

L A W S

FOR THE

PROTECTION OF THE CANALS

OF THE

STATE OF OHIO,

THE REGULATION OF THE NAVIGATION THEREOF, AND FOR THE
COLLECTION OF TOLLS;

ALSO THE

ORDERS, RULES, REGULATIONS, AND RATES OF TOLL,

WITH TABLES OF DISTANCES ON THE SEVERAL PUBLIC WORKS,

AS ESTABLISHED BY THE

BOARD OF PUBLIC WORKS,

MARCH 20, 1844.

COLUMBUS:
SAMUEL MEDARY, PRINTER.
1844.

BOARD OF PUBLIC WORKS.

THE names, places of residence, and works placed in charge of the members of the Board, are as follows:

LEANDER RANSOM—*Columbus, Franklin county*, has in charge the Ohio, Walhonding, and Hocking Canals, the Muskingum Improvement and National Road.

RODOLPHUS DICKINSON—*Lower Sandusky, Sandusky county*.

WILLIAM SPENCER—*Dayton, Montgomery county*, has in charge the Miami and Extension Canals, Wabash and Erie Canal, and Western Reserve and Maumee Road.

A. F. WHITE, *Secretary of the Board, City of Columbus*.

OFFICERS APPOINTED FOR THE YEAR 1844

ENGINEERS.

RICHARD HOWE, Northern Division, Ohio Canal.

R. H. NEUGEN, Southern Division, Ohio Canal.

WILLIAM McABOY, Walhonding and Hocking Canals, and Muskingum Improvement.

JOHN W. ERWIN, Miami and Extension Canals, from Cincinnati to Sidney Feeder.

SYLVESTER MEDBERY, Extension of Miami Canal, from Sidney Feeder to Junction of Wabash and Erie Canal.

P. HOAGLAND, Wabash and Erie Canal, and Western Reserve and Maumee Road.

JOHN YONTZ, National Road.

COLLECTORS.

OHIO CANAL.

Cleveland—D. H. BEARDSLEY.

Akron—R. K. DUBOIS.

Massillon—Z. S. STOCKING.

Dover—H. V. BEESON.

Roscoe—JOHN D. PATTEN.

Newark—T. P. OWEN.

Carroll—JOHN WADDLE.

Columbus—M. S. HUNTER.

Circleville—W. E. DELAPLAIN.

Chillicothe—JAMES MILLER.

Portsmouth—T. H. ALLYN.

WALHONDING CANAL.

Roscoe—JOHN D. PATTEN.

HOCKING CANAL.

Carroll—JOHN WADDLE.

Chauncey—J. E. PRICE.

MIAMI CANAL.

Cincinnati—E. CONVERSE.

Hamilton—JOHN CRANE.

Middletown—V. D. ENYEART.

Dayton—E. A. KING.

MIAMI EXTENSION CANAL.

Dayton—E. A. KING.

Piqua—JAMES CARSON.

WABASH AND ERIE CANAL.

Defiance—JAMES CHENEY.

Maumee City—THOS. CLARK, 2d.

Toledo—A. L. BACKUS.

MUSKINGUM IMPROVEMENT.

Zanesville—JOHN T. ARTHUR.

McConnellsville—GEO. RUSSELL.

Harmar—WM. SMITH.

INSPECTORS.

Cleveland—WM. K. ADAMS.

Akron—L. L. HOWARD.

Portsmouth—PAUL JONES.

Cincinnati—B. F. AYRES.

CANAL LAWS OF OHIO.

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AN ACT

To provide for the protection of the Canals of the State of Ohio, the regulation of the navigation thereof, and for the collection of Tolls.

[Passed and took effect, March 23, 1840. 38 v. Stat., 87.]

The digging of
ditches, or remo-
ving earth near
canals, &c., pro-
hibited;

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio,* That no person shall, under any pretence or authority whatever, except with permission, in writing, from the board of public works, or one of them, or some superintending engineer in their employ, dig or construct, or cause to be dug or constructed, any drain, or remove or deposit, or cause to be removed or deposited, earth, sand or gravel, or other material, so that the effect of such drain, or the removal of such earth, sand, gravel, or other material as aforesaid, will be to cause earth, sand, gravel, or other material, to be washed into any canal or slackwater pool belonging to this state, or to any company incorporated therein, to the injury of the same.

—Or the putting
dead animals in
canal.

SEC. 2. No person shall wilfully put, or cause to be put, any dead animal into any canal or slackwater pool, belonging to this state.

Penalties there-
for, and mode of
prosecution.

SEC. 3. Any person offending against the provisions of the first section of this act may be prosecuted before any justice or the peace, or the courts of common pleas of the proper county, and, on conviction, shall be fined for each offence, not less than five, nor more than one hundred dollars; and any

person offending against the provisions of the second section of this act may be prosecuted before any justice of the peace, in any county of the state where he may be found, and, on conviction, shall be fined, for each offence, not less than five, nor more than twenty dollars.

SEC. 4. Every person offending against the provisions of the first section of this act, in addition to the penalties prescribed in the preceding section of this act, shall be liable to be sued in an action on the case, in the name of the state of Ohio, for injury done to such canal or slackwater pool, for which a recovery shall be had with full costs; and the proceeds of such judgments, when collected, after deducting the expenses incurred in relation thereto, shall be paid over to the nearest collector, to be by him accounted for according to law.

Further remedies therefor.

