prescribe, and no statement or affidavit relative to conveying passengers, shall be required from the master of any boat so licensed.⁴

Clerk's of collectors. § 166. [Sec. 150.] Any clerk duly authorized by a collector may perform all the duties, and exercise all the powers legally appertaining to such collector, in his absence, and the collector shall be responsible for the acts of such clerk.

Berths of boats. § 167. [Sec. 151.] It shall be the duty of every collector of tolls, and if there be no collector present, of every superinten-

(1) Laws of 1827, p. 226, § 24. (2) *Ib.* § 25. (3) *Ib.* § 23. (4) *Ib.* § 26. These sections are affected by ch. 21, laws of 1835, (see ante, § 84,) which authorizes the canal board to exercise the powers herein specified.

(a) Penalty reduced by the canal board to fifteen dollars.

(b) " " " " " to ten dollars.

dent, to assign berths to all boats when loading or unloading at any landing place on a canal, whenever disputes shall arise concerning the same.¹

§ 168. [Sec. 152.] No float shall move on any canal faster than at the rate of four miles an hour without a permission in writing, signed by a majority of the canal commissioners; and for each violation of this provision the master shall forfeit the sum of ten dollars.²

Speed of
boats, &c.

§ 169. [Sec. 153.] Where a boat used chiefly for the conveyance of persons, shall overtake any other float, not used chiefly for that purpose, it shall be the duty of the master of the latter to give to the former, every practicable facility for passing, and whenever it shall become necessary, to stop, until such passage boat shall have fully passed.³

Preference
in passing.

§ 170. [Sec. 154.] Where any float, in passing on either of the canals, shall meet with any other float, it shall be the duty of the master of each, to turn out to the right hand, so as to be wholly, on the right side of the centre of the canal.⁴

Boats
meeting.

§ 171. [Sec. 155.] Where any float shall approach any place on either of the canals, which is less than thirty feet wide on the surface, or which will not safely permit their passing, it shall be the duty of the master of the float going from the navigable waters of the Hudson river, to stop at such distance from such narrow place, as may be convenient for the float going towards such navigable waters to pass through such narrow place, and there to wait until such passage is effected.⁴

Ib.

§ 172. [Sec. 156.] Every master or boatman violating any provision of the three sections immediately preceding, shall for each offence, forfeit the sum of ten dollars.⁴

Penalties.

§ 173. [Sec. 157.] Every float, within one hundred yards of a lock, if on the same level that the water in the lock then is, shall be permitted to pass the lock, before any other float not on the same level.⁵

Passing
locks.

§ 174. [Sec. 158.] If, on the arrival of two or more floats at any lock, a question shall arise between their respective masters as to which shall be first entitled to pass, such question shall be determined by the lock-keeper, and each float shall be passed in the order and manner in which he shall direct.⁵

Ib.

§ 175. [Sec. 159.] Every master, owner or navigator of any float refusing to conform to such determination of the lock-keeper, or detaining or unnecessarily hindering the passage of any float, through a lock, in violation of any provision of the two last sections, shall, for each offence, forfeit the sum of twenty-five dollars.⁵ (a)

Penalties.

§ 176. [Sec. 160.] No person navigating either of the canals, shall be permitted to use therein any setting pole or shaft, pointed

Setting
Poles, &c.

(1) Laws of 1827, p. 229, § 40. (2) Laws of 1822, p. 320, § 4. (3) Laws of 1820, p. 186, § 10. (4) Ib. § 9. (5) Laws of 1827, p. 228, § 31.

(a) Penalty reduced by the canal board to ten dollars.

with iron or other metal ; and if any person shall offend against this section, he shall, for every such offence, forfeit the sum of twenty-five dollars.¹ (a)

Knife on
bow.

§ 177. [Sec. 161.] No covered or decked boat, shall navigate any canal without a knife or sharp metallic instrument, so affixed upon the stem or bow of the boat, as to cut apart any tow rope, which otherwise might pass over such bow.²

Penalty.

§ 178. [Sec. 162.] Every owner or master of such boat, who shall neglect or refuse to comply with the above provision, shall, for each offence, forfeit the sum of twenty-five dollars.² (b)

Obstructing,
&c.

§ 179. [Sec. 163.] Every person who shall obstruct the navigation of any canal, by the improper mooring, management or conduct, of any boat or floating thing, shall, for every such offence, forfeit the sum of twenty-five dollars.³ (b)

Ib.

§ 180. [Sec. 164.] If any person shall obstruct the navigation of any canal, by sinking any vessel, timber, stone, earth or other thing, to the bottom thereof, or by placing any obstruction on the towing path thereof, or on the bank opposite the towing path, he shall forfeit the sum of twenty-five dollars.⁴

Boat, &c. to
be seized.

§ 181. [Sec. 165.] It shall be the duty of every canal commissioner, collector, superintendent or agent, employed on the canals, to seize all boats, rafts, logs, or any floating or sunken thing, which may be found in a canal ; or any article not under the care or charge of any person, so found on the tow path thereof ; and to sell the same at public vendue, after giving ten days' written notice of such sale, at two public places nearest to the place where such boat, logs, floating or sunken thing, may be found.⁵

Owner may
stop sale.

§ 182. [Sec. 166.] If the owner of any article so seized, shall appear and claim the same, before the time of sale, and pay the costs of seizure and expense of removal, no such sale shall take place.⁵

Avails how
accounted
for.

§ 183. [Sec. 167.] The avails of such sale shall be accounted for, by the officer making the same, if he be not a collector, to the nearest collector, who shall make returns thereof to the commissioners of the canal fund. If the sale be made by a collector, he shall account for the avails thereof, to the commissioners of the canal fund.⁵

When paid
to owners

§ 184. [Sec. 168.] After such sale shall have been made, and the proceeds thereof paid to the commissioners of the canal fund, such commissioners may, on the application of the owners, and due proof of ownership, pay over such proceeds, after deducting the forfeiture, and all costs and reasonable charges thereon.⁵

(1) Laws of 1820, p. 188, § 16. (2) Laws of 1827, p. 222, § 7. (3) Laws of 1827, p. 221, § 3. (4) Laws of 1820, p. 185, § 6. (5) Laws of 1827, p. 221, § 4.

(a) Penalty reduced by the canal board to five dollars.

(b) Penalty reduced by the canal board to ten dollars.

§ 185. [Sec. 169.] If any boatman or person on board of any boat on any canal, shall take, without right, any rails, boards, planks or staves, [fire wood or fencing posts¹] from the banks or vicinity of the canal, the master of the boat shall forfeit to the owner, treble the value of the property taken, and the possession of such property on board the boat, shall be presumptive evidence of such taking.² Taking rails &c. penalty.

§ 186. [Sec. 170.] Any person or boatman, who shall violate the provisions of the last section, shall forfeit twenty-five dollars to any person who will prosecute therefor.³ lb.

§ 187. [Sec. 171.] Every penalty and forfeiture, prescribed by this Article, and which is declared to be recoverable against the owner, master, boatman, navigator, or other person, having charge of any boat or other float, when incurred, shall be chargeable on such boat or float, and a suit for the recovery thereof, may be brought against any person, being in the possession, or having the charge, of such boat or other float, at the time such suit is commenced.⁴ Boat liable for penalties

§ 188. [Sec. 172.] When any suit shall be prosecuted for any such penalty or forfeiture, the magistrate issuing the process, by a clause to be inserted therein, may direct the officer executing the same, to detain such boat or float, and the furniture and horses belonging thereto, until the suit shall be determined, or until adequate security shall be given for the payment of any judgment that may be recovered.⁴ Boat may be detained.

§ 189. [Sec. 173.] If such security shall be given, or the defendant in such suit shall prevail, the magistrate shall order the boat or other float and property detained, to be released; but if no such security shall be given, and a judgment shall be recovered for such penalty or forfeiture, and the same, together with the costs, shall not be immediately paid, an execution shall be issued, under which the property so detained may be sold, in like manner, as if the judgment had been obtained against the owner thereof.⁴ When released; when sold.

§ 190. The provisions of sections one hundred and sixty-nine, one hundred and seventy, one hundred and seventy-one, one hundred and seventy-two, and one hundred and seventy-three of said Article, are hereby amended so as to include fire-wood and fencing posts in the list of articles therein enumerated, and intended to be secured from depredation.¹

ARTICLE EIGHTH.

Regulations and Penalties concerning the Protection and Maintenance of the Canals.

SEC. 191. Where new roads cross canal, bridge erected and repaired, at whose expense.

192. Sanction of canal commissioner to model of bridge, must be obtained.

(1) Laws of 1830, chap. 117. (2) Laws of 1827, p. 228, § 33. (3) Laws of 1828, p. 224, § 1 & 2, chap. 185, April 9, 1828. (4) Laws of 1827, p. 227, § 28 and 29.

PROTECTION OF CANALS.

SEC. 193. Penalty of fifty dollars for proceeding to build bridge without such consent.

194. No wharf, &c. constructed on canal, without consent of a commissioner.

195. Penalty of twenty-five dollars for constructing wharf, &c. without permission.

196. Penalty for wantonly opening any lock-gate, &c. destroying any bridge, &c.

197. Imprisonment in jail or state prison, for wilfully destroying any lock, &c.

198. Penalty of five dollars for driving, &c. any horse, &c. on tow-path, except, &c.

199. Two hundred and fifty dollars penalty for drawing water from canal at Lockport.

Bridges. § 191. [Sec. 174.] In all cases where a new road or public highway, shall be laid out by legal authority, in such direction as to cross the line of any canal, and in such manner as to require the erection of a new bridge over the canal, for the accommodation of the road, such bridge shall be so constructed and forever maintained, at the expense of the town in which it shall be situate.¹

Ib. § 192. [Sec. 175.] No bridge shall be constructed across any canal, without first obtaining for the model and location thereof, the consent in writing of one of the canal commissioners, or of a superintendent of repairs, on that line of the canal which is intersected by the road.¹

Penalty. § 193. [Sec. 176.] Every person who shall undertake to construct or to locate such bridge without such consent, and shall proceed therein, so far, as to place any materials for that purpose, on either bank of the canal, or on the bottom thereof, shall forfeit the sum of fifty dollars; and either of the commissioners, superintendents or engineers, shall be authorized to remove all such materials, as soon as they are discovered, wholly without the banks of the canal.¹

Wharves, basins, &c. § 194. [Sec. 177.] No person, without the written permission of a canal commissioner, shall construct any wharf, basin or watering place, on any canal, or make or apply any device whatever, for the purpose of taking water from a canal; and every wharf, basin, watering place or device, constructed with such permission, shall be held during the pleasure of the canal commissioners, and be subject to their control.²

Penalty. § 195. [Sec. 178.] Every person who shall construct any such wharf, basin, watering place or device without permission, or who shall omit to conform to the directions of the commissioner granting such permission, shall for each offence forfeit the sum of twenty-five dollars: and in every such case, the canal commissioners may remove or destroy the construction illegally made, at the expense of the person making it.²

Injury to gates, bridges, fences. § 196. [Sec. 179.] Every person who shall wantonly open or shut, or cause to be opened or shut, any lock-gate, or any puddle-gate or culvert-gate, thereof, or any waste-gate, or by any means prevent, or attempt to prevent, the free use of any such gate; and every person who shall wantonly break, throw.

(1) Laws of 1820, p. 183, § 1. (2) Ib. p. 186, § 11.

down, or destroy any bridge, or fence, on a canal, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment; the fine for each offence, not to exceed one hundred dollars, nor the imprisonment six months.¹

§ 197. [Sec. 180.] Every person who shall wilfully break, throw down, or destroy any lock, bank, waste-weir, dam, aqueduct or culvert, on any canal, shall, upon conviction of such offence, be sentenced to imprisonment in the county jail or state prison, at the discretion of the court by whom he shall be tried. The imprisonment shall not be for less than one year, if in the county jail, nor for more than three years, if in the state prison.²

Injuries to locks, &c.

§ 198. [Sec. 181.] Every person who shall lead, ride, or drive any horse, ox, ass, mule or other cattle, upon the towing-path of a canal, or upon the bank opposite to such towing-path, shall, for each offence, forfeit the sum of five dollars; but this section shall not be construed to extend to persons towing boats or other floats, or conveying articles unladen, or to be laden, from, or to, a canal.³

Driving horses on towing-path, &c.

§ 199. [Sec. 182.] Any person who shall open any gate, sluice, slide or other passage, which now is or hereafter may be constructed to draw water round the locks at Lockport, for the purpose of drawing water from the canal to any mill or machinery of any kind whatsoever, or for any other purpose than the uses of the canal, shall, for every such offence, forfeit the sum of two hundred and fifty dollars.⁴

Drawing water at Lockport.

ARTICLE NINTH.

Miscellaneous Provisions of a General Nature.

- SEC. 200. Agents, &c. discharged from employment to deliver up property.
201. In case of refusal, proceedings to take possession.
202. Who ineligible to office of superintendent, lock-keeper, &c.
203. Members of canal board, not to be interested in boats, &c.
204. Collectors, &c. exempt from military duty, and serving on juries.
205. Suits for penalties, &c. under this Title, to be in name of people.
206. If penalty not over fifty dollars, justice has jurisdiction.
207. Meaning of the terms "float" and "master," under this Title.
208. Execution against whom judgment for penalty may be recovered.
209. Persons violating provisions of this Title, liable for damages and for penalty.
210. Comptroller to prepare forms, and send them to officers on canals.
211. How much water to be taken into a level.
212. How waste-weirs and gates to be constructed.
213. Acts authorizing the construction of the Crooked Lake canal, the Chemung canal, and the Chenango canal, and the acts amendatory thereof.

§ 200. [Sec. 183.] It shall be the duty of every agent, toll-collector, lock-keeper or superintendent, employed on any canal, and occupying any house, office, building, or land, belonging thereto, who shall be discharged from his employment; and of the wife and family, of every such person, who shall die in such employment; to deliver up the possession of the

Agents to deliver up property, &c.

