

MAINE STATE LEGISLATURE

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PRIVATE AND SPECIAL

A C T S

OF THE

STATE OF MAINE,

PASSED BY THE

NINTH LEGISLATURE,

AT ITS

SESSION, COMMENCING JANUARY 7th, 1829.

Published agreeably to the Resolve of the 28th June, 1829.

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1829.

CHAP. 46.

Former Acts, vol. 1, chap. 64, 100, 353, and 510. An additional ACT to establish the Cumberland and Oxford Canal Corporation.

Approved February 25, 1829.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That in all cases where application is now pending in the Court of Common Pleas, or where application or complaint shall hereafter be made to said Court, for ascertaining the damages sustained by any person, or corporation, as contemplated in the third, fourth, and fifth sections of the act, establishing said Canal Corporation, and in the act in addition thereto, passed the fifteenth day of January, in the year of our Lord, eighteen hundred and twenty-two, said Court shall appoint a committee of three discreet and disinterested freeholders of the county in which any part of the lands described in said application, or complaint may lie, to appraise the damages, if any, sustained by the construction of said Canal through said lands, which having done, under oath, they, or the major part of them, shall make return thereof under their hands to the next Court of Common Pleas to be held in the same county, after said service is performed, that the same may be accepted by the court, and if any person or corporation shall be aggrieved by the doings of said committee in estimating damages as aforesaid, he or they may apply to the Court of Common Pleas, provided such application be made to said court, that shall be held in the same county, next after the acceptance of such return, and said court is hereby empowered to hear and finally determine the same by a new committee, if the party aggrieved and the adverse party can agree thereon, or by a jury under oath, if the party aggrieved desire the same; which jury shall be summoned and attended by the Sheriff of said county, or his

Court of C. P. authorized to appoint committee to appraise damages.

Party aggrieved by reports of committee, may agree with the adverse party upon a new committee, or have a trial by jury.

deputy, or if either of them be interested, by a Coroner of said county, and shall be selected in manner following, viz:—the officer, who shall be duly authorized by said Court, shall make application to the Selectmen of two or more towns, through any part of which said Canal shall not pass, who shall draw out of the jury box of their respective towns, so many jurors, as such officer shall require, not exceeding nine from any one town; and if by accident or challenge there should not be a full jury, said officer shall fill the pannel, *de talibus circumstantibus*, as in other cases. And such officer shall make return of his own travel and attendance and that of each juror. And if the party injured, in his, her, or their lands apply for such new committee or jury, and fail to obtain increased damages, such party shall be liable for all legal costs arising after entering such application, and said court shall enter judgment and issue execution accordingly. And if said Canal Corporation apply for such new committee, or jury, and fail to obtain a diminution of damages, it shall in like manner be liable for costs, and said court may enter judgment and issue execution for such costs: *Provided nevertheless*, That if any person or corporation sustaining damages as aforesaid, shall not make his, her or their complaint to said court within one year next after the cause of such damages shall have arisen, they shall forever after be barred from recovering any thing for their said damages.

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Complaint for damages to be made within one year.

SECT. 2. *Be it further enacted*, That the verdict of such jury or the report of such committee agreed upon as aforesaid being made under their hands to said court and by them accepted and recorded shall conclude the parties thereto with respect to damages.

Verdict of jury or report of committee accepted by the court, binding on the parties.

SECT. 3. *Provided however, and be it further enacted*, That in all cases it shall be competent for said Cumberland and Oxford Canal Corpora-

Question of damages may be submitted by rule of court &c.

tion, and any person or other corporation injured by the location of said Canal, or any of its appendages, to submit the question of damages by rule of court, or otherwise, to such referees as they may agree upon, whose award, when returned to, and accepted by said court, shall be final and conclusive upon the parties.

Corporation authorized to select and take land, &c. for toll houses, damage to be ascertained as in other cases.

SECT. 4. *Be it further enacted,* That said Cumberland and Oxford Canal Corporation be, and hereby are authorized to select and take such sites, and so much land, as may be necessary for toll houses and lock houses and their appendages, such damages to be paid therefor by said corporation, as may be agreed on by them and the owner or owners of the land so selected and taken; and if they cannot agree upon the damages, the same, if any, shall be ascertained in like manner as in other cases provided for in this Act, and the Acts to which this is additional.

May take earth or gravel for repairs, &c.

SECT. 5. *Be it further enacted,* That whenever said Canal shall need repairs, and for that purpose it shall be necessary to take earth and gravel from the adjacent lands, said corporation are hereby authorized to take such earth and gravel, doing as little damage to said lands as may be, for such compensation as may be agreed on, by the corporation and the owners of such lands, and if they cannot agree thereon, the same shall be ascertained as aforesaid.

Fees of committees or juries.

SECT. 6. *Be it further enacted,* That the several persons composing the aforesaid committees or juries, shall each receive the same daily allowance for their services, and fees for their travel, as are allowed to jurors selected to appraise the damages occasioned by laying out highways.

Corporation authorized to obtain a loan &c.

SECT. 7. *Be it further enacted,* That said Cumberland and Oxford Canal Corporation, in case it shall be necessary to obtain money on loan for the purpose of completing said Canal and locks, and the same cannot otherwise be obtained, shall be and hereby are authorized to give such

rate of interest exceeding six per cent. per annum, if necessary, and it cannot be procured at that, or a less rate, for such sum or sums of money, and for such term or terms of time, as the Directors of said Corporation shall deem expedient, and find to be necessary. And any note or notes signed by their Treasurer pursuant to a vote or authority of said Directors, for the payment of any sum or sums of money and interest therein expressed, shall be valid and binding against said corporation. And said directors or the major part of them, by deed under the seal of said corporation, may mortgage or pledge the tolls and income of said Canal and locks for the repayment of said loan or loans and the interest thereof: And the mortgagee or mortgagees, his or their assigns, or those legally claiming under him or them, shall have the same rights and privileges as to receiving toll, as a purchaser under execution would have by virtue of the tenth section of an Act, entitled "An Act respecting the attachment of property on mesne process, and directing the issueing, extending and serving executions," excepting however, that no greater interest on the redemption thereof shall be demanded or received, than was agreed to be given at the time of contracting for said loan and pledging said tolls: *Provided however*, That said Directors may stipulate in said mortgage deed or deeds, that said corporation shall retain the right of collecting said tolls and paying the same over by their treasurer, deducting the repairs and expenses of collection annually, or at such periods, as shall be agreed on by said Directors and said mortgagee or mortgagees.

SECT. 8. *Be it further enacted*, That the sixth section of the Act to which this is additional, and all other parts thereof, and of said Act passed the fifteenth day of January in the year of our Lord eighteen hundred and twenty two, which are inconsistent with the provisions of this Act, be, and the same are hereby repealed.

Former acts inconsistent with this act repealed.