SEC. 5. Every person who shall lead, drive or ride any horse, ox or ass, mule or other animal, upon the towing path, or the bank opposite to the towing path of any canal, authorized by the laws of this state, except for the purpose of towing boats, or other floating things upon the waters thereof, and except for the purpose of conveying articles to and from said canals, in order to their transportation on the waters of the same, or their delivery at their place of destination shall forfeit, for every such offence the sum of five dollars, and pay all damages consequent upon such offence, over and above the said forfeiture.

Penalty for trespassing on towing path of canals.

SEC. 6. If any boat or other floating thing shall be so moored in any of the canals as to obstruct the navigation thereof, or if any person or persons shall obstruct the navigation of any of the said canals, by means of the loading, unloading, misplacing, or otherwise misconducting any boat or other floating thing, and shall not immediately, upon being required by any commissioner, engineer, superintendent or agent employed on said canals, or by any person incommoded by such obstruction, to remove the same, the boatman, or person who caused said obstruction, shall forfeit, for every such offence, the sum of twenty five dollars over and above the expense of removing said obstruction.

—For obstructing the navigation of canals;

SEC. 7. If any person or persons shall obstruct the navigation of either of said canals, by sinking any vessel, timber, stone, earth, or other thing or things, to the bottom of either of said canals, or by placing any obstruction on the towing path thereof, or on the bank opposite the towing path thereof, such person or persons shall forfeit, for every such offence, the sum of twenty five dollars, over and above the expense of removing said obstruction.

—For sinking vessels, stone, &c., and obstructing towing path.

SEC. 8. It shall not be lawful for any person or persons to construct or build any lock, bridge, dam, or other structure in, or across, or upon, any public or navigable river, stream, lake or reservoir in this state, with which any of the canals of this state are united, or with which they are connected, or communicate at any place where such public river, stream, lake or

Erection of lock, dam, bridges, &c., without permission, prohibited.

reservoir is navigable and used, from time to time, as navigable water by steamboats, canal boats, vessels or other watercraft, employed in navigation, unless such person or persons, before proceeding thereto, shall first obtain from the board of public works, of this state, an order of the board, authorizing and licensing the contractor of such lock, bridge, dam or other structure, proposed or contemplated, setting forth that such proposed lock, bridge, dam or structure, will not obstruct the navigation of such river, stream, lake or reservoir, or injuriously interfere with the rights of the public, or the business of persons engaged, or to become engaged, in the use thereof, for the transportation of produce or merchandise, or other navigable or commercial purposes.

—Penalty therefor.

SEC. 9. That if any person or persons shall construct or build, or proceed to construct or build any lock, bridge, dam or other structure, on or across, or upon, any public navigable river, stream, lake or reservoir, aforesaid, without first obtaining the order or license therefor, in the manner hereinbefore provided, every such person or persons shall be fined in any sum not exceeding one thousand dollars, by indictment before the court of common pleas of the county where the offence is committed; and every such lock, bridge, dam, or other structure, so erected or built, without such order or license, shall be taken and adjudged a common nuisance, and may be abated accordingly.

Penalty for obstructing the free use or injuring gates, and destroying bridges.

SEC. 10. If any person or persons shall wantonly or unnecessarily open or shut, or cause to be opened or shut, any lock gate, or any paddle or culvert gate thereof, or any waste gate, or drive any nails, spikes, pins or wedges, into either of said gates, or take any other mode of preventing the perfect and free use of either of said gates, or shall wantonly and maliciously break, throw down or destroy any bridge on either of the said canals, such person or persons shall, for every such offence, forfeit a sum not exceeding fifty, nor less than ten dollars, and pay all damages consequent upon such offence, over and above the said forfeiture.

The lien of the state, on materials furnished by contractors, not affected by sale.

SEC. 11. All materials that shall have been procured by any contractor for the construction or repair of any part of said canals, or any works therewith connected, shall, from the time they are prepared for transportation, to the place where they are to be used, be subject to the lien of the state for all moneys that may have been, or shall be advanced by the state during the performance of said contract, and for all damages that may be sustained in consequence of the nonperformance thereof; and no sale by the said contractor, or under an execution issued upon any judgment or decree, shall in any wise affect said lien.

Penalty for injuring banks, culverts, &c.; (Amended; see page 33.) Act of 1842.)

SEC. 12. If any person or persons shall wilfully or maliciously break, throw down or destroy any lock, bank, waste weir, dam, aqueduct or culvert, belonging to any canal authorized by the laws of this state, such person or persons shall, for

every such offence, be deemed guilty of a misdemeanor, and, on conviction thereof, before the court of common pleas of the proper county, be sentenced to imprisonment in the penitentiary, at hard labor, for any time not less than three, nor more than seven years, at the discretion of the court, and shall, moreover, be liable to pay all damages sustained in consequence of such offence.

SEC. 13. No person shall construct any wharf, basin or watering place on, or make or apply any device whatever for the purpose of taking water from either of the said canals, without first obtaining permission therefor of one of the acting commissioners, or of the principal engineer of the canal, where such wharf, basin, watering place or device as aforesaid, is desired, in writing; and if any person shall offend against this section, by attempting to make any such construction, or apply such device, without permission, or shall not conform to the directions of the acting commissioner or engineer, who may give such permission, in respect to the location and size of such wharf, basin, watering place or device as aforesaid, such person shall, for every such offence, forfeit the sum of twenty five dollars; and the said acting commissioner or engineer shall be authorized, at the expense of the person thus attempting, to remove and destroy every such wharf, basin, watering place or device as aforesaid.