(1) Laws of 1820, p. 185, § 7. (2) Ib. p. 186, § 8. (3) Ib. p. 183, § 2. (4) Ib. 1826, p. 364, § 37.

premises so occupied, and of all books, papers, matters or things belonging to the canals, acquired by virtue of his office, within seven days, after a notice shall have been served for that purpose, by the acting canal commissioner.¹

Proceedings
to compel
delivery.

§ 201. [Sec. 184.] In case of a refusal or neglect to make such delivery, in either of the above cases, it shall be the duty of any justice of the peace, in the county where such premises shall be situate, upon application, to issue his warrant under his hand and seal, ordering any constable or other peace officer, with such assistance as may be necessary, to enter upon the premises so occupied, in the day time, and remove therefrom all persons found in possession thereof, and to take into his custody all books, papers, matters and things there found, belonging to the canals, and to deliver the same to the acting canal commissioner, or his authorized agent; and the officer to whom such warrant shall be delivered, shall execute the same according to its purport.¹

Who inel-
ligible as col-
lector, &c.

§ 202. [Sec. 185.] No person owning any hydraulic works dependent upon the canals for their supply of water, or who shall be employed in or connected with any such works, or who shall be engaged in transporting property upon the canals, or who shall own, or be interested in, any boat navigating the same, shall be employed as a superintendent, lock-keeper, collector of tolls, weigh-master, or other agent upon the canals.²

Certain off-
icers not to
be interested
in boats.

§ 203. [Sec. 186.] No canal commissioner, or any member of the canal board, shall own or be interested in, any hydraulic works dependent on the canals for their supply of water, or own, or be interested in, any line of boats regularly navigating the canal; and if any commissioner or member of the canal board, shall, at any time after the expiration of six months after this Chapter becomes a law, be, or become so interested, he shall forfeit his office.

Collectors,
&c. exempt
from certain
duties.

§ 204. [Sec. 187.] Every collector of tolls, the clerks of each collector, not exceeding two, having the collector's certificate that they are actually employed by him, and all superintendents of repairs, lock-tenders, inspectors of boats and weigh-masters, shall be exempted from the performance of military duty, and jury service, while actually engaged in their respective employments on the canals, while the same are navigable.³

Penalties
how reco-
vered.

§ 205. [Sec. 188.] All suits for penalties and forfeitures imposed in any Article of this Title, or for damages, in behalf of the state, shall be prosecuted in the name of the people of this state, by such persons and in such manner as the commissioners of the canal fund in their regulations shall direct; and all moneys recovered therein, shall be accounted for and paid over to such commissioners.⁴

(1) Laws of 1820, p. 187, § 12. (2) *Ib.* 1826, p. 363, § 30. (3) *Ib.* 1827, p. 227, § 27. (4) *Ib.* § 28. This section is affected by chap. 21, laws of 1825, (see ante § 84) which authorizes the canal board to exercise the powers herein specified.

§ 206. [Sec. 189.] Every such penalty or forfeiture, not exceeding the sum of fifty dollars, may be recovered before any justice of the peace in any county.¹ Before whom.

§ 207. [Sec. 190.] The term "float," as used in this Title, shall be construed to embrace every boat, vessel, raft, or floating thing, navigated on the canals, or moved thereon, under the direction of some person having the charge thereof; and the term "master," as so used, shall be construed to apply to every person having for the time the charge, control, or direction of any such float. Definition of "float" and "master."

§ 208. [Sec. 191.] If any person against whom any forfeiture shall be recovered under the provisions of this Title, shall not immediately pay the full amount of the judgment so obtained, the court by which such judgment shall be given, shall, without delay, issue an execution against his property or person, at the election of the party prosecuting the suit. Executions for penalties

§ 209. [Sec. 192.] The imposition or recovery of any penalty or forfeiture, imposed for the violation of any provision of this Title, shall not be considered a bar to the recovery of any damages resulting from such violation, to the state or to individuals. Penalty no bar to damages.

§ 210. [Sec. 193.] The comptroller shall prepare the forms of all clearances, bills of lading, statements and other papers necessary to be used under the provisions of this Title, and shall from time to time transmit the same to the different officers and agents on the canal, for whose use they may be required. Forms.

§ 211. [Sec. 194.] No more water shall be taken into any level of either of the canals, than shall be sufficient to supply such level during the days of the greatest business, and also to supply any other level of the canal, or other public work of the state, dependent upon such level for a supply of water. How much water to be taken.

§ 212. [Sec. 195.] Every waste-weir upon the same level as either of the canals, shall be constructed as nearly as may be consistent with the safety and convenience of the canals, of the same height, but in all cases so as to leave a depth of at least four feet water in the level: and there also shall be constructed one waste-gate, as nearly opposite to the mouth of every feeder taken into the canal, as the convenient discharge of the water will permit. Waste-weirs

AN ACT *relative to the Comptroller's office.*

[Passed March 11, 1833.]

Session Laws, chap. 56, page 51.

§ 1. There shall be a second deputy comptroller, who shall be appointed in the same manner, and receive the same compensation as is now provided by law in relation to the deputy comptroller. Second deputy.

(1) See note (4) on preceding page.

His powers
and duties.

§ 2. The deputy to be appointed pursuant to this act, may perform any of the duties of the comptroller in relation to the canals, except as a commissioner of the canal fund.

Clerk.

§ 3. Such deputy shall be the clerk of the commissioners of the canal fund and of the canal board.

Papers.

§ 4. All papers relating to the canals, whether pertaining exclusively to the duty of the comptroller or to the duties of the commissioners of the canal fund, or of the canal board, shall be deposited in the comptroller's office.

Copies.

§ 5. Copies of all such papers as are mentioned in the preceding section, and extracts from the minutes of the orders and proceedings of the commissioners of the canal fund, and of the canal board, certified by the comptroller, shall, in all cases, be evidence equally, and in the like manner as the originals.

AN ACT *in relation to the canals.*

[Passed May 16, 1837.]

Session Laws, chap. 451, page 517.

Drafts for
payment of
engineers.

§ 1. Either of the acting canal commissioners may draw upon the commissioners of the canal fund for any sum to be advanced to an engineer to meet the expenses of the engineer department; and if the bond of said engineer shall have been duly filed in the office of the comptroller, and a receipt of the engineer for such draft shall also be filed in the same office, it shall be the duty of the commissioners of the canal fund to pay the draft; provided the advances to an engineer unaccounted for, shall at no time exceed the sum of five thousand dollars.

Engineer to
execute
bond.

§ 2. Before any advance shall be made to an engineer, he shall execute and file in the office of the comptroller a bond to the people of this State, for the faithful expenditure of the moneys which shall be entrusted to him, in such penalty and form as the canal board shall direct, and with such sureties as the comptroller shall approve; upon which said bond the said engineer and his sureties shall be responsible to the state for moneys advanced to him as aforesaid.

To account
once in 90
days.

§ 3. Such engineer shall, as often as once in ninety days, render his account to the comptroller, who shall audit the same; and if he shall omit to render his account, or his accounts as rendered be not satisfactory, the comptroller shall notify the canal commissioners and the commissioners of the canal fund thereof, and no further advances of money shall be made to such engineer.

Accounts to
be certified
by a canal
commis-
sioner.

§ 4. Before any engineer's account for expenditures shall be presented to the comptroller, the canal commissioner having charge of that part of the canal on which such engineer is employed, shall certify on such account that he has examined the same; that the several disbursements specified therein were made under his direction on the canal, or for payments neces-

sary to be made thereon ; and that he believes such disbursements to be proper and reasonable, and to have been made as charged.

§ 5. The canal board shall have power to modify or reduce any of the penalties imposed by Article seven, of Chapter nine, Title nine, of the first Part of the Revised Statutes. Canal board may modify penalties.

§ 6. The original maps of the canals of this state, which purport to have been made and completed under and in virtue of the first Article of Title nine, Chapter nine, of the first Part of the Revised Statutes, which said maps are now filed in the office of the comptroller ; and such maps of said canals as hereafter shall be made, completed, approved, signed, certified and filed under and in virtue of the act referred to, are hereby declared to be presumptive evidence that the lands indicated on said maps as belonging to the State, have been taken and appropriated by the state as and for the canals ; and a transcript from any such maps, certified as required by the act referred to, shall be of equal effect with the original. Maps of canal, evidence of title to land.

§ 7. Before any advance of money shall be made to a superintendent of canal repairs by the commissioners of the canal fund, he shall make out a detailed statement, in such form as the said commissioners shall prescribe, of the several anticipated objects of expenditure on the line of canal under his charge. Superintendent to make estimate.

§ 8. If the said estimate shall be filed in the office of the comptroller, with the certificate thereon of the acting canal commissioner, stating that in his opinion, the whole amount or if less than the whole amount, what portion of the said estimate should be advanced, the commissioners of the canal fund may make advances on the same in such sums and as often as they may deem necessary : provided such advances shall not exceed the amount certified by the commissioner. Estimate to be certified and filed.

AN ACT *regulating the price to be paid for land taken for the enlargement of the Erie canal.*

[Passed April 3, 1837.]

Session Laws, chap. 143, page 115.

§ 1. Whenever the canal appraisers shall appraise any land embraced within any survey for the enlargement of the Erie canal, under the act passed May 11, 1835, entitled "An act in relation to the Erie canal," at a higher sum than in the opinion of a majority of the acting canal commissioners, shall be its fair value, such land shall not be taken by the state for the purpose of enlarging said canal on such appraisal. Land not to be taken in certain cases.

§ 2. If the canal commissioners shall not be able to procure a deed or deeds in fee to the state from the owner or owners of such land at such prices as they deem to be for the advantage of the state to give to enable them to enlarge the canal to the Canal how to be improved in certain cases.

width determined upon by the canal board, they shall improve said canal by deepening the same seven feet, and widening the same as they may think proper, within the limits of the land originally appropriated and surveyed for the use of said canal.

Receiving
and
discharging
freight and
passengers
in certain
places.

§ 3. Where the surface of the water of said canal shall be less than the width determined upon by the canal board, by reason of the commissioners not being able to procure the title to the land for the price aforesaid, no boat shall be permitted to stop on said canal to receive or discharge any freight or passengers, under a penalty of twenty-five dollars, to be prosecuted and recovered against the captain or owner of said boat, according to the provisions of Article seven, Title nine, Chapter nine of the First part of the Revised Statutes.

AN ACT *in relation to the surplus waters of the canals.*

[Passed April 18, 1838.]

Session Laws, chap. 289, page 282.

Claims for
damages to
be settled.

§ 1. The canal commissioners are hereby authorized to settle with all persons claiming damage on account of any surplus waters of the canals of this state being resumed by the commissioners for the use of the canals, or for other purposes, or on account of not being allowed in whole or in part of any surplus waters sold and leased to such claimants; and on cancelling such leases and claims, to pay to the claimant out of the canal fund, such sum of money as may be mutually agreed on between them.

AN ACT *in relation to bridges over the enlarged Erie canal.*

[Passed April 20, 1839.]

Session Laws, chap. 207, page 180.

Road and
street
bridges
where
to be
constructed.

§ 1. The canal commissioners are hereby authorized and required to construct and hereafter maintain at the public expense, road and street bridges over the enlarged Erie canal, in all places where such bridges have been heretofore constructed, if in their opinion the public convenience requires that they should be continued, whether the same have been heretofore maintained at the expense of the state, or of the towns, cities or villages where they are situate.

Farm
bridges.

§ 2. The said commissioners are also authorized to construct farm bridges over said canal in all places where the same, in their opinion, are reasonably required, in reference to the accommodation of the owner of the land and a due regard to economy to the state, and the convenience of navigation. But neither this nor the preceding section shall be construed to abridge the power of the canal commissioners in relation to streets, roads and bridges, as now provided by law.

Proviso.

§ 3. Whenever a farm bridge shall be constructed in lieu of one heretofore maintained by the owner or owners of the land, and damages shall be claimed by such owner or owners, for the appropriation of lands or other injury done in such enlargement, the benefit derived by such owner or owners, by being relieved from the expense of maintaining the former bridge over the canal, shall be set off against any damages so claimed. Benefits from bridges to be set off against damages.

§ 4. The said commissioners are also hereby authorized in all cases, where in their opinion the same can be done consistent with the public interest, to commute with owners and claimants of bridges over the canal, by paying such owner or claimant such sum in lieu of a bridge, as may be agreed upon between the claimant and said commissioners. Commutation for bridges.

And in all cases where in the opinion of said commissioners a bridge over the canal ought not to be rebuilt, and the sum to be paid for commutation shall not be agreed upon as aforesaid, the said bridge shall not be built, but the damages sustained by such owner or owners by being deprived of such bridge, and which the state, under all the circumstances, ought of right to pay, shall be appraised by the canal appraisers, and paid by said commissioners. Damages for not rebuilding.

§ 5. In all cases where damages shall be claimed for being deprived of a bridge which the claimant had before constructed or maintained, the circumstance of his being equitably bound to contribute towards the construction and maintenance of an enlarged bridge, a sum equal to the expense of the maintenance of a bridge proportioned to the size of the original canal, shall be taken in consideration by the appraisers, and a proper amount on that account shall be set off against any damages to which the claimant might otherwise be entitled. Set off against damages.

§ 6. The proceedings in relation to the appraisement of such damages, shall be in all respects the same as the proceedings in relation to the appraisal of damages for lands, streams or waters appropriated by the canal commissioners to the use of the public; and appeals from such appraisement may be made in the same manner. Appraisement how to be made.

AN ACT to authorize the Canal Board to grant a rehearing of any case they are authorized to adjudicate.

[Passed May 2, 1840.]

Session Laws, chap. 201, p. 154.

§ 1. The canal board are hereby authorized to grant a rehearing in any case they now are, or may hereafter be authorized to adjudicate, whenever, in their judgment, the justice of the case may require it; but no party shall be entitled to but one rehearing, and the adjudication upon such rehearing shall be final and conclusive; but no such rehearing shall be granted unless application in writing shall be made therefor, within six-

ty days after such case shall have been adjudicated by the said board.