— Or for taking water from canals without permission.

SEC. 14. In all cases in which it shall be deemed necessary by the principal engineer, or acting commissioner, in laying out the line of any canal authorized by the laws of this state, or any work connected therewith, to discontinue or alter any public road or highway, such engineer or acting commissioner shall be authorized to make such discontinuance or alteration; and upon his drawing up a plat, with a true description in writing and figures, of all such parts of any public road or highway as he may discontinue or new lay, on the account aforesaid, and filing the same in the office of the auditor of the county in which such discontinuance or alteration may be situated, the same shall be lawful; and the new laid road, as described in said plat, shall be deemed a public highway, and of the same width of the road so discontinued or altered, and shall be entered on the record of roads by the county auditor as such; provided, however, that the board of public works shall, before they obstruct the passage of any part of a highway now legally established, open and reasonably work, in order to render it passable, such part of said highway as may be new laid by such engineer or acting commissioner as aforesaid; and the certificate of said engineer or acting commissioner, in writing, that the part of any highway new laid, as aforesaid, is opened and reasonably worked, as aforesaid, by said commissioners, shall be sufficient for their justification, and that every alteration heretofore made by any engineer or acting commissioner, in any public road or highway, on either of

Proceedings when a road is occupied by the canal;

The board shall open it, &c.

the said canals, shall, from the time of such alteration, be deemed lawful to all intents and purposes.

County to build and keep up bridges on new roads crossing canals.

Commissioner or engineer to furnish plan.

Penalty for constructing bridge, &c., without permission.

Power of engineer, &c., to draw off the water from canals.

SEC. 15. In all cases where a new road or public highway is laid out, by legal authority, in such direction as to cross the line of any canal or navigable feeder, authorized by the laws of this state, after the line of such canal or navigable feeder is permanently located and established, and in such manner as to require the erection of a new bridge over such canal or feeder, for the accommodation of said road, such bridge shall be constructed and forever maintained at the expense of the county in which such bridge is situated; provided, however, that no bridge shall be constructed across either of said canals or navigable feeders, without first obtaining for the model and location thereof, the consent, in writing, of one of the acting commissioners, or the principal engineer of the canal, to be intersected by said road; and if any person or persons shall undertake to construct or locate such bridge, without such consent, and shall proceed therein so far to place any materials for that purpose on either bank of the canal, or on the bottom thereof, he or they shall be subject to a penalty of fifty dollars for such undertaking; and either of said commissioners or engineer shall be authorized to remove all such materials, so soon as they are discovered, wholly without the banks of the canal.

SEC. 16. Any acting commissioner, engineer, or superintendent, duly appointed, shall have full power and authority, at any time, to cause the water to be drawn off, either wholly or partially, from any level or levels, of either of the canals, which may be under the charge of such acting commissioner, engineer or superintendent, and to cause the water to remain wholly or partially drawn off, during such time as he may deem necessary, for the purpose of repairing or preventing any breach or breaches, or removing any bar or other obstruction to navigation; or for the purpose of making, repairing, or improving any work or device, or part of any work or device, appertaining to, or connected with any such part of the canals: and for the purpose of so drawing off the water, or causing the same to remain drawn off, as aforesaid, to open or close any lock gate, culvert gate, paddle gate, feeder gate, or waste gate, or to cut or make an opening, gap, or aperture, in any bank, and to cause the said gates or apertures to remain open or shut as aforesaid, so long as the same shall, in the opinion of such person, be necessary for any of the aforesaid purposes; provided, however, that every engineer or superintendent shall, in the exercise of the authority hereby granted, be subject to the orders and instructions of the acting commissioner, or any engineer of superior grade, having charge of the part of the canal affected, or liable to be affected by the exercise of said authority.

SEC. 17. If any person, except a commissioner, engineer, or superintendent, shall, under any pretence, or for any purpose whatever, open any gate which shall have been shut, or shut any gate which shall have been opened, as specified in the preceding section, without the express direction of the acting commissioner, engineer or superintendent, who shall at that time have charge of that part of the canal, or shall in any way interfere in raising or drawing down the water on any level of either of the canals, contrary to the directions or orders of the acting commissioner, engineer, superintendent, or lock tender, having charge of any lock, or part of the canal liable to be affected by such interference, every person so offending shall, for every such offence, forfeit and pay the sum of twenty five dollars, and moreover be liable for all damages consequent upon any such opening or shutting of any gate or interference.

Penalty on individuals for drawing off water, &c., or opening or shutting gates without permission.

SEC. 18. No person or persons shall draw water from either of the canals of this state, for the use of mills or machinery of any kind, nor for any purpose whatever; nor shall any person or persons use any water power which shall have been created by the construction of any dam or feeder, made for the purpose of supplying with water either of said canals, or for the purpose of improving the navigation of any river or stream; nor shall any person use, for any hydraulic purpose, any water conducted round any lock on either of said canals, or in any manner obstruct or interfere with the water in its passage round any lock, unless such person or persons shall, in each case, have purchased, from the commissioners, the right to use such water or hydraulic power; and unless such person shall, moreover, comply with all the conditions which shall have been attached to the use of such water, in such purchase.

Individuals not to use water power without purchasing the right;

SEC. 10. Every person who shall offend against any of the provisions of the preceding section, shall, for every such offence, forfeit and pay the sum of one hundred dollars, to be recovered, for the use of the canal fund, by indictment, before any court of competent jurisdiction; and every continuance to use, draw, or interfere with the water, as specified in the preceding section, without having first purchased the right to do so, or without having complied with the conditions attached thereto, shall, for each day, be judged a new offence, and shall subject the person so offending to the same penalty herein before specified.