AN ACT *relating to the powers and duties of the canal board.*

[Passed May 13, 1840.]

Session Laws, chap. 292, page 237.

Rights may
be granted
to erect
buildings
&c. on
dams.

§ 1. Whenever the canal commissioners shall construct, and in every case where they have heretofore constructed any dam, pier, mole or other work in any canal, lake, river or other body of water, the canal board is hereby authorized and empowered to grant permission to such extent and on such terms, conditions and stipulations as said board may deem proper, to any person, to erect on such dam, pier, mole or other work, any warehouse, mill or other building, suited and intended to be used for commercial or manufacturing purposes, or for any purpose incidental and auxiliary thereto, and to use such amount of water power created by such dam, pier, mole or other work, as may in the opinion of the canal board be so erected and used without injury to such dam, pier, mole, or other work, and without detriment or obstruction to the public use thereof, or to the navigation of such canal, lake, river or other body of water therewith connected; but such permission as aforesaid, shall not be granted in any case other than the pier in the Niagara river at Black Rock, to any person who is not the owner of the land over which the water to be used flows, or the owner of the land adjoining the river or other stream of water at the place where any such dam, mole or other work is or shall be erected.

Orders to be
made and
entered on
the minutes
at full
length.

§ 2. Whenever the canal board shall grant any permission under this act, such permission shall be expressed by a resolution of said board entered at full length on its minutes, and including all such terms, conditions and stipulations as the board may deem expedient, and such permission shall be executed by a written lease, in duplicate, to be signed by the comptroller in the name of the people of the state of New-York, and by the lessee on the other part, and one duplicate of such lease shall be deposited in the canal room for the use of the canal board, and the other duplicate shall be delivered to the lessee; and a copy thereof, or of the resolution aforesaid, certified by the clerk of the canal board, shall in all cases be evidence equally and in the same manner as the original.

Lease.

Buildings
where and
how to be
constructed.

§ 3. Every building erected by the permission of the canal board under this act, shall be erected on such part of any dam, pier, mole or other work, and shall be constructed on such plan, and shall not exceed such dimensions as may receive the approval and consent of the board of canal commissioners, and be by them specified in a written resolution, to be entered at full length in the minutes of that board, and a copy of such

resolution certified by the secretary of said board, with the written assent of the lessee thereto annexed, shall be delivered by the said secretary to the clerk of the canal board, to be deposited in the canal room before the delivery of the lease mentioned in the preceding section. A copy of such resolution of the board of canal commissioners, certified by the secretary thereof, shall in all cases be evidence equally and in the same manner as the original.

§ 4. This act shall not impair the restriction as to leasing surplus waters, made by joint resolution of the senate and assembly, passed April 25, 1831.

AN ACT concerning payment of interest by rail-road companies on loans of the state credit and for other purposes.

[Passed May 14, 1840.]

Session Laws, chap. 358, page 299.

§ 2. The canal board may designate any banking association to receive the deposite of tolls or other canal moneys, provided such association shall carry on its business in a place convenient for such deposites, and shall comply with such terms as may be prescribed by the board ; all the provisions of former acts in relation to the deposites of such moneys in banks, shall extend and apply to such deposites and banking associations.

Canal board may deposite in certain banking associations.

AN ACT respecting state stocks, the commissioners of the canal fund, and the canal board.

[Passed May 13, 1840.]

Session Laws, chap. 288, page 232.

§ 12. The commissioners of the canal fund shall appoint a chief clerk and such other clerks as may be necessary. The chief clerk shall also be clerk of the canal board, and shall receive the compensation, possess all the powers and perform all the duties of the second deputy comptroller as now provided by law ; and the said office of second deputy comptroller is hereby abolished. The commissioners may allow and pay to the clerks employed by them, a compensation not exceeding three thousand dollars annually ; which with the salary of the chief clerk, shall be paid monthly out of the canal fund ; and the names of the clerks employed and the sums paid to each shall be annually reported by the commissioners to the legislature.

Chief clerk and other clerks to commissioners of the canal fund.

§ 13. The portion of tolls collected on the Erie and Champlain canals directed by chapter one hundred and eleven of the laws of eighteen hundred and twenty-three to be paid to the proprietors of the Albany pier, shall hereafter be paid directly by the commissioners of the canal fund out of the canal revenues.

Tolls to proprietors of Albany pier.

Payment of
damages for
land, &c.
taken.

§ 14. Before the commissioners of the canal fund shall be required to pay any damages that may have been or may be awarded for any land, waters or streams taken by the canal commissioners and appropriated to the public use, they shall be furnished with a certificate from the canal commissioners that the land and premises for which such damages have been awarded, have been taken and appropriated for the public use, and have been taken possession of by the canal commissioners in behalf of the state.

Rates of toll
on certain
articles to be
fixed by
canal board.

§ 15. The canal board may impose and fix such rates of toll upon those articles transported upon the canals of this state, which are not specifically enumerated in the report of the canal commissioners to the legislature of the twelfth of March, one thousand eight hundred and twenty-one, as shall in their judgment be most conducive to the improvement of internal trade and the interest of the state, and for that purpose may adopt higher or lower rates of toll than those specified in the said report, on the articles not specifically enumerated therein.

Certiorari to
supreme
court on
awards of
appraisers.

§ 16. The commissioners of the canal fund or the canal commissioners may in their discretion cause a certiorari to be brought by the attorney-general, in behalf of the state, from the determination of the canal appraisers upon any legal or constitutional question, to the supreme court, in cases where any damages have been or shall be awarded upon any claim for the deprivation of any right or pretended right, to the use of any water or water privileges or fisheries, or for the temporary use or diversion of any water by the canal commissioners.

Proceedings
thereon.

§ 17. Such certiorari shall be brought within the time prescribed by law in reference to appeals in similar cases to the canal board, and the appraisers shall make a return in writing to the supreme court within the time and containing the same matters as required in cases of such appeals; and the supreme court shall determine such certiorari on such returns only, or upon such further returns as the said court may require, and may set aside such appraisal for want of jurisdiction in the appraisers, or for any error committed by them in such determination, except as to the amount of damages awarded, and may award costs in their discretion; and any party interested may bring a writ of error on the judgment of the supreme court on such certiorari, to the court for the correction of errors.

Not to pre-
vent certain
appeals.

§ 18. Such certiorari, or any judgment thereon, shall not prevent an appeal, as now provided by law, to the canal board, in respect to the amount of any damages awarded by the canal appraisers.

AN ACT *in relation to the bridges over the State canals.*

[Passed May 14, 1840.]

Session Laws, chap. 372, page 315.

§ 1. The provisions of the fourth section of the "Act in relation to bridges over the enlarged Erie canal," passed April 20, 1839, shall be applicable to the several canals of this State. Certain sections extended.

§ 2. Whenever the canal commissioners shall deem that the state may be reasonably required to erect a farm bridge over any of the canals of this state, for the accommodation of the owner or owners of adjacent lands, and they cannot commute for said bridge with such owner and claimant on satisfactory terms, in case the said commissioners determine that a private road through adjacent lands will sufficiently accommodate such owner or claimant, they are hereby authorized to apply to the commissioners of highways of the town in which such lands lie, to lay out a private road for the accommodation of such owner and claimant, under the provisions of article four, chapter sixteen, title first, part first, of the Revised Statutes; and such damages as may be assessed to the owner of the lands through which said road is laid out, shall be paid by the commissioners, when the same can be done with a due regard to economy to the state. Private road to bridges how to be had.

AN ACT *respecting the powers and duties of the canal board and the commissioners of the canal fund.*

[Passed April 30, 1841.]

Session Laws, 1841, chap. 160, p. 130.

§ 1. The canal board shall have power from time to time to fix the rates of toll on all the canals of this state, or any portion thereof, which has or may become navigable, so as to make them uniform and corresponding with those charged on the Erie and Champlain canals and to prescribe regulations for the collection of such tolls, and impose forfeitures of money for the breach thereof, in the same manner as now provided by law in respect to the completed canals. Rates of toll to be fixed.

§ 2. No petition under the fourth Article of the ninth Title and ninth Chapter of Part First of the Revised Statutes, for extra allowance to any contractor for work performed on any canal before the passage of this act, shall be received or acted upon by the canal board unless it shall be presented within one year after this act takes effect, and no petition for extra allowance for work performed after this act shall take effect, shall be received or acted on by the canal board, unless the same shall be presented within one year after the performance of such work. Provision as to extra allowance to contractors.

§ 3. The canal board may direct the district attorney of the proper county to conduct an inquiry into the truth of any charges made or to be made against any superintendent, collector or other officer appointed or employed by such board, or by the Charges against superintendents and collectors how to be

inquired
into.

canal commissioners, and the same proceedings shall be had thereon in all respects as provided by the fourth Article of the sixth Title and fifth Chapter of Part First of the Revised Statutes, in relation to charges against a sheriff or county clerk, except that the testimony so taken shall be transmitted to the canal board, and the necessary expenses of any such inquiry shall be certified by the canal board and paid by the commissioners of the canal fund, out of the canal revenues.

Three mem-
bers of the
board may
take testi-
mony.

§ 4. Any three members of the canal board, designated by the said board, shall be competent to take and reduce to writing, any testimony offered to the board in relation to claims for extra allowances to any contractor.

Amount of
award for
damages to
be deposited
in bank.

§ 5. When any damages shall have been awarded by the canal appraisers, or settled by the canal board for appropriating any lands, streams or waters to the use of any canal, and it shall appear that there is any mortgage, judgment or other lien or incumbrance upon the property appropriated, the commissioners of the canal fund may, in their discretion, deposite the amount so awarded or settled in any bank selected for the deposite of canal revenues, to the account of such award, to be paid and distributed to the parties entitled to the same, as shall be ordered by the court of chancery on the application of the said parties, or any of them.

AN ACT in relation to the Onondaga and Montezuma Salt Springs.

[Passed May 10, 1841.]

Session Laws, 1841, chap. 183, p. 156.

Agent to be
employed to
visit other
states or
Canada.

§ 17. The commissioners of the canal fund are authorized to employ an agent to visit such portions of the western states, Pennsylvania or Canada, as they shall direct, for the purpose of ascertaining if any measures can be adopted to increase the revenues of this state by an alteration of the present tariff of canal tolls, or by allowing a drawback of a portion of the duties charged upon the manufacture of salt, and they are hereby authorized to allow such drawback of the said duties as will extend the market for salt manufactured in this state, and regulate the tolls on the transportation thereof.

AN ACT in relation to the Oneida Lake canal and feeder, and the Seneca river.

[Passed May 18, 1841.]

Session Laws, 1841, chap. 195, p. 168.

Interest on
stock to be
paid quar-
terly.

§ 1. The interest on the certificates of stock issued for the purchase of the Oneida Lake canal and feeder, pursuant to chapter two hundred and fifty-eight of the laws of one thou-

sand eight hundred and forty, shall be paid quarterly on the first days of July, October, January and April, in each year, out of the tolls collected on the said canal and feeder, and the revenues of the Erie and Champlain canals, and the principal sum specified in such certificates shall be paid when the same shall become redeemable, out of the same revenues.

§ 2. All the provisions of law in relation to the completed canals in this state, so far as the same may be applicable, are hereby extended to the Oneida Lake canal and feeder, and to the Seneca river from the Oneida lake to Baldwin's mills.

General provisions.

AN ACT relating to the examination of the treasurer's accounts, and the canal and banking departments.

[Passed May 25, 1841.]

Session Laws, 1841, chap. 218, p. 201.

§ 1. All business relating to the canals of this state, and improvements connected therewith required to be performed by the commissioners of the canal fund, the canal board and the comptroller, shall be transacted in rooms appropriated for that purpose in the State-Hall to be denominated the Canal Department, and the chief clerk now authorized to be appointed by the commissioners of the canal fund, pursuant to the act passed May 13, 1840, shall be known and recognized in law as chief clerk of said department.

Canal department.

AN ACT to regulate the accounts between certain funds belonging to the state.

[Passed May 25, 1841.]

Session Laws, 1841, chap. 238, p. 220.

§ 2. The compensation provided by law to canal appraisers, the expense of their clerk hire, of postage, of recording transcripts, of the entry of their decisions, and any other expense necessarily incurred by them shall hereafter be paid by the commissioners of the canal fund out of the canal revenues, and shall be charged to the several canals on whose account such expenses shall be incurred.

Canal appraisers to be paid out of canal revenues.

§ 4. The tolls collected on the Oneida Lake canal and feeder, and on boats and property conveyed on that part of the Seneca river along which a towing path has been constructed by the state, shall constitute a part of the canal fund.

Tolls on Oneida Lake canal and feeder.

Extra Allowance

No extra allowance will be made by the Canal Board on any bond tract until the work under the contract is completed.

See Jour. B. Pg. 248.

Ditto under last clause of Sec. 77. Tit. 9. Ch. 9 P. 1. of R.S.

Th.

Pg. 184.

CANAL REGULATIONS.

REGULATIONS ON ALL THE NAVIGABLE CANALS OF THIS
STATE, ESTABLISHED BY THE CANAL BOARD.

Relative to the Weighing and Inspecting of Boats and their Cargoes.

1. No boat shall be cleared from a place where there is a weigh-lock, without having the weight or quantity of its cargo ascertained, either by weighing, measuring or counting; and every boat which shall be cleared from a collector's office where there is no weigh-lock, and whose cargo has not been ascertained by the collector, shall be stopped and weighed at the first weigh-lock at which it arrives after its clearance.

Boats not to
be cleared
till cargo is
ascertained.

2. Owners, masters, or navigators of boats or rafts, passing on any of the canals, are required to stop with their boats or rafts at every collector's, weigh-master's and inspector's office, and exhibit their clearance or bill of lading; and on arriving at the place of destination, to report such arrival to the collector, weigh-master and inspector, (should such place contain such officers or either of them,) before any part of the cargo is unloaded; and no boat or raft shall depart from any place where a collector's office is situated, without obtaining a clearance; and all points within one mile of the collector's office, shall be deemed to be at the place of such collector's office; and for every violation of this regulation, the owner, master or navigator of such boat or raft, shall be liable to a fine of twenty-five dollars.

Boats to stop
at every
office.

To report
before un-
lading.

Within one
mile of an
office to
clear.

3. In all cases where any collector or inspector shall ascertain the true weight or quantity of a boat's cargo, he shall certify the same on its clearance; and in all cases where he shall not ascertain the weight or quantity, he shall endorse on the clearance an order for the boat to stop at the first weigh-lock at which it arrives, and be weighed; but the endorsement of a

Cargo to be
certified on
clearance.

WEIGHING AND INSPECTING

collector or inspector that the cargo is correct, shall not be an authority for a boat to pass any weigh-lock or collector's or inspector's office, without undergoing an inspection by weighing, measuring or counting; provided such inspection shall be considered proper, by any collector, weigh-master or inspector.

Boats to be weighed twice.

4. Boats having been weighed at Albany or West-Troy, shall again be weighed at Utica, Syracuse and Rochester, and boats having been weighed at any of the western weigh-locks, shall be again weighed at Albany or West-Troy, if it can be done without unreasonable detention, or unless the collectors at those places shall be well satisfied, either by administering an oath, or by inspection, that the cargo is correctly stated in the bill of lading.

Duty of W. Master at Albany.

5. Boats arriving at Albany or West-Troy, with cargoes, shall undergo the same examination as those passing the western weigh-locks. When the weigh-master at Albany shall ascertain by weighing a boat and cargo, or by weighing a boat light, that the full toll on a down cargo has not been paid, he shall make such endorsement on the clearance or on the certificate of light weight, as the case may be, as shall enable the collector at Albany to ascertain the toll due: and if on the return of said boat, the clearance shall not contain upon it the receipt of the collector at Albany for the toll on the down cargo so ascertained to be due, it shall be the duty of the weigh-master to refuse to pass said boat.

Report of frauds.

6. Each collector and weigh-master shall make a monthly return to the comptroller, specifying the name and master of each boat, the cargo of which he is discovered to have been cleared for less than it actually contains, under circumstances giving rise to any suspicion that a fraud upon the revenue was intended; and the comptroller is requested in case any boat shall be returned to him as having repeatedly cleared for a less amount of cargo than it has been found to contain, to give directions that such boat be rigidly inspected at each collector's office and weigh-lock, and that the master thereof be required, when he clears the said boat, in all instances, to verify the correctness of the bill of lading, and in case the comptroller has reason to believe, or it is represented to him by any officer or agent on the canals, that a false oath has been taken, he shall take the necessary steps to have the person taking it proceeded against for perjury.

Certificate of lumber.

7. The collector of canal tolls at Waterford, West-Troy and Albany, in every instance, where a boat having on board sawed lumber or cord wood shall pass into the Hudson river, or where the cargo is unloaded at either of said offices, which has not been measured or counted by either of them, shall require the

Junction Canal, Proceedings of Canal Board
under Ch. 280 of L. of 1840. See Ind. B. Pg. 365, 6

master or owner of such boat, on its return to or departure from either of the said offices, to produce a certificate from an inspector, stating the count or measurement of the said cargo ; and every inspector may give such certificate upon his own personal inspection, count and measurement, or upon the certificate of a regularly commissioned inspector of lumber or measurer of wood, or as the case may be, having the full name of said inspector signed thereto, stating the number of pieces, the feet in board measure, the kind and quality ; or on the statement of such owner or consignee as is willing to give access to his books, and in whose certificate the inspector has full confidence ; and the certificate of the inspector shall specify on what evidence his certificate is given ; and in every instance where, in the opinion of the collector, this certificate cannot be furnished, or where he shall have any doubts that such certificate includes the whole amount of said cargo, he shall administer an oath to the master or owner of the boat, in relation to the correctness of his clearance.

In the measurement of timber to be floated on the canals, bark adhering to the wood, and refuse stuff are to be estimated as forming part of the timber, and to be rated accordingly ; and the inspectors are instructed to make their measurements according to these directions, and without reference to the inspections made by inspectors appointed by the governor and senate. [*Passed June 21, 1839.*]

Inspectors of boats shall not pass any lumber upon the certificate of any other person, as to the quantity, unless such person hold a commission as inspector of lumber, given by the governor and senate, for the place where such certificate is given, and then in full force, and be duly sworn and authorized to make such inspection. And that so much of any regulation of this board as authorizes an inspector of boats to refer to the statement of the owner or consignee of lumber, and to his books, shall not apply to any statement or entry in such books, founded upon the certificate of any person other than an inspector, in office at the time of giving such certificate. [*Passed June 15, 1840.*]

8. Every collector of canal tolls is required to give a separate clearance upon and for every raft or tow of timber clearing from his office upon the canal ; and no clearance shall be given for any raft or tow until the quantity of timber therein shall be ascertained by actual measurement or count ; and every person applying for a clearance for a raft or tow of timber shall present to the collector a bill specifying the number of sticks and the quantity of timber in each crib contained in such raft or tow.

Measurement.

Certificate.

Each raft or tow to have a clearance.

Floats passing between offices.

9. Where any boat or other float shall depart from a place where there is no collector's office, destined to a place where there is no such office, and there being no intermediate collector's office, the master of such boat or float shall deliver to the lock-tender at the first lock which he shall pass, a true bill of the quantity and description of the lading of such boat or float, specifying the place from which it departed and to which it is destined, and shall, within ten days after arriving at the place of destination, deliver a like bill to the collector nearest to the place of delivery, and shall pay such collector the tolls due on such boat or float and its lading; and every master or other person having charge of such boat or float, who shall omit to deliver such bill, either to the lock-tender or collector, or to pay such tolls at the time above prescribed, shall for every such offence forfeit the sum of twenty-five dollars. Every lock-tender receiving any such bill, shall, within three days thereafter, transmit the same to the collector to whom the tolls are to be paid.

Regular clearance to be given.

10. When any boat or float shall be cleared to a place where there is a collector's office, and shall desire to proceed to another place short of the next collector's office, or when a boat or float shall be cleared at any office to a place short of the next collector's office, the same shall in both cases be effected by a regular clearance to the place of destination; and such clearance shall be delivered to the collector, when a new clearance for such boat shall be desired. Whenever a boat shall not proceed to the place to which it is cleared, the clearance of the boat shall be left with the collector nearest to the place where the boat stops; and such collector shall give the master or owner a copy of such clearance without charge.

When boat stops, clearance to be left.

Boats to be loaded so that they may be conveniently inspected.

11. Where any boat, scow, or other craft navigating either of the canals of this state, shall be laden with articles paying different rates of toll, or with articles some of which shall be chargeable with toll by weight, and others by measure or count, it shall be the duty of the master or owner so to arrange the said lading that the several collectors, weigh-masters and inspectors, on the canals, can conveniently examine and inspect the same: And if not so arranged, the master or owner shall, at his own expense, on the request of any collector, weigh-master or inspector, unlade in whole or in part the said cargo, so as to furnish all the necessary information for the purpose of imposing tolls or detecting or preventing frauds. And in case of the neglect or refusal of any master or owner to comply with this regulation, the whole cargo of such boat, scow or other craft, shall be charged with tolls at the rate of those articles on board paying the highest rate of toll.

12. Every boat arriving at Schenectady from Albany or West-Troy, shall be inspected by the collector or inspector at the former place ; or the collector shall, at his discretion, put the master of the boat upon his oath as to the correctness of his bill of lading and clearance, as compared with his cargo : And in case he shall put the said master upon his oath, he shall put to him the following questions.

“Do the bill of lading and clearance now delivered by you contain the true account and whole weight of all the property now on board of your boat, and the true distance each parcel thereof has been or is to be carried under this clearance ?”

“Is the property composing your present cargo, of the kinds and descriptions stated in the bill of lading and clearance now delivered ?”

“Has the full toll, according to the established rates, been paid on all the property conveyed on your boat, and composing all the cargo for her present trip to this place ?”

Together with such other questions as the said collector may suppose it necessary to put, to ascertain the full state of facts in relation to such boat and cargo.

13. Every other collector upon any of the canals, shall put the master of every boat or raft upon his oath, when he shall consider it proper to do so, or when he shall be directed to do so by the comptroller ; and in every such case, the above questions shall be put to the said master, together with all such other questions as any such collector shall consider it necessary to put, to ascertain the whole truth in relation to any such boat and cargo or raft.

14. The master or owner of every boat navigating any of the canals of the state, and carrying freight, shall on or before the first day of July in each year, procure to be ascertained by actual weight at some one of the weigh-locks upon the canals, the true light weight of his boat ; and the weigh-master weighing every such boat, shall give to the master or owner presenting the boat at the weigh-lock, a certificate, stating the true light weight of such boat, as ascertained by his weigh-lock, and stating in every such certificate, the accurate measure of the water in the boat when so weighed.

15. Every weigh-master shall also keep in his office an alphabetical register, in which he shall enter the name of every boat so weighed at his weigh-lock, the date when weighed, the light weight of the boat, and the measure of the water in the boat at the time of such weighing.

Boat to be
cleared of
water,
wood, &c.

16. Every boat before being weighed for the purpose of ascertaining the light weight, shall be as nearly cleared of the water on board as is practicable with ordinary care and pains ; and every weigh-master and his assistant, shall use all possible vigilance to see that this is done before the boat is weighed : all wood and other articles on board having the effect to increase the light weight of any boat, shall be taken out, and no article shall be included in the light weight, except the fixtures, necessary furniture and tackle of the boat.

Deduction
for water.

17. No greater deduction shall be made from the weight of any boat and cargo, on account of water in the boat, by any weigh-master weighing a loaded boat, than the amount of the water credited and registered to said boat when last weighed light.

Omission to
get light
weight.

18. Every master or owner of any boat navigating any of the canals of the state, who shall omit to cause the light weight of his boat to be ascertained in the manner before prescribed, and within the time before limited, shall for every boat owned or navigated by him, and the light weight of which shall not be so ascertained within the time aforesaid, forfeit and pay a penalty of five dollars at each weigh-lock at which the boat shall arrive, until such light weight shall be ascertained ; but this penalty shall not be imposed upon the master or owner of any boat, not having on board freight subject to the payment of toll by weight, if such boat has not during the season passed a weigh-lock with weighable freight on board.

Fraud in
light weight.

19. Where any boat shall be presented at a weigh-lock for the purpose of ascertaining the light weight of the same in such a condition, or under such circumstances as would make the apparent light weight of the boat greater than the real light weight of the same, the captain or other person who shall present the boat to be weighed light, shall forfeit and pay for every such offence a penalty of twenty dollars.

Duty of
weigh-
master.

20. Every weigh-master, or in his absence, his assistant, whenever he may believe it necessary, is hereby authorized and directed to order any empty boat passing his weigh-lock, or lying within a convenient distance from the same, to go into the lock and be weighed ; and whenever, in the opinion of the weigh-master, it may be necessary to unload the whole or any part of a cargo, for the purpose of ascertaining the true measurement or weight of the same, or for the purpose of ascertaining the correct light weight of the boat, the boat shall be unloaded as he may direct ; and every master or owner of any boat, or any other person having charge of the same, who shall refuse or neglect to obey any such order, shall, for every such offence, forfeit and pay a penalty of fifteen dollars.

21. The master or owner of every boat navigating any of the canals of the state, and carrying freight, which shall take its first clearance on the canal on or after the first day of July in each year, shall, within thirty days from the time of obtaining such clearance, cause the true light weight of his boat to be ascertained in the manner prescribed in the fourteenth regulation; and all the other regulations concerning the weighing of boats shall be applicable to such boat, and to the master, owner, and other persons connected therewith.

Boats first
clearing
after 1st
July.

22. Each of the collectors of toll upon the canal at Albany, West-Troy, Utica, Syracuse, Rochester and Buffalo, shall, whenever he shall think such a step required, either for the purpose of putting at rest mischievous rumors as to the fairness and honesty of any line of boats transporting property upon the canals, or for the purpose of detecting mistakes, errors, or frauds in the shipment of property upon the canals, call upon the persons employed in the forwarding business, at their respective stores or warehouses, and request of the person or persons having the care or charge of any such store or warehouse the liberty of examining the books and accounts kept at such store or warehouse, of the property shipped therefrom upon any of the canals of the state; and also the liberty, if after an examination of the said books and accounts, the said collectors shall think the same necessary, of examining upon oath the person or persons having the charge and care of the said store or warehouse, and of the said books, and being the keepers of the same; and also the person or persons employed by the said house or company in the loading and unloading of canal boats, and taking the accounts of property received or shipped by, for, or on account of the said house or company, in relation to any such property, the shipment or receipt of the same, the books and accounts thereof as kept by the said house or company, and in relation to any bills of lading issued by them, and presented to any collector upon the canals, for the purpose of obtaining a clearance thereupon.

Collectors
may
examine
forwarders'
books.

23. If any such person or persons, their agents, clerks or servants, shall, upon the request of any collector, refuse to permit their books to be examined, or shall refuse to permit himself or themselves, their agents, clerks and servants, to be examined upon oath, touching the matters mentioned in the last preceding regulation, the collector making such request, shall, as soon as may be, communicate to the comptroller the fact of his having made such request, the cause of his making the same, and the fact of such refusal, with the reasons, if any, given therefor.

Refusal of
forwarders.

24. Every other collector, upon any of the canals of the state, may make such requests and examinations in relation to

Forwarders'
books.

TOLLS ON PASSENGERS.

any forwarding houses situate at the place where there respective offices are located, at any time they shall think the same proper ; and in case of refusal they shall make the same communication to the comptroller.