— Penalty for using it, and mode of recovery.

SEC. 20. Whenever, in the opinion of the board of public works, there shall be surplus water in either of the canals, or in the feeders, or at the dams erected for the purpose of supplying either of said canals with water, or for the purpose of improving the navigation of any river, and constructed at the expense of the state, over and above the quantity of water which may be required for the purpose of navigation, the said commissioners may order such surplus water, and any lands

What water power and land may be sold or leased by the board.

granted to or purchased by the state, for the purpose of using the same, or such part thereof as they may deem expedient, to be sold for hydraulic purposes, subject to such conditions and reservations as they may consider necessary and proper, either in perpetuity, or for a limited number of years, for a certain annual rent, or otherwise, as they may deem most beneficial for the interests of the state.

Same subject. SEC. 21. The provisions of the foregoing section shall extend to, and include, the water passing round locks, from one level to another, on either of the canals of this state.

Same subject. SEC. 22. No hydraulic power, nor right to the use of any water, shall be sold, leased, or conveyed, except such as shall accrue from the surplus water of the canal, feeders, or dams, or from the water passing round any lock, after supplying the full quantity necessary for the purposes of navigation.

Reservations to be made in the lease or sale of water power. SEC. 23. Every lease, grant, or conveyance of water power, shall contain a reservation and condition, that the state, or its authorized agents, may, at any time, resume the privilege or right to use the water, or any portion thereof, whenever it may be deemed necessary for the purposes of navigation, or whenever its use for hydraulic purposes shall be found in any manner to interfere with, and injuriously affect the navigation of either of the canals, feeders, or streams, from which the water shall be taken for such hydraulic purposes; and whenever such privilege shall be resumed, in whole or in part, the sum paid therefor, or the rent reserved, or such reasonable portion thereof as shall be determined upon, agreeably to the conditions and stipulations of the lease or deed of conveyance aforesaid, shall be refunded or remitted to the purchaser or lessee, his heirs or assigns.

Proceeds of such sales or rents, how appropriated. SEC. 24. All moneys received for the rent or sale of any hydraulic power, granted or conveyed under the provisions of this act, shall be paid into the state treasury, and constitute a part of the canal fund; and shall be subject to the same rules and regulations as are prescribed in the sixth section of the act to provide for the internal improvement of the state of Ohio, by navigable canals.

Proceedings against boatmen, &c., for taking from vicinity of canal, without right, timber, rails, &c., or for injuring property, &c., in vicinity of canal. SEC. 25. If any boatmen, or persons employed on board of any canal boat, or other craft, on any canal in this state, shall take without right, any timber, rails, boards, planks, staves, or other property, from the banks or vicinity of any canal, or shall wantonly injure or destroy any property thereon, or in the vicinity thereof, with the knowledge of the master, owner, boatman, navigator, or other person having charge of such boat or craft, the master, owner, boatman, navigator, or other person having charge of such boat or craft, shall forfeit to the owner, treble the value of the property taken, injured, or destroyed; and the possession of such property, if taken on board of the boat or craft, shall be presumptive evidence of such taking and knowledge; and when the property is de-

stroyed or injured, proof thereof shall be made as in other cases; and the person or boatman taking, injuring, or destroying such property, shall also forfeit and pay, for every such offence, any sum not less than one, nor more than fifty dollars, to be sued for and recovered in an action of debt, in the name of the state of Ohio, before any justice of the peace in this state, and the forfeiture, when collected, shall be, by such justice, paid into the treasury of the township in which suit is commenced, for the use of common schools in such township.

SEC. 26. The forfeiture to the owner of the property, prescribed in the preceding section of this act, against the master, owner, boatman, navigator, or other person having charge of such boat or craft, is declared to be recoverable, in an action of debt, instituted in the name of the owner of such property, before any justice of the peace of this state, against the owner, master, boatman, navigator, or other, person having charge of such boat or craft, when incurred, and shall be chargeable on such boat or craft, the furniture thereof, or the horses drawing the same; and any constable of this state is authorized to execute the process to him directed in such case, in any county of this state.

SEC. 27. When any suit shall be prosecuted for any penalty or forfeiture, the justice of the peace issuing the process, by a clause to be inserted therein, may direct the officer executing the same, to detain such boat or craft, and the furniture, and horses drawing the same, until the suit shall be determined, or until adequate security shall be given for the payment of any judgment that may be recovered, provided, that in all such cases, the person instituting suit, shall make oath or affirmation before such justice, to the facts upon which such suit is founded, which oath or affirmation shall be reduced to writing, signed and filed with such justice. (a)

SEC. 28. If such security shall be given by recognizances in writing, as shall be deemed sufficient in amount and solvency, by such justice of the peace, or if the defendant, on the trial, shall prevail, the justice shall order the boat or craft, furniture and horses, to be released; but if no such security be given, and a judgment shall be recovered for such penalty or forfeiture, and the same, together with all costs, shall not be immediately paid, an execution shall be issued, under which the property so retained, may be sold in like manner as if the judgment had been obtained against the owner thereof; provided, that the officers and witnesses shall be entitled to the same fees as are allowed in other cases; and the case shall be tried or continued, as is provided in case of a *capias*; and, provided, also, that when the condition of any bond or recognizance, which may be entered into, under the provisions of this act, shall be broken, the same shall be proceeded on as is now provided by law in other cases.