Bills of salt. 25. Whenever any bill of lading shall be presented to the collector of canal tolls, at Salina, Syracuse, Montezuma or Oswego, for the purpose of obtaining a clearance of the property mentioned in such bill of lading, and any part of the property shall consist of salt in barrels or casks, the collector shall require that the manufacturer's brand, as marked upon said barrels or casks, shall be correctly and truly set down and specified in the said bill of lading ; and he shall transcribe into his certificate book, and insert upon the clearance of any such salt, the mark or brand of the manufacturer, as given in the bill of lading so presented.

Bills of salt. 26. Any person who shall present any such bill of lading, with the manufacturer's mark or brand to any salt mentioned therein, untruly specified and set down, shall for every such offence, be liable to all the penalties imposed by the law upon persons presenting false bills of lading of property to be cleared for transportation upon the canals.

Relative to Tolls on Passengers.

Master to make statement of passengers. 27. Every master or other person having charge of a boat which usually runs on any canal night and day, or which belongs to any regular line of packet or freight boats, shall, at the termination of each trip, deliver to the collector of tolls, at the place where such trip shall terminate, or to the collector nearest to such place, a statement of all passengers chargeable with toll according to the regulations of the Canal Board carried on board such boat during such trip ; which statement shall be in the form following :

Form of statement. Statement and Way-bill of all passengers carried on board the boat of on her trip from which place she left on the day of 184 to at which place she arrived on the day of 184

Names of passengers.	Place where received.	Place where landed.	Miles travelled.	Toll.

Affidavit. 28. To every such statement there shall be annexed the following affidavit :

I, _____ do solemnly swear that I had charge of the canal boat _____ of _____ mentioned in the foregoing statement during the trip therein specified, and that the said statement contains an accurate and true list of all the passengers conveyed on the said boat during the said trip, and the true distance which each was conveyed, and that no person chargeable with toll according to the regulations of the canal board, was conveyed on the said boat during the said trip, whose name is not entered on the said statement.

Sworn and subscribed before me, }
this day of _____ 184 _____ }

Collector.

29. The said affidavit shall be subscribed and sworn before the collector to whom the statement is required to be delivered, by the master or other person who had charge of such boat during such trip, and shall be delivered to such collector. Affidavit to be sworn to.

30. If it shall happen that no passenger was conveyed in any boat during her trip, the master or person having charge thereof, shall, within one hour after the arrival of such boat at the place designated in her clearance, if she have any, and if not, within one hour after her arrival at the termination of her trip or at the place at which a report to a collector is now required, deliver to the collector nearest to such place an affidavit in the following form : Affidavit when no passengers carried.

I, _____ do solemnly swear that I had charge of the canal boat _____ of _____ during her trip from _____ to _____ at which last place she arrived this day, and that no person chargeable with toll according to the regulations of the canal board, was conveyed on the said boat during any portion of her said trip. Which affidavit shall be sworn to and subscribed by the person having charge of such boat, before the collector to whom the same is herein required to be delivered.

31. If different persons have had charge of any boat during her trip, each person shall furnish the statement or affidavit above required for such portion of the trip as such boat was under his control. Who to furnish statement.

32. At the time of delivering any statement as above required to any collector, the person making the same shall pay to such collector, the lawful tolls upon all passengers conveyed in such boat during such trip. When to pay tolls.

33. If a boat shall fail to reach the place to which she was cleared, and shall stop at any intermediate place, the statement or affidavit herein required, shall be made and delivered to the collector nearest to such place. Statement how made in certain cases.

Who deemed passengers.

34. All persons over ten years of age conveyed in any boat, shall be deemed passengers and shall be entered as such, except those actually employed on board such boat.

Acknowledgment of collector.

35. Every collector receiving any statement of passengers, shall, if required by the person making the same, deliver to such person an acknowledgment of such receipt, containing the substance of such statement in respect to the trip and name of the boat, and specifying the whole number of passengers and the whole amount of tolls paid.

Collector to transmit statements.

36. Every collector shall transmit with his monthly returns to the comptroller, every original statement of passengers delivered to him, and shall specify in a monthly statement what affidavits have been received by him of no passengers having been conveyed, naming the boat and master in respect to which the same were made.

Tolls in certain cases.

37. Every master or person having charge of any boat navigating a canal, which does not usually run in the night time, or which does not belong to any regular line of packet or freight boats, shall pay tolls on passengers conveyed in such boat, and shall account for such tolls in the manner prescribed by section 147 of the canal laws.

Master to exhibit statement.

38. The master and every person having charge of any boat navigating the canals, shall exhibit to any collector who may require the same, his statement and way-bill of passengers, and if required by such collector, shall verify the same on oath.

Power of com. of canal fund.

39. The commissioners of the canal fund may give instructions to collectors of tolls, requiring them at such times and in such manner as the commissioners shall direct, to visit and examine canal boats and compare the way-bill and statement of passengers on board such boat with the actual number of such passengers, and report the result of such examinations.

When clearance not to be granted.

40. No clearance shall be granted to any boat, until specially directed by the commissioners of the canal fund, the master or person having charge of which, shall have refused or neglected to make and deliver a statement of passengers or to verify the same as herein required, or shall refuse to exhibit to any collector when required by him his statement or way-bill of passengers, and to present the same to be compared with the actual number of passengers on board such boat.

["Termination of each trip," mentioned in the regulation 27, means the place to which any boat was cleared, or the collector's office at which the clearance must be left.]

Relative to the Navigation of the Canals.

41. Every boat passing on either of the canals of this State, or on any feeder of either of them, is required, at all times during the night, to carry conspicuous lights on the bow of the boat; and every raft navigating either of the said canals or feeders at night, shall carry a conspicuous light on the forward end of the same: And every infraction of this regulation, shall subject the master, owner, or navigator of any boat or raft, to the penalty of ten dollars.

Floats to
carry lights.

42. No float shall unnecessarily stop, lie by, or be moored within twenty rods of any lock, except in a basin: And every master, owner, or navigator of any float, who shall violate this regulation, shall be subjected to the penalty of ten dollars.

Where not
to stop.

43. Any unreasonable or unnecessary delay of a float in a lock, or in entering or leaving a lock, shall subject the person or persons having charge of such float to the penalty of five dollars; and every float which shall not be towed into a lock and out of it, when other floats are in waiting to pass said lock, shall be considered as having violated this regulation.

Delay in a
lock.

44. Every float which shall arrive at any lock, and which shall not improve the first opportunity of passing the same, shall lose its preference, so long as there may be any other boat at the lock ready to pass in the same direction.

Delay in
passing lock.

45. No scow or other boat, having a bow less sharp than a semicircle, shall navigate any of the canals, unless it shall have a semicircular platform, the greatest width of which shall be equal to the width of the boat, firmly fastened on the bow thereof, to defend and protect other boats against injury from coming in contact with the corners thereof. The master, owner, or navigator of any scow or other boat used on any of the canals, in violation of this regulation, shall be subject to a penalty of five dollars.

Sharp boats
to have a
platform on
the bow.

46. No carcass, dead animal, putrid substance, or filth of any kind, shall be thrown or discharged into either of the canals, or into any basin, reservoir or feeder connected therewith: And a breach of this regulation shall subject the offender to a fine of five dollars.

Filth not to
be thrown
into canals.

47. In case of a breach or other obstruction on either of the canals, or when the canal is filling with water, the superintendent, collector, foreman or lock-tender shall direct the floats which may be collected near such breach or other obstruction,

Duty of canal
officers
at a breach.

or which, in his opinion, may obstruct the filling of the canal with water, to lie in such places and to be moved backward or forward on the canal, as he shall think most advisable and proper: And a refusal to comply promptly with his directions in this respect, shall subject the owner, master or person having charge of said float, to a penalty of ten dollars.

Master refusing to take oath.

48. The master or person having charge of any float, who shall refuse to take the oath required by any collector, or who shall refuse to answer on oath any question which the collector is authorized to propound, shall be subject to a penalty of twenty dollars.

Refusing to go into a weigh-lock.

49. Any person having charge of any boat, who shall refuse to take his boat into a weigh-lock, when required by a collector or weigh-master, shall be subject to a penalty of twenty-five dollars.

Rafts.

50. No raft or tow of timber passing on either of the canals, or feeders, shall consist of more than six cribs, and no raft, or tow of timber, shall approach any other raft or tow of timber nearer than thirty rods, unless for the purpose of passing, or be moored nearer than thirty rods to any other raft or tow of timber which shall be first moored. The first and leading crib in every raft or tow of timber, on either of the canals or feeders shall have the outer edge of the forward end of every outside stick, rounded. And no traverse stick on any crib of timber shall extend within one inch of the outer edge of the outside stick of such crib of timber. And every violation of either of the provisions of this regulation, shall subject the owner or person or persons having charge of said tow or raft, to a penalty of ten dollars.

Rudder.

51. Every boat passing on either of the canals, shall have its rudder so constructed or secured as not to catch or cut the tow-rope of a passing boat: And every violation of this regulation, shall subject the master or owner to a penalty of five dollars.

Clearance to be shown to lock-tender.

52. The clearance or permit of every float shall be exhibited to the first lock-tender after such float shall have left a collector's office, except when departing from the collector's office at the city of Albany, in which case the clearance shall be exhibited to the second lock-tender; and the clearance of every boat passing into the Albany basin, shall be exhibited to the tender of the lock which connects the canal with that basin, and shall exhibit the mark of approbation of the weigh-master at Albany: And in default of a compliance with this regulation, the lock-tender to whom the clearance or permit is required to be exhibited, shall not permit the boat to pass.

53. No person or persons, except the lock-tender or the hands in his employ, shall be permitted to open either of the large gates of a lock, or the paddle gates, without the permission of the lock-tender or one of the hands in his employ : And every person violating this regulation, shall be liable to a fine of five dollars.

Opening lock or paddle gates.

54. Every boat navigating the canals, shall, in passing a lock, fasten the bow and stern line to the snub post on the bank of the lock, until the lock is either filled or emptied, as the case may be : And the master or owner of every boat which shall violate this regulation, shall be liable to a fine of five dollars.

Snub posts.

55. The horse or horses of any float navigating the canals, shall not pass over a towing-path bridge faster than on a walk, nor pass into or out of any boat or float over or upon the walls or sides of any lock on either of the canals of this state : And the master or owner of every float which shall violate this regulation, shall be liable to a fine of three dollars.

Tow-path bridge, &c.

56. Whenever any float passing on either of the canals shall approach, within the distance of fifty feet, any other float which shall at the time be moving in the same direction, and at a less speed than at the rate of four miles per hour, it shall be the duty of the forward float to turn from the towing-path and give to the rear float every practicable facility for passing ; and to stop whenever it shall become necessary until the rear float shall have passed : And every violation of this regulation shall subject the owner, master or navigator, to a penalty of five dollars.

Float overtaken to turn out.

That in all cases where two floats going in opposite directions shall approach each other, in the vicinity of a raft, in such manner that they would, if both should continue their headway, meet by the side of such raft, the float which shall be going in the same direction as the raft shall stop, until the float going in the opposite direction shall pass such raft : And every master of a boat who shall violate this regulation shall forfeit the sum of *ten dollars*.

57. Every float shall be conducted into, through and out of every lock on the canals of this state, in a careful manner, so as to do no injury to such lock : And for every neglect so to conduct the same, the owner or master of such float shall pay a penalty of ten dollars.

Injuries to a lock.

58. No person or persons shall, during the period when the canals or feeders are not navigable, place on the towing-path, berm bank, or in the canal or reservoir, or on the banks of any reservoir, or on the ice in the canal or reservoir, logs, timber,

Penalty for placing things on ice, &c.

or other materials, without the permission of a canal commissioner or a superintendent: And no person or persons shall fell trees, roll or carry logs, timber, or rubbish of any kind within the flow line of either of the reservoirs; meddle with or interfere with any of the fixtures or buildings of either of the reservoirs: And every violation of either of these regulations, shall subject such person or persons to a penalty of ten dollars.

Mooring
floats.

59. No person or persons shall, without the permission in writing of a superintendent, moor a float on either of the canals for a longer period than four days at any one time, unless in a basin or where the canal is of sufficient width to pass three boats abreast: In cities or villages no float shall be moored in the canal (except in a basin,) for a longer period than is reasonable for discharging or taking in the load of such float, without a written permission from the superintendent, or in his absence, of the collector, weigh-master or inspector: And any person or persons who shall violate this regulation, shall be liable to a penalty of ten dollars.

Drawing
materials
from or into
canal.

60. No person shall, without the permission in writing of a superintendent, roll or draw from or into any of the canals or reservoirs, over the side of any lock or aqueduct, or over any structure of masonry, or over the side of any embankment, on any canal, reservoir or feeder, any log, timber, or other material: And every violation of this regulation, shall subject every person concerned in it to a penalty of ten dollars.

Berths to be
assigned to
boats.

61. It shall be the duty of every collector of tolls, weigh-master or inspector, and if there be no collector, weigh-master or inspector present, of every superintendent, whenever in the opinion of such officer it shall be necessary, to assign berths to all boats when loading, unloading or stopping at any landing place on a canal: And every master, owner or person having charge of a boat, who shall refuse or neglect promptly to comply with directions given by a collector, inspector, weigh-master or superintendent, or any person who shall forcibly remove or attempt to remove any boat from the berth assigned it by either of said officers, without his permission, shall be subject to a penalty of ten dollars.

Little basin
at Albany.

62. The margin of the canal on each side of the little basin near the intersection of the Erie canal with the Hudson river, being a towing-path, all the laws and regulations respecting obstructions of the towing-path of the Erie canal shall be enforced against such persons as obstruct the grounds on the margin of the said basin, or occupy the same with wood, stone, lumber or other things, without the written permission of a superintendent or weigh-master.

63. During the season of navigation, no property shall be left on the berm bank of the canal, in the city of Schenectady, west of State-street, for a longer time than three days, without the written permission of the collector, superintendent of repairs or inspector : And for every neglect to remove such property within the time aforesaid, the person placing the same on said berm bank, and the owner thereof, shall pay a fine of ten dollars.