(a) See, also, 132d section of this act,

Canal boats to have guard plate under keel.

SEC. 29. Every boat navigating upon either of the canals of this state, shall, by means of a guard or plate of iron, firmly attached to the keel, and extending back under the rudder, or by means of some other permanent device, cover and secure the opening between the keel or stern post and the rudder, so as effectually to prevent the towing line of any other boat from entering said opening.

Penalty, under preceding section, and for permitting spikes, nails, &c., to project from side or bottom of boats.

SEC. 30. It shall be unlawful for any boat, having any bolt, spike, nail, hook, or other instrument, or any end of any wale, plank, timber, board or pin, projecting from the bottom or side thereof, in such manner as to be liable to injure any other boat, or the towing line thereof, or any work or device appertaining to the canal, to navigate on either of the canals of this state; and every master, owner, or part owner, of any boat violating either of the provisions of this or the preceding section, shall, for every such offence, forfeit and pay the sum of ten dollars; and, moreover, be liable for all damages occasioned by such violation.

Penalty for permitting boats to run against lock.

SEC. 31. In no case shall the stern or bow of any boat or float, approaching, or being about to enter, or having entered any lock, be permitted to run against, or strike the head walls of either of the gates of such lock, wilfully or negligently, and for every violation of either of the provisions of this section, the master of such boat or float shall forfeit and pay the sum of one dollar, and, moreover, be liable for all damages occasioned by such violation.

Disputes in relation to places of mooring, unloading, &c., how settled.

SEC. 32. Whenever any dispute shall arise concerning berths, places of mooring, or of lading or unlading, of any two or more boats or floats, at any public landing place or basin, or at any other place on either of the canals, except at a wharf or lading place which is private property, it shall be the duty of the collector, and if there be no collector present, of any superintendent, to assign berths or places to all such boats or floats; and the master of every such boat or float, failing to comply immediately with such assignment of the collector or superintendent, shall forfeit and pay the sum of five dollars, and, moreover, be liable for all damages sustained by any individual in consequence of such failure.

Provisions of eighth section of certain act extended to all public works.

SEC. 33. The provisions of the eighth section of the act entitled an "act to provide for the internal improvement of the state of Ohio, by navigable canals," passed February fourth, one thousand eight hundred and twenty five, (a) be and they are hereby extended to all the public works of the state, which have been, or may hereafter be, placed under the charge of the board, not only in, and during, the construction of said works, but, also, in making all necessary repairs.

Penalty—for not having bow of boats as sharp as a semi circle;

SEC. 34. No boat or vessel of any kind, except such as shall have a firm and permanent bow, which shall be at least as sharp or acute as a semi circle, shall be permitted to navi-

(a) See 8th section of the act referred to, at the end of this act.

gate or float on either of the canals of this state, under a penalty of ten dollars, for the payment of which, such boat or vessel, and, also, the owner thereof, shall severally be liable; and every time such boat or vessel shall be moved on either of said canals, the distance of one mile or upwards, shall be considered a distinct offence.

SEC. 35. No raft or float, composed in whole or in part of round or unhewn timber, shall be permitted to float, or be navigated on either of the canals of this state; nor shall any fire wood, or other split or sawed wood or lumber, be transported on either of said canals, otherwise than on board of such boat as may lawfully navigate the same, under the penalty of ten dollars for every offence, in either of the cases herein specified; for the payment of which penalties, such raft or float, and, also, the owners thereof, shall be severally liable.

—for floating rafts of round timber or fire wood, &c.;

(Amended; see page 33.)

SEC. 36. If any person, in navigating or managing, or assisting in the navigation or management of any boat or other float, on either of the canals of this state, shall, through design or negligence, in the navigation or management thereof, injure any lock, lock gate, waste gate, guard gate, bridge, aqueduct, or other work or device, appertaining to either of said canals, such person shall, for every such offence, forfeit and pay the sum of twenty five dollars, as a penalty for such offence; and every master, owner, or part owner, of such boat or float, and, also, the boat or float itself, shall severally be liable for the payment of such penalties, and moreover be liable for the payment of all damages occasioned by such mismanagement or negligence.

—for injuring locks or other works;

SEC. 37. No float shall move, on either of the canals, faster than at the rate of three miles an hour, where such canal, or the part thereof on which such float shall move, shall have been at such time navigated less than one year; and in no case shall any float move, on either of the canals, faster than at the rate of four miles an hour, under the penalty, in either case, of ten dollars for every violation of this section; for the payment of which, the master, manager, owner, or part owner, of such float, and, also, the float itself, shall severally be liable.

—for running boats too fast.

SEC. 38. Whenever a boat or float shall overtake any other boat or float, on either of the canals, it shall be the duty of the master or manager of the latter to turn from the towing path, and give to the former every practicable facility for passing, and to stop, whenever it shall become necessary, until the boat or float first mentioned shall have fully passed.

Rule—when a boat overtakes another;

SEC. 39. When any float, in passing on either of the canals, shall meet any other float passing in an opposite direction, it shall be the duty of the master of each to turn to the right hand, so as to be wholly on the right side of the centre of the canal; and the horses, or other moving power of the boat, which, in turning to the right as aforesaid, shall turn from the towing path, shall be stopped, so as to allow the moving power of the other, and the float itself, to pass freely over the towing rope of the float so turned from the towing path.

—when boats pass each other;

- Same subject SEC. 40. Whenever two or more floats, moving in opposite directions, on either of the canals, shall, at any time, approach any place where, from the contracted breadth of such canal, or other cause, they cannot safely pass each other, it shall be the duty of the master of every such float, going from Lake Erie on the Ohio canal, or from the Ohio river, on the Miami canal, or from Columbus, on the Columbus feeder, to stop at such distance from such place as will permit the float or floats moving in the opposite direction conveniently to pass by, and there to await until such passage is effected.
- Which boat first entitled to lock. SEC. 41. Any float moving on either of the canals, which shall have arrived within one hundred yards of any lock in which the water is on the same level with such float, shall be permitted to pass such lock before any float not on the same level.
- Same subject. SEC. 42. If, on the arrival of any two or more floats at or near 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, or any other agent of the state, having charge of such lock, if any such lock keeper or agent be present, and each float shall be passed in the order and manner in which such lock keeper or other agent of the state shall direct. (a)
- Setting poles, &c., not to be pointed with iron. SEC. 43. No setting pole, shaft or hook, pointed with iron, steel, or other metal, shall be used in the navigation or management of any boat or float on either of the canals of this state, and such pole, shaft or hook, being found on board any boat or float, navigating said canals, shall be considered sufficient evidence of its use.
- As to position of lock gates when boat enters. SEC. 44. No person shall attempt to pass any float into any lock, or out of any lock, until the main gates at the head or foot of said lock, as the case may be, between which gates such float shall be about to pass, shall first be entirely opened into their respective recesses, nor until all paddle and culvert gates of such lock shall be closed.
- When and how gates of lock to be closed. SEC. 45. Neither of the main gates, at the head or foot, of any lock shall be closed, nor allowed to close of their own accord, while either of the paddle or culvert gates at the opposite end of such lock shall remain open.
- Position of lock gates when boat passes out. SEC. 46. When any float shall pass out of any lock, the main gates of such lock, through or between which such float shall have passed out, shall be left entirely open, and completely within their respective recesses; and all the paddle and culvert gates of such locks shall be left closed; provided however, that when the acting commissioner or superintendent, having charge of that part of the canal in which such lock is situated, shall direct any paddle, culvert, or other gate, to be left open for the purpose of passing water through the same, such direction shall be complied with and obeyed by all the lock

(a) See, also, 50th section of this act.

keepers, masters of floats, boatmen, and all other persons concerned in navigating such canal.

SEC. 47. No boat or other float shall be permitted to pass into any lock, nor to strike against any part thereof, with such force as to injure, or be liable to injure, any part of such lock, or any gate or other work or device appertaining thereto, or designed to protect the same.

Boats shall not be permitted to injure locks, or their appendages.

SEC. 48. No lock gate, culvert gate, or paddle gate, shall be closed, nor permitted to close itself, with such violence as to injure, or be liable to injure, the same.

Gates, &c., not to be closed with violence, &c.

SEC. 49. Every master of any float who shall violate either of the provisions of the eleven sections next preceding this section, or who shall permit any boatman, or other person assisting in the navigation or management of such float, to violate either of the said sections, or any provision thereof, shall, for every such violation, forfeit and pay the sum of ten dollars; and every owner or part owner, of any such float, and, also, such float, shall severally be liable for the payment of all penalties so as aforesaid incurred, and shall, moreover, be liable for the payment of all damages which may be occasioned by such violation; and every lock keeper, who shall violate either of the provisions of the five preceding sections, shall forfeit the sum of ten dollars for every such violation.

Penalty for violating any of the eleven preceding sections;

—Who liable therefor.

Penalty against lock keeper under five preceding sections;

SEC. 50. When two or more boats or floats, other than packet boats, are passing in the same direction, on either of the canals of this state, that boat or float which shall first arrive at any lock, shall have the right first to pass said lock; and any master of a boat, or other person, who shall prevent, or attempt to prevent such forward boat from first passing said lock, shall, for every such offence, forfeit and pay the sum of twenty dollars.

When boats passing in same direction which entitled to the lock first. Penalty for interference.

SEC. 51. Every person who shall wilfully, or, through gross negligence, obstruct the navigation of either of the canals of this state, by the improper mooring, management or conduct of any boat or floating thing, shall, for every such offence, forfeit the sum of ten dollars.

Penalty—for obstructing canal by improper mooring, &c., of boat, &c.;

SEC. 52. Every person who shall wilfully, or, through gross negligence, obstruct the navigation of either of the canals of this state, by sinking any vessel, timber, stone, earth or other thing, in any part thereof, or by placing any obstruction on the towing path thereof, or on the bank opposite the towing path, shall forfeit the sum of twenty dollars.

—or by sinking things in canal —or obstructing towing path, &c.

SEC. 53. Every person who shall incur a penalty under either of the three next preceding sections, by committing any offence therein specified, shall, moreover, be liable to the state, and to every person injured thereby, for the payment of all damages which shall occur in consequence of such offence.

Further remedy, &c., under three preceding sections.