Berm bank
in Schenec-
tady.

64. No float shall pass either of the locks upon the Chemung canal between the collector's office in the village of Havana and the northeasterly end of the summit level, nor of the Crooked Lake canal, above the village of Dresden, after dark, or before day-light, without the written permission of a canal commissioner or superintendent : And every violation of this regulation shall subject the master or owner to a penalty of ten dollars.

Chemung
and Crooked
Lake canals.

65. Superintendents, collectors, weigh-masters, inspectors and lock-tenders, are hereby required on every violation of either of the above regulations, to make an entry of the nature of every offence, the names of the offenders, the time and place where committed, and the names of witnesses : And it is farther strictly enjoined on each of the above officers, to carry these regulations into full effect.

Canal offi-
cers to make
entry of of-
fences.

66. Masters of boats passing the Cayuga and Seneca canal with cargoes destined to any point on the Chemung or Crooked Lake canals, shall, before they receive a clearance at Havana or Dresden, present to the collector a copy of the original clearance left at Geneva ; which copy shall be furnished by the collector at Geneva, free of charge.

Boats going
to Chemung
and Crooked
Lake canals.

67. Masters of boats passing from the Chemung or Crooked Lake canal, and having property on board which has paid toll on either of those canals and persons having charge of rafts, shall, before said property or rafts are cleared on the Cayuga and Seneca canal, present to the collector at Geneva a copy of the clearance on which said toll was paid ; which copy shall be furnished by the collector on either of the first named canals with which the original clearance is deposited, free of charge.

Boats going
from same
canals.

Authority of Canal Officers to sue for Penalties.

1st. COLLECTORS.

68. Each collector of tolls upon any of the canals, is hereby authorized, pursuant to section 188 of the canal law, to prosecute in the name of the people of this state, for any penalty incurred by the violation of any or either of the sections of the said canal law hereafter enumerated, to wit : sections 119, 123, 124, 125, 130, 143, 147, 152, 160, 161, 162, 163, 164, 179, 180 and 181 ; and also for any penalty incurred by the violation of any or either of the regulations of the canal board, to wit : regulations Nos. 2, 9, 26, 41, 42, 43, 45, 46, 47, 48, 49, 50, 51, 55, 56, 57, 58, 59, 60, 61 and 63, and shall prosecute for all such penalties whenever such collector shall know from his own observation, or have good cause to believe, that any of the said penalties have been incurred.

2d. SUPERINTENDENTS.

69. Each superintendent of repairs upon any of the canals, is hereby authorized, pursuant to section 188 of the canal law, to prosecute in the name of the people of this state, for any penalty incurred by the violation of any or either of the following sections of the said canal law, hereafter enumerated, to wit : sections 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 175, 176, 178, 179, 180, 181, 182 ; and also for any penalty incurred by the violation of any or either of the regulations of the canal board, to wit : regulations Nos. 41, 42, 43, 45, 46, 47, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61 and 64 ; and shall prosecute for all such penalties whenever such superintendent shall know from his own observation or have good cause to believe, that any of the said penalties have been incurred.

3d. WEIGH-MASTERS.

70. Each weigh-master upon any of the canals, is hereby authorized, pursuant to section 188, of the canal law, to prosecute in the name of the people of this state, for any penalties incurred by a violation of any or either of the regulations of the canal board, to wit : regulations Nos. 2, 18, 19, 20, and 49 ; and shall prosecute for all such penalties whenever such weigh-master shall know from his own observation, or have good cause to believe, that any of the said penalties have been incurred.

Resolutions adopted by the Canal Board.

In relation to Collectors.

1. *Resolved*, That every collector, shall produce to the comptroller full vouchers, by way of receipt, from all persons who shall be employed by him as clerks in his office; each of which receipts shall state particularly the time when the said clerk commenced service, and the time when the service closed, and the rate of compensation per month or day actually paid; and no allowance shall be made to any collector for clerk hire, over and above the sum for which vouchers shall be produced showing the actual payment. Clerk hire.

[The salary of a collector, as fixed by the canal board, is in full of *all* costs and expenses of his office, except clerk hire, office rent, freight on books and blanks sent from canal department, and necessary furniture. Vouchers for furniture will not be allowed unless endorsed with the approval of the acting canal commissioner on the line of canal where the office of the collector is located. Every collector is authorized on the last day of each month after the canals are opened to make a draft on the commissioners of the canal fund for one-ninth part of his salary for the year, for clerk hire, pay of inspectors and expenses of collectors' offices, as above mentioned, during the month. The draft will not be paid unless accompanied by the collector's receipt for one-ninth part of his salary from the commissioners of the canal fund, and receipts for clerk hire, pay of inspectors, &c. from the collector, not from the commissioners. The draft and receipts are to be enclosed in and sent with the fourth weekly abstract.]

2. *Resolved*, That the several collectors of canal tolls will be required to give their personal and constant attention to the duties of their office, and to reside at the places at which their offices are located, during the season of navigation. Collector to attend to his office, and to reside where office is located.

3. *Resolved*, That every collector shall employ competent and sufficient clerks to perform the duties of their respective offices, in addition to their own attention to such duties, at as low a rate of wages as such clerks can be procured, without any reference to the price at which those wages are established by this board: but no collector shall be allowed for a greater number of clerks than is fixed by the board, unless he shall have the written consent of one of the acting canal commissioners to the employment of an additional number of clerks, and to the compensation to be paid to each; and unless also such additional clerk hire can be paid from the sum established for clerk hire for such office, in the resolution of this board fixing the salary of the collector, the number of his clerks, and the compensation beyond which they should not be paid. Competent clerks.

To pay
inspector.

4. *Resolved*, That the collectors at the several places upon the canals where an inspector is located, shall be, and they are hereby authorized to pay to such inspector his rate of compensation as fixed by the canal board ; and the receipt of such inspector, specifying the number of days or months, as the case may be, for which such receipt is the evidence of payment, and the date from which to which the receipt covers shall be the voucher of the collector for such payment.

Not to
procure
blanks.

5. *Resolved*, That no collector, weigh-master, or other officer upon the canals, shall be allowed to procure blanks or other printing for their offices, without the written permission of the comptroller, or of one of the acting canal commissioners ; inasmuch as the said printing is to be done, and the blanks are to be furnished under the direction of the comptroller.

To see that
inspecting is
done, and
that
inspector
does his
duty.

6. *Resolved*, That all collectors of tolls upon the canals are considered, and each of the said collectors is hereby declared to be, *ex-officio*, an inspector of canal boats and their cargoes, and that it is the express duty of each collector and his clerks, as far as their office duties will permit, to inspect all boats arriving at, cleared from, or passing his office ; and it shall be the further duty of each collector, at a place where an inspector is appointed, to aid the inspector in the discharge of his duties, and to see that the inspector discharges his duty faithfully and efficiently.

Inspector's
office.

7. *Resolved*, That the office of the collector, at a place where an inspector is located, shall be the office of the inspector, except in the cases of the inspector at the city of Troy, and the inspector at Albany located at the Little Basin.

To deposite
daily.

8. *Resolved*, That each collector of canal tolls shall deposite daily the moneys received by him, as such collector for tolls, in the bank designated by the canal board, as the place of deposite ; and in cases where an agent is appointed by the deposite bank, the collector shall in like manner deposite daily the money collected by him, with such agent.

Canal
officers not
to be agents
of banks.

9. *Resolved*, That no collector of tolls, superintendent of repairs, or other officer on the canals, shall be the agent of any bank for the purpose of receiving any tolls directed to be deposited in such bank.

Collector's
office to be
in a separate
room.

10. *Resolved*, That the office of the collector shall in every case be in a separate room, in which no other business shall be transacted, than that which is connected with the collection of tolls ; and the collector's office shall not be connected by a door or other opening with any other room which is occupied as a grocery, tavern or store, or for vending any commodities to those who navigate the canals.

COLLECTORS.

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11. *Resolved*, That every clerk of a collector, shall, before he enters on his duties, take and subscribe an oath or affirmation, that he will faithfully discharge the duties of collector's clerk according to the best of his ability ; which oath or affirmation may be taken before any officer authorized to administer oaths, and shall be filed in the office of the comptroller. Upon the oath or affirmation of any clerk who shall be authorized by a collector "to perform all the duties and exercise all the powers legally appertaining to such collector in his absence," the substance of such authority shall be endorsed by the collector before the same is filed in the comptroller's office.

Clerk to take an oath.

Authority to clerk "duly authorized," to be endorsed on his oath.

Resolved, That the collector of canal tolls on the Cayuga and Seneca canal, at Montezuma, be directed to collect on all boats and property which shall be transported on the Erie canal ; and which shall pass through the channel opened across the bar at the mouth of the inlet of the Cayuga lake, in the town of Ithaca, pursuant to the provision of the act, chapter 202 of the Session Laws of 1835, the like tolls as for property transported on the Erie canal, for one mile in addition to the tolls chargeable on said canal.

The canal commissioners having submitted to this board, a resolution passed on the 6th day of April, 1839, pursuant to the provisions of chapter 303 of the Session Laws of 1836, and chapter 306 of the Session Laws of 1838, by which they resolved, that the same rates of toll should be paid on all boats and property, passing on that part of the Seneca river, between Mud-Lock and Baldwinsville, on which a towing-path is constructing, as have been established by this board in relation to the Erie canal :

Resolved, That the collectors of canal tolls at Oswego and Salina, be directed to collect, on all boats and property passing on that part of the Seneca river above described, the same rates of toll as are established in reference to the Erie canal, and that they commence making such collections, whenever they shall receive a certificate from the acting canal commissioner in charge of the said work, that the said towing-path is completed ; and that said collectors be directed to keep a separate account of the tolls collected in pursuance of this resolution : And that they make return thereof, and pay over the money in the same manner as for tolls collected on the Oswego canal.

Resolved, That said collectors suspend the collection of tolls on said river, until they receive a certificate from the acting canal commissioner in charge of the work, that the towing-path is completed.

WHEREAS, by the act of May 12, 1836, the canal commissioners were directed to cause to be constructed a towing-path from Mud-Lock on the Oswego canal, along the Seneca river to Baldwinsville, at an expense not exceeding \$15,000. And

to establish such rates of tolls as to produce an income of five per cent per annum on the money expended in constructing such towing-path, over and above the expense of superintendence and repair; and the said towing-path, has been constructed at an expense of \$14,864 26; and the commissioners being of the opinion that a compliance with the provisions of the said act will require the establishment of a rate of tolls at least three and a half times greater than the rates established for the Erie canal for the year 1840: Therefore,

Resolved, That a rate of tolls three and a half times greater than the rate of tolls established on the Erie canal for the year 1840, be and is hereby established on all boats and property passing on the Seneca river, between Mud-Lock, on the Oswego canal, and Baldwinsville, during the year one thousand eight hundred and forty-one. (*Passed by the canal commissioners, 10th April 1841.*)

In relation to Superintendents.

To pay
money when
he takes
receipt.

12. *Resolved*, That no superintendent of repairs shall, under any circumstances whatever, take a receipt for labor done, services performed, or materials furnished for the canals, where the money shall not be actually paid.

To attend to
duties of his
office.

13. *Resolved*, That the several superintendents of canal repairs, be required to give their personal and constant attention to the duties of their office.

To settle
every two
months.

14. *Resolved*, That each superintendent shall, as far as practicable, settle all his accounts once in two months, taking receipts only for such payments as shall have been actually made; and he shall furnish the acting commissioner with a separate abstract of the accounts unpaid and pay the same immediately after receiving his next advance, if then due.

To keep an
official ac-
count with
some bank.

15. *Resolved*, That every superintendent shall open an account as superintendent, and distinct from his individual concerns, with some bank, in which, from time to time, shall be deposited the money received from the commissioners of the canal fund; and he shall immediately inform the comptroller and the acting commissioner what bank he has selected for keeping his official account. He shall cause his bank-book to be written up as often as once in each month, and at all times when he shall apply to the acting commissioner to have his accounts certified; and he shall at all times, on request, exhibit his bank-book to the acting commissioner, and the acting commissioner may at any time examine the official account of such superintendent at the bank.

16. *Resolved*, That no superintendent or foreman, or other person employed to take charge of any work on the canals, or officer on the canals, shall without the written permission of the acting canal commissioner,

1. Furnish any teams, boats, carriages, materials, or other thing for the use of the public or of any canal; or employ or contract for the same when owned by any member of his family, or by any foreman or lock-tender; or employ any member of his family on the canal; or,

Not to furnish any teams of his own, or employ those belonging to the public for private use.

2. Employ any teams, carriages, boats, materials or other thing belonging to the public, for any private use or purpose.

And no officer on the canals, or holding any appointment under the canal commissioners or any of them, or under any superintendent, shall either directly or indirectly be interested in any contract for labor, materials or other thing connected with the canals, and shall not either directly or indirectly derive any benefit from the annual expenditures on the canals beyond his established compensation.

No officer to be interested in contracts, &c.

Resolved, That so much of the resolution of the canal board, passed March 27, 1835, as directs that the acting canal commissioner shall give a written appointment to clerks of superintendents of repairs on the canals, be rescinded, and that such clerks be employed by the respective superintendents, subject to removal by the acting commissioner; and each superintendent shall transmit to the second deputy comptroller,* the name of every person appointed as clerk, within ten days after such appointment. (*Adopted March 21st, 1839.*)

Resolved, That the superintendent of repairs on the Oswego canal, be directed to take charge of that part of the Seneca river, between Mud-Lock and Baldwinsville, on which a towing-path is constructing, when he is informed by the acting commissioner, in charge of the said work, that such towing-path is completed; and that he keep the same in repair, and keep an account of the expenditures for such repair separate from his other accounts as superintendent.

Resolved, That the superintendents of repairs on the canals, shall not be authorized to employ any overseers or agents on any occasion, unless such employment be sanctioned by a canal commissioner, for a temporary purpose; but this resolution is not to prevent the superintendents from employing a foreman for any working party.