SEC. 54. It shall be the duty of every engineer, collector, superintendent or agent, employed on either of the canals, to seize all boats, rafts, logs, and every floating or sunken thing, which may be found in either of said canals, and all articles

When and how collector, &c., may sell articles, floating or sunken in canal, or

- which are on towing path. found on the towing path thereof, not under the charge of any person, and to sell the same at public vendue, after giving ten days previous notice thereof, in writing, posted up in two public places near the place where such boat or other articles or things may be found.
- How owner may stop such sale. SEC. 55. If the owner of any article so seized shall appear and claim the same before the time of sale, and pay the cost of seizure and expense of removal, such sale shall not take place.
- How proceeds of such sale to be accounted for. SEC. 56. If the officer making such sale shall not be a collector, the avails of such sale shall be accounted for by him, within thirty days, to the nearest collector, who shall account for the same as for tolls collected; and if the sale be made by a collector, he shall account for the avails thereof in the same manner.
- When proceeds may be paid to owner. SEC. 57. After any such sale shall have been made, and the proceeds thereof shall be in the hands of the collector or officer making such sale, such collector or other officer may, on the application of the owner, and due proof of ownership, pay over such proceeds to such owner, after deducting all penalties, forfeiture, costs, and reasonable expenses, chargeable thereon.
- Board to appoint collectors. SEC. 58. The board of public works, until otherwise provided by law, shall appoint so many collectors of canal tolls on each of the canals of this state, as they shall deem necessary for the punctual collection of tolls on such canals; shall require each collector to give bond, with sufficient security, for the faithful performance of his duties, in such sum as the board shall prescribe, and shall designate the place where the office of such collector shall be kept; and shall determine what reasonable salary or other allowance shall be received by each collector for his services.
- their bond;
- salary;
- their term of office; SEC. 59. Collectors of canal tolls shall be appointed for such term as the board of public works shall deem expedient, not exceeding three years; but any collector shall be subject to be removed at any time during the period for which he shall have been appointed, for malfeasance in office, or for neglect of duty, whenever the president of the board, together with the acting commissioner, having charge of that part of the canal on which the office of such collector is situated, shall believe the public interest requires such removal, or when the provisions of the law shall require the same.
- may be removed.
- How and by whom vacancy in office of collector to be filled, and for what period. SEC. 60. In case of the removal of any collector, as provided in the preceding section, the president of the board and acting commissioner, by whom such removal shall have been made, may appoint some other suitable person to such vacant office, who shall hold such appointment until the end of the next meeting of the board, unless removed as hereinbefore provided.
- When a clerk may do the duties of collector. SEC. 61. Any clerk, duly authorized by a collector, may, in the absence of the collector, perform all the duties, and exercise all the powers legally appertaining to such collector, and the collector shall be responsible for the acts of such clerk.

SEC. 62. Collectors may be authorized to refund tolls or penalties erroneously paid to them, or which equitably ought to be refunded, under such regulations as shall be prescribed by the board of public works; which regulations shall not be inconsistent with the constitution and laws of this state.

When collector may refund tolls.

SEC. 63. The owner or owners of every boat navigating either of 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 name or names of such owners, and their respective places of abode, and also the name of the boat, and place where it is owned; if the owners reside out of this state, the certificate of registry shall be signed and delivered by the master of the boat as the owner thereof.

Certificates of registry for each boat required; how made out, signed, &c.;

—how signed &c., if owner resides out of the state.

SEC. 64. If the master of the 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.

Same subject.

SEC. 65. Every collector receiving a certificate of registry, shall sign and deliver to the person of whom he shall receive the same as aforesaid, a written receipt therefor, and shall, without delay, record the same in a book to be provided and kept by him for that purpose; which book of registry shall be open to inspection during the usual office hours; and the name of no registered boat shall be changed without the written order of the collector in whose office the same is registered.

Collector to receipt for and record the certificate.

Record to be open for inspection.

Name of boat not to be changed unless, &c.

SEC. 66. Each collector shall, within one month from the time any boat shall have been registered, or change made in the registry in his office, transmit to each of the other collectors on the same canal, a certified copy of the register of boats in his office, and of the several changes made therein; which copy shall be immediately recorded by the collector receiving it, in the same manner as is prescribed in the preceding section for original certificates of registry.

When collector to transmit copy of registry to other collectors, who shall record it.

SEC. 67. If any person residing within this state, claiming to be owner of a registered boat, by transfer from its former owners, shall produce to the collector, in whose office the same shall have been originally registered, due proof of such transfer, and shall deliver him a new certificate of registry, signed by themselves, it shall be the duty of such collector to change the register of such boat so as to correspond with such new certificate.

When boat transferred, how registry changed.

SEC. 68. 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.

Boat to be registered before clearance is granted.

- The persons named in the certificates to be considered owners of boats. SEC. 69. The persons specified in the certificate of registry of any boat, as the owners thereof, shall be deemed in law the true owners thereof, for all the purposes of enforcing the collection of tolls, and the execution of the laws, rules, and regulations for the navigation or maintenance of the canals.
- Penalty for changing name of boat without permission, or reporting it by different name. SEC. 70. Every owner of a boat who shall change its name or the name of the place at which it is owned, from that stated in the certificate of registry then in force, without the written order of the collector in whose office the same shall have been originally registered, (which written order the collector is required to grant, on the application of any owner for that purpose,) and every master who shall enter or report such boat at any collector's office, by a different name from that so stated, shall, for every such offence, forfeit the sum of twenty dollars.
- When name is changed, new certificate necessary. SEC. 71. No boat, the name of which shall have been changed in the manner prescribed in the preceding section, shall receive a clearance, or be permitted to pass on any of the canals of this state, till a new certificate of registry shall be presented to the collector, who shall have granted the order to change the name of said boat, which certificate shall contain the former as well as the present name of said boat, and shall be signed in like manner, as is prescribed in the sixtieth, [sixty third] and sixty first [sixty fourth] sections of this act.
- What such new certificate to contain. SEC. 72. No boat shall receive a clearance, or be permitted to pass on either of the canals, unless such boat shall have the name thereof, and the name 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.
- How and where name of boat, &c., shall be painted on it. SEC. 73. No boat or float shall be permitted to pass on either of the canals, unless the master thereof shall first have obtained a clearance therefor, for each voyage of such boat or float, from the proper collector of tolls on such canals, except in the cases hereinafter particularly specified.
- Clearance for boats necessary. SEC. 74. Clearances for every voyage shall be required of, and issued by the collector, whose office shall be kept nearest to the place at which the voyage shall be commenced, provided that there be any collector's office within one mile of such place.
- Who shall issue clearances. SEC. 75. If there be no collector's office within one mile of the place from whence the voyage is commenced, the clearance for such voyage shall be required of the collector at whose office the boat shall first arrive in the course of the voyage; and such boat shall be permitted to proceed from the place where the voyage was commenced, to such collector's office, and no further, without a clearance.
- How far boats may proceed without clearance. SEC. 76. The full amount of tolls, chargeable on any boat, and on each and every article of property which shall be on board thereof, or constitute any float, at the time such boat or float shall depart from the port or place in which there is a collector from whom a clearance is required, or that shall be taken
- To whom tolls are to be paid before clearance issued.

on board within one mile of such port or place, shall be paid to such collector before he shall issue a clearance for such boat or float.

SEC. 77. Every master of a boat or float, conveying property on either of the canals, shall exhibit to the several collectors hereinafter mentioned, a just and true account, or bill of lading of such property, signed by the consignor thereof, and containing, first, the name of each place on the canal where any portion of such property was shipped, and the place for which it is intended to be cleared, specifying the portion shipped at each of such places, and the portion intended to be cleared to each place; second, a statement of the weight of all articles of such property on which toll is to be charged by weight, of the number of articles on which toll is to be charged by number, and of the feet of each article on which toll is to be charged by the foot; third, a specification of the weight or quantity of each article or articles on which one rate of toll is to be charged, and which is to be transported to one place, separately from other articles on which a different rate of toll is charged, or which is to be transported to a different place.

Bills of lading,
how made out.

SEC. 78. Every such account or bill of lading shall be exhibited, first, to every collector of whom a clearance shall be required; second, to every collector whose office shall be next in order in the course of the voyage to the place where the clearance shall have been granted; third, to every collector at a place where any portion of the cargo shall be unladen, or any additional cargo received; and if there be no collector at such place, to the collector whose office shall be next in order in the course of the voyage; fourth, to every other collector who shall demand such account or bill of lading to be exhibited.

To whom bills
of lading shall be
exhibited.

SEC. 79. If any property shall be received on board of any boat or other float, for the purpose of being transported on either of the canals, during any voyage, after such boat or float shall have proceeded one mile from the place at which a clearance for the voyage was granted, an account or bill of lading thereof, conforming to all the requisitions hereinbefore stated, shall be exhibited to the collector whose office shall be next in order in the course of the voyage to the place where such property was received on board, to whom the full amount of tolls chargeable on such property shall be paid; and such boat or float shall not be permitted to proceed on such voyage beyond the office at which the tolls on such property, so received on board, are payable, until the full amount of such tolls are paid.

Property taken
on board during
the voyage to be
reported to the
first collector and
tolls paid.

SEC. 80. When any cargo shall be taken on board of any boat or float, after such boat or float shall have left the place where a clearance was granted, as specified in the preceding section, the account or bill of lading of such property shall be exhibited to the collector whose office shall be next in order in the course of the voyage to the office at which the tolls on such additional cargo are required to be paid, and to every other collector who shall demand it to be exhibited.

—and bills of la-
ding thereof ex-
hibited to first
collector, &c.

- Transportation between collector's offices to be reported and p'd. within ten days. SEC. 81. If there be no collector's office within one mile of the place where a voyage on the canal shall be commenced, nor within one mile of the place where the same shall terminate, nor at any intermediate place, the master of the boat or other float shall, within ten days after the termination of such voyage, exhibit a true account thereof, or bill of the lading transported on board of such boat or float, at any time during such voyage, to the collector whose office shall be nearest to the place where such voyage terminated, and shall pay to such collector the tolls due on such boat or float and lading; and every master who shall neglect to exhibit such account and bill, and to pay such tolls, within the period above limited, shall, for every such offence, forfeit the sum of twenty five dollars.
- penalty for not so doing. SEC. 82. Every master of a boat or other float, navigating either of the canals, who shall omit to exhibit or deliver a true bill of lading to any collector, or to pay the tolls thereon when required, or shall deliver any article mentioned in a bill of lading at a place beyond that to which such article shall have been cleared, shall forfeit the sum of twenty five dollars.
- Penalty for non-delivery of true bills of lading, or not paying tolls; SEC. 83. 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 established rates of toll chargeable thereon, to any collector who shall be satisfied of such omission, for the whole distance such property is conveyed on the canal.
- and for signing or delivering false bills. SEC. 84. Every person who shall knowingly sign or deliver a false bill of lading, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, before any court of competent jurisdiction, shall be fined not less than three times the value of the property omitted or falsely stated in such bill.
- Same subject. SEC. 85. 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, when to be verified by oath. SEC. 86. The collectors of tolls on the canals shall be and they are hereby authorized to administer oaths in all cases wherein oaths may be required to be administered, in performing the duties required of them in their offices.
- Collectors authorized to administer oaths. SEC. 87. If, on unloading any boat or float, it shall be discovered that