Resolved, That the superintendents of repairs, be charged with the duties of supplying oil for the locks on their respective sections, and for out-door lamps at the collectors' offices; that they procure such oil by the cask, and deliver it in proper quantities to the lock-tenders, and to the clerks of the collectors' respectively, and take the necessary measures to insure economy in its use.

* Now Chief Clerk of Canal Department.

In relation to Engineers.

Resolved, That the engineers employed to survey canal routes under special acts of the legislature be required to execute a bond in the penalty of five thousand dollars, conditioned for the faithful discharge of their duties and to account for all moneys for the purpose of defraying the expense of said surveys.

REGULATIONS of the canal board respecting APPEALS from the award of appraisers of damages, claimed to have been sustained by the appropriation of any lands, waters or streams, to the use of the public, by the canal commissioners; or claimed to have been sustained in consequence of any lands being overflowed by the erection of any dam by the canal commissioners, on any river or stream connected with the public works; or claimed to have been sustained in consequence of the occupation of any lands, waters or streams, by the canal commissioners, for temporary purposes, and to be appraised under chap. 287, laws of 1836.

1. Every appeal must be made in writing, stating briefly the grounds on which it is made;¹ and it must be made, and the proper papers and copies served, within three months from the time a transcript of the decision of the canal appraisers is filed in the clerk's office of the county as required by law.¹

2. If such appeal be made by the canal commissioners, one copy thereof is to be served on the canal appraisers, and another on the party claiming damages, his guardian or agent, either personally, or by leaving the same at his usual place of abode² with some person of mature age.

3. If such appeal be made by the party claiming damages, one copy thereof is to be served on the appraisers or one of them, and another on the canal commissioners.² The service on the canal commissioners, may be made by delivering the said copies to the acting canal commissioner on the canal or section of the canal where the damages claimed were sustained, or by sending the same by mail to his place of residence. Proof of such service, or an admission by the commissioner, will be required.

4. The canal board has decided that any party who receives the amount of damages awarded to him by the canal appraisers, or any part thereof, thereby waives his right to appeal from such award. And in all such cases the appeal will

(1) Title 9, ch. 9, part 1, Rev. Stat. § 61. (2) *Ib.* § 62.

be dismissed by the canal board, without examining the merits of the case.

5. No damages should be awarded to any claimant, unless legal proof of his title to the premises is given to the canal appraisers. The canal board has decided that such proof should be as strong as would enable a party to recover in an action of ejectment against a tenant holding adversely under a claim of title.

6. All claims and all appeals should be in the name of the actual owner of the lands or property injured ; and no assignment of any claim for damages will be recognized. This regulation will not prevent any person appealing or claiming by a regular agent duly appointed.

7. Claims should cover all damages, present and prospective ; and no reservation of prospective damages will entitle the party to present a new claim after the limitation provided by law has expired.

8. It is not necessary for any claimant to appear by counsel before the board.

9. If upon the coming in of any return by the canal appraisers to any appeal made from their decision, any claimant shall allege that there are any omissions of any testimony produced before them, he may, by affidavit, show the existence of such omissions, and the board will, in their discretion, order an amendment of the return or a further return.

10. The board will not in any case order a rehearing before the canal appraisers, in the nature of a new trial. But if the decision of the appraisers is wholly reversed, on an appeal by the claimants, the claimant may proceed anew before them.

11. When the party sustaining damages has died since the act complained of was done, claims, and appeals respecting them, should be presented by the administrators, or executors of such party, where the damage sustained would have been the subject of an action at law, in the name of such administrator or executor, if it had been occasioned by an individual ; and in all other cases by the heir, devisee, widow, or other person to whom any interest in the land appropriated would have belonged but for such appropriation.

12. The guardians contemplated by the act allowing claims or damages to be signed by them, are the general guardians appointed by a surrogate.

REMISSION OF FORFEITURES.

REGULATIONS of the canal board respecting applications under § 85, [orig. sec. 72] page 22 of the preceding copy of canal laws, for a REMISSION OF FORFEITURES.

1. A petition setting forth the facts of the case, signed by the party upon whom the penalty was imposed, or his agent, must be addressed to the canal board.

2. The facts upon which a remission is asked, must be proved by affidavit taken before a judge of a court of record or a commissioner of deeds.

3. It must appear from the petition or affidavits, whether the penalty imposed has been paid or not, and if paid, to whom.

4. The petition and accompanying papers should be exhibited to the collector or other officer who imposed the penalty, or copies of them shall be served on him if required by him, a sufficient time previous to their presentation, to enable him to communicate to the canal board the facts of the case, so far as they are known to him.

5. Every collector or other officer to whom such papers shall be exhibited, or on whom such copies shall be served, shall communicate to this board all the facts within his knowledge having any relation to the application.

6. The petition and accompanying papers are to be sent to the comptroller's office. During the season of navigation, they may be sent by the canal ; and after its close, by mail.

7. The canal board will act on such petitions at its annual meeting at Albany during the session of the legislature.

8. If the petitioner desires to be informed of the result of his application, he will make a note to that effect on the petition, stating his nearest post-office ; and he will be informed accordingly.

REMISSION OF FORFEITURES.

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*Extract from the Minutes of the Canal Board, dated
 March 14, 1838.*

“ *Resolved*, Pursuant to section 5 of chapter 451 of the Session Laws of 1837, which authorizes the canal board to modify or reduce any of the penalties imposed by Article seven of Chapter nine, Title nine, of the first Part of the Revised Statutes, that the penalties imposed by sundry sections of the article referred to, be reduced as follows, viz :

Penalty imposed by section No. 119 from \$25 to \$10					
“	“	“	124	25	10
“	“	“	130	25	10
“	“	“	143	25	15
“	“	“	147	25	10
“	“	“	159	25	10
“	“	“	160	25	5
“	“	“	162	25	10
“	“	“	163	25	10

RATES OF TOLL

*Established by the Canal Board on persons and property transported
on all the navigable Canals of the State, for the year 1841.*

	Cts.	mills.	fr.
<i>Provisions, &c.</i>			
1. On flour, salted beef and pork, butter, cheese, tallow lard, beer and cider, per 1,000 pounds per mile,	0	4	5
2. On bran and ship-stuffs in bulk, per 1,000 pounds per mile,	0	4	5
<i>Iron, Minerals, Ores, &c.</i>			
3. On salt manufactured in this state, per 1,000 pounds per mile,	0	2	3
4. On foreign salt, per 1,000 pounds per mile,	3	0	0
5. 1st. On gypsum, the product of this state, per 1,000 pounds per mile,	0	2	3
2d. On foreign gypsum, per 1,000 pounds per mile, ..	0	4	5
6. On brick, sand, lime, clay, earth, leached ashes, manure and iron ore, per 1,000 pounds per mile,	0	2	3
7. On pot and pearl ashes, kelp, charcoal, broken castings, and scrap iron, per 1,000 pounds per mile,	0	4	5
And on pig iron the same rate of toll except when clear- ed on the Oswego or Champlain canals, and going to- wards tide water, when it is to charged per 1,000 pounds per mile,	0	3	2
8. 1st. On mineral coal going towards tide water, or going north on the Champlain canal having come from the west, or going west from Utica or from any point west thereof, or going upon any lateral canal; and on an- thracite coal going from tide water, per 1,000 pounds per mile,	0	2	0
2d. On all other mineral coal than such as above speci- fied, per 1,000 pounds per mile.	0	4	5
9. On stove and all other iron castings, per 1,000 pounds per mile,	0	4	5
10. On copperas and manganese, going towards tide water, per 1,000 pounds per mile,	0	4	5
11. On bar and pig lead, going towards tide water, per 1,000 pounds per mile,	0	2	0

Cts. mills. fr.

Furs, Peltry, Skins, &c.

12. On furs and peltry, (except deer, buffalo and moose skins,) per 1,000 pounds per mile,	1	0	0
13. On deer, buffalo and moose skins, per 1,000 pounds per mile,	0	5	0
14. On sheep skins, and other raw hides of domestic animals of the United States, per 1,000 pounds per mile,	0	4	5
15. On imported raw hides, of domestic and other animals, per 1,000 pounds per mile,	0	5	0

Furniture, &c.

16. On household furniture, accompanied by and actually belonging to, families emigrating, per 1,000 pounds per mile,	0	4	5
17. On carts, wagons, sleighs, ploughs and mechanics tools, necessary for the owners' individual use, when accompanied by the owner, emigrating for the purpose of settlement, per 1,000 pounds per mile,	0	4	5

Stone, Slate, &c.

18. On slate and tile for roofing, and stone ware, per 1,000 pounds per mile,	0	4	5
19. On all stone, wrought or unwrought, per 1,000 pounds per mile,	0	2	3

Lumber, Wood, &c.

20. On timber, squared and round, per 100 cubic feet per mile, if carried in boats,	0	5	0
21. On the same, if carried in rafts, (except dock-sticks as in next item,) per 100 cubic feet per mile,	1	5	0
22. On round dock-sticks, passing in cribs separate from every other kind of timber, per 100 cubic feet per mile,	1	0	0
23. On blocks of timber for paving streets, per 1,000 pounds per mile,	0	1	0
24. 1st. On boards, plank, scantling and sawed timber, reduced to inch measure, and all siding, lath and other sawed stuff, less than one inch thick, carried in boats, (except such as is enumerated in regulations number 26 and 35,) per 1,000 feet per mile,	0	5	0
2d. On the same, if transported in rafts, per 1,000 feet per mile,	2	0	0
25. On mahogany, (except veneering,) reduced to inch measure, per 1,000 feet per mile,	1	5	0
26. On sawed lath, of less than five feet in length, split lath, hoop-poles, handspikes, rowing oars, broom-handles, spokes, hubs, tree-nails, felloes and boat-knees, per 1,000 pounds per mile,	0	2	0
27. On staves and heading, transported in boats, per 1,000 pounds per mile,	0	2	0

RATES OF TOLL.

	Cts.	mills.	fr.
28. On the same, if transported in rafts, per 1,000 pounds per mile,	0	5	0
29. On shingles per M. per mile, carried in boats,	0	1	0
30. On the same, if conveyed in rafts, per M. per mile, ...	0	4	0
31. On split posts, (not exceeding 10 feet in length,) and rails for fencing, (not exceeding 14 feet in length,) per M. per mile, carried in boats,	2	0	0
32. On the same, if conveyed in rafts, per M. per mile, ...	8	0	0
33. On wood for fuel, (except such as may be used in the manufacture of salt, which shall be exempt from toll,) and tan bark, per cord per mile,	1	0	0
34. On the same, if transported in rafts, per cord per mile, ..	2	0	0
35. On sawed stuff for window blinds, not exceeding one-fourth of an inch in thickness, and window sashes, per 1,000 pounds per mile,	0	5	0

Agricultural productions, &c.

36. On cotton and wool, per 1,000 pounds per mile,	0	4	5
37. On live cattle, sheep and hogs, per 1,000 pounds per mile,	0	4	5
38. On horses, (and each horse when not weighed, to be computed at 900 pounds,) per 1,000 pounds per mile, ..	0	5	0
39. On rags, per 1,000 pounds per mile,	0	4	5
40. On hemp, manilla and unmanufactured tobacco, per 1,000 pounds per mile,	0	4	5
41. On pressed hay, per 1,000 pounds per mile,	0	2	3
42. On wheat and all other agricultural productions of the United States, not particularly specified, and not being merchandise, per 1,000 pounds per mile,	0	4	5
43. On merchandise, per 1,000 pounds per mile,	0	9	0

Articles not enumerated.

44. On all articles not enumerated or excepted, passing from tide water, per 1,000 pounds per mile,	0	9	0
45. On all articles not enumerated or excepted, passing towards tide water, per 1,000 pounds per mile,	0	4	5

Boats and passengers.

46. On boats, used chiefly for the transportation of persons, navigating any of the canals except the Junction canal, per mile,	5	0	0
47. On boats, used chiefly for the transportation of persons, navigating the Junction canal, and not connected with regular lines of boats for the transportation of persons on the Erie or Champlain canals, per mile,	50	0	0
48. On boats, used chiefly for the transportation of property, per mile,	2	0	0
49. On all persons over ten years of age, per mile,	0	1	0
50. On articles of the manufacture of the United States, going towards tide water, although they may be enumerated in the foregoing list, per 1,000 pounds per mile, ..	0	4	5

During the present year, there shall be allowed a drawback of seventy-three per cent on the amount of tolls paid on the transportation of mineral coal from the west to tide water or to the Junction canal, provided such coal shall be delivered at tide water, or at some point on the Junction canal or on the Champlain canal; and the like drawback shall be allowed of seventy-three per cent on the amount of tolls paid on the transportation of anthracite coal from tide water to Utica, which shall be delivered at that place, or at any point west thereof; the amount of such drawback to be refunded to the persons paying the said tolls, under the direction of the commissioners of the canal fund, on the production of such evidence as they shall prescribe, of the said tolls having been paid, and of the delivery of such coal as herein provided.

EXTRACT

From the report of the Canal Commissioners, made to the Legislature on the 12th day of March, 1821, showing the rates of toll agreed to by them, and referred to in section 10, of Title 7, of the Constitution.

“On salt, 5 mills per ton, per mile, (7 bbls. of 5 bushels each, or 40 bushels in bulk, being a ton.)

“Gypsum, 5 mills per ton per mile.

“Flour, meal, and all kinds of grain, salted provision, pot and pearl ashes, one cent per ton per mile.

“Merchandise, two cents per ton per mile.

Timber, squared and round, five mills per hundred solid feet per mile.

“Boards, plank, and scantling, reduced to inch measure, and all siding, lath and other sawed stuff, less than one inch thick, 5 mills per thousand feet per mile.

“Shingles, one mill per thousand per mile.

“Brick, sand, lime, iron ore, and stone, 5 mills per ton per mile.

“Rails and posts for fencing, two cents per thousand per mile.

“Wood for fuel, one cent per cord per mile.

“All fuel to be used in the manufacture of salt, to pass free.

“Boats made and used chiefly for the transportation of property, on each ton of their capacity, one mill per mile.

“Boats made and used chiefly for the carriage of persons, 5 cents per mile of their passage.

“Staves and heading for pipes, one cent per thousand per mile.

“Staves and heading for hogsheads, 7 mills per thousand per mile.

“Staves and heading for barrels or less, 5 mills per thousand per mile.

“All articles not enumerated, one cent per ton per mile.”

STATE OF NEW-YORK, }
Comptroller's Office. }

I hereby certify that the foregoing printed statements of the "*Rates of Toll*" to be collected on the canals of this State; of the "*regulations relative to the weighing and inspecting of boats and their cargoes*;" "*relative to tolls on passengers*;" "*relative to the navigation of the canals*;" and the "*authority to canal officers to sue for penalties*," are true copies from the original minutes of the Canal Board; that the said transcript has been compared by me with the original minutes filed in this office according to law, and is a true copy of the whole of the said minutes relating to those subjects.

(L. S.) In witness whereof I have hereunto set my hand and seal
of office this day of July, 1841.

JOHN A. COLLIER,
Comptroller.

A LIST

Of the principal places on the Canals, and their distance from each other, as adopted by the Canal Board.

JUNCTION AND ERIE CANALS.

NAME OF PLACES.	DISTANCE FROM.				
	Place to place.	Albany.	Utica.	Rochester.	Buffalo.
ALBANY,.....	0	0	110	269	364
Port-Schuyler,.....	5	5	105	264	359
Gibbonsville,.....	1	6	104	263	358
WEST-TROY,.....	1	7	103	262	357
Junction,.....	2	9	101	260	355
Cohoes,.....	1	10	100	259	354
Lower Aqueduct,.....	3	13	97	256	351
Willow-Spring,.....	6	19	91	250	345
Upper Aqueduct,.....	7	26	84	243	338
SCHENECTADY,.....	4	30	80	239	334
Rotterdam,.....	9	39	71	230	325
Phillips' Locks,.....	5	44	66	225	320
Amsterdam,.....	3	47	63	222	317
Schoharie Creek,.....	5	52	58	217	312
Smithtown,.....	2	54	56	215	310
FULTONVILLE,.....	3	57	53	212	307
Big Nose,.....	7	64	46	205	300
Spraker's Basin,.....	2	66	44	203	298
Canajoharie,.....	3	69	41	200	295
Fort-Plain,.....	3	72	38	197	292
Diefendorf's Landing,.....	3	75	35	194	289
St. Johnsville,.....	2	77	33	192	287
East Canada Creek,.....	4	81	29	188	283
Indian Castle, (Nowandaga Creek,)	2	83	27	186	281
Fink's Ferry,.....	3	86	24	183	278
LITTLE-FALL'S,.....	2	88	22	181	276
Rankin's Lock, No. 7,.....	3	91	19	178	273
Herkimer Lower Bridge,.....	4	95	15	174	269
Herkimer Upper Bridge,.....	1	96	14	173	268
Fulmer's Creek,.....	1	97	13	172	267
Morgan's Landing,.....	1	98	12	171	266
Steel's Creek,.....	1	99	11	170	265

NAMES OF PLACES.	DISTANCE FROM.				
	Place to place.	Albany.	Utica.	Rochester.	Buffalo.
Frankfort,	2	101	9	168	263
Ferguson's,	6	107	3	162	257
UTICA,	3	110	0	159	254
York Mills,	3	113	3	156	251
Whitesboro',	1	114	4	155	250
Oriskany,	3	117	7	152	247
ROME,	8	125	15	144	239
Wood Creek Aqueduct, (Fort Bull,)	2	127	17	142	237
Hawley's Basin,	2	129	19	140	235
Stony Creek,	1	130	20	139	234
New-London,	2	132	22	137	232
Higgins',	4	136	26	133	228
Loomis',	2	138	28	131	226
Oneida Creek,	3	141	31	128	222
Canastota,	5	146	36	123	218
New-Boston,	4	150	40	119	214
Chittenango,	3	153	43	116	211
Pool's Brook,	3	156	46	113	208
Kirkville,	2	158	48	111	206
Little Lake,	2	160	50	109	204
Manlius,	2	162	52	107	202
Limestone Feeder,	1	163	53	106	201
Orville Feeder,	2	165	55	104	199
Lodi,	5	170	60	99	194
SYRACUSE,	1	171	61	98	193
Geddes,	2	173	63	96	191
Belisle,	4	177	67	92	187
Nine-Mile Creek,	1	178	68	91	186
Camillus,	1	179	69	90	185
Canton,	5	184	74	85	180
Peru,	2	186	76	83	178
Jordan,	4	190	80	79	174
Cold Spring,	1	191	81	78	173
Weedsport,	5	196	86	73	168
Centreport,	1	197	87	72	167
Port-Byron,	2	199	89	70	165
MONTZUMA,	6	205	95	64	159
Lockpit,	6	211	101	58	153
Clyde,	5	216	106	53	148
Lock-Berlin,	5	221	111	48	143
LYONS,	4	225	115	44	139
Lockville,	6	231	121	38	133
Newark,	1	232	122	37	132
Port-Gibson,	3	235	125	34	129

ON THE CANALS

NAMES OF PLACES.	DISTANCE FROM.				
	Place to place.	Albany.	Utica.	Rochester.	Buffalo
PALMYRA,	5	240	130	29	124
Macedonville,	4	244	134	25	120
Wayneport,	3	247	137	22	117
Perrinton,	2	249	139	20	115
Perrinton Centre,	2	251	141	18	113
Fairport,	1	252	142	17	112
Fullam's Basin,	1	253	143	16	111
Bushnell's Basin,	3	256	146	13	108
Pittsford,	3	259	149	10	105
Billinghast's Basin,	4	263	153	6	101
Lock No. 3,	2	265	155	4	99
ROCHESTER,	4	269	159	0	95
Brockway's,	10	279	169	10	85
Spencer's Basin,	2	281	171	12	83
Adams' Basin,	3	284	174	15	80
Cooley's Basin,	3	287	177	18	77
BROCKPORT,	2	289	179	20	75
Holley,	5	294	184	25	70
Hulberton,	4	298	188	29	66
ALBION,	6	304	194	35	60
Gaines' Basin,	2	306	196	37	58
Eagle Harbour,	1	307	197	38	57
Long Bridge,	2	309	199	40	55
Knowlesville,	2	311	201	42	53
Road Culvert,	1	312	202	43	52
Medina,	3	315	205	46	49
Shelby Basin,	3	318	208	49	46
Middleport,	3	321	211	52	43
Reynold's Basin,	3	324	214	55	40
Gasport,	2	326	216	57	38
LOCKPORT,	7	333	223	64	31
Pendleton,	7	340	230	71	24
Welch's,	2	342	232	73	23
H. Brockway's,	4	346	236	77	18
Tonawanta,	6	352	242	83	12
Lower Black Rock,	8	360	250	91	4
Black Rock,	1	361	251	92	3
BUFFALO,	3	364	254	95	0

28.90 chains over to Lake Erie—Big Buffalo Creek Harbor.

PLACES AND DISTANCES

CHAMPLAIN CANAL.

NAMES OF PLACES.	DISTANCE FROM.		
	Place to place.	Abany.	Whitehall.
ALBANY,	0	0	73
WEST-TROY,	7	7	66
Junction,	2	9	64
WATERFORD,	3	12	61
Mechanicsville,	8	20	53
Stillwater Village,	4	24	49
Bleecker's Basin,	2	26	47
Wilbur's Basin,	2	28	45
Van Duzen's Landing, ..	5	33	40
Schuylerville,	3	36	37
Saratoga Bridge,	2	38	35
Fort-Miller,	3	41	32
Moses Kill,	3	44	29
Fort-Edward,	5	49	24
Glen's Falls Feeder,	2	51	22
Baker's Basin,	1	52	21
Smith's Basin,	5	57	16
Fort-Ann,	4	61	12
Comstock's Landing,	4	65	8
WHITEHALL,	8	73	0

GLEN'S FALLS FEEDER.—(*Champlain Canal.*)

NAMES OF PLACES.	DISTANCE FROM.	
	Place to place.	
Champlain Canal,	0	
Sandy-Hill,	2	
Glen's Falls,	3	
Head of the Feeder,	2	
Head of the Pond,	5	
	12	
From Junction to Whitehall,		64
Length of Glen's Falls Feeder,		12
“ Pond above Troy dam,		3
Total,		79

ON THE CANALS.

91

CHENANGO CANAL.

NAMES OF PLACES.	DISTANCE FROM.				
	Place to place.	Utica.	Hamilton	Oxford.	Binghamton.
UTICA,	0	0	30	60	97
Road leading from New Hartford to Whitesboro',	3	3	27	57	94
Clinton,	6	9	21	51	88
Deansville,	5	14	16	46	83
Oriskany Falls,	5	19	11	41	78
Solsville,	3	22	8	38	75
Bouckville,	2	24	6	36	73
Peck's Basin,	2	26	4	34	71
HAMILTON,	4	30	0	30	67
Lebanon Factory,	2	32	2	28	65
Earlville,	4	36	6	24	61
Sherburne,	5	41	11	19	56
North Norwich,	4	45	15	15	52
Plasterville,	2	47	17	13	50
Norwich,	4	51	21	9	46
OXFORD,	9	60	30	0	37
Hayne's Mill,	10	70	40	10	27
Greene,	4	74	44	14	23
Forks,	8	82	52	22	15
Pond Brook,	2	84	54	24	13
Port Crane,	5	89	59	29	8
Crocker's Mills,	1	90	60	30	7
BINGHAMTON,	7	97	67	37	0

OSWEGO CANAL.

NAMES OF PLACES.	DISTANCE FROM.		
	Place to place.	Syracuse.	Oswego.
SYRACUSE,	0	0	38
SALINA,	2	2	36
Liverpool,	3	5	33
Mud Lock,	2	7	31
Cold Spring,	1	8	30
New Bridge,	5	13	25
Three River Point,	2	15	23
Phoenix,	2	17	21
Sweet's Lock,	3	20	18
Ox Creek,	3	23	15
Fulton,	4	27	11
Braddock's Rapid,	4	31	7
Tiffany's Landing,	4	35	3
High Dam,	1	36	2
OSWEGO,	2	38	0

PLACES AND DISTANCES

CAYUGA AND SENECA CANAL.

NAMES OF PLACES.	DISTANCE FROM.		
	Place to place.	Montezuma.	Geneva.
MONTENZUMA,	0	0	21
Seneca River,	5	5	16
S. Dermont's,	2	7	14
Seneca Falls,	3	10	11
Chamberlain's Mills,	2	12	9
Waterloo,	2	14	7
Teal's,	5	19	2
GENEVA,	2	21	0
Lateral canal to East Cayuga village two miles,		2	
Total,		23	

CHEMUNG CANAL.

NAMES OF PLACES.	DISTANCE FROM.			
	Place to place.	Seneca Lake.	Elmira.	Knoxville
Seneca Lake,	0	0	23	33
HAVANA,	4	4	19	29
Millport,	6	10	13	23
FAIR PORT,	7	17	6	16
Elmira,	6	23	0	22
Knoxville,	22	33	22	0

FEEDER.—(*Chemung Canal.*)

NAMES OF PLACES.	DISTANCE FROM.			
	Place to place.	Seneca Lake.	Elmira.	Knoxville
FAIR PORT,	0	17	6	16
Miller's Basin,	7	24	13	9
Dam at head of Feeder,	7	31	20	2
Knoxville,	2	33	22	0
Canal from Lake to Elmira,			23 miles.	
Feeder,			16	
			39	

CROOKED LAKE CANAL.

NAMES OF PLACES.	DISTANCE FROM.		
	Place to place.	Seneca Lake.	Crooked Lake.
DRESDEN,	0	0	8
Mallory's,		3	5
Andrews & Ways,	2	5	3
PENN-YAN,	2	7	1
Crooked Lake,	1	8	0

GENESEE VALLEY CANAL.

NAMES OF PLACES.	DISTANCE FROM.		
	Place to place.	Rochester.	Mount Morris.
ROCHESTER,	0	0	37
Lock No. 1. (Junction with Genesee River,)	2	2	35
Tone's Basin,	6	8	29
Scottsville,	4	12	25
Avon Road, (town of Caledonia,)	8	20	17
Sackett's Basin,	2	22	15
Fowlerville Road,	2	24	13
Barclay's Mill,	2	26	11
Piffardina,	3	29	8
Spencer's Basin,	1	30	7
Tracy's Basin,	2	32	5
Cuyler,	1	33	4
Leicester,	1	34	3
Genesee River Dam, (near Mount-Morris,)	2	36	1
MOUNT-MORRIS,	1	37	0

ONEIDA LAKE CANAL AND FEEDER.

Extends from the Erie canal at "Higgins'," four miles west of New-London, to the Oneida Lake, as follows :

Canal proper, from Higgins' to Wood creek, $3\frac{3}{4}$ miles.
Wood creek with a towing path to the Oneida lake, $2\frac{1}{4}$ "

Total length, 6 miles.

CANALS.

GENERAL SUMMARY.

Erie Canal,	363	
Albany Basin,	1	
Feeders,	8	
	—	372 miles.
Champlain Canal,	64	
Glen's Falls Feeder,	12	
Pond above Troy dam,	3	
	—	79 "
Chenango Canal,	97	"
Oswego Canal,	38	"
Cayuga and Seneca Canal,	23	"
Chemung Canal,	23	
Feeder,	16	
	—	39 "
Crooked Lake Canal,	8	"
Genesee Valley Canal,	37	"
Oneida Lake Canal and Feeder,	6	"
	—	—
Total,	699	miles.

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[See *Subpœnas.*]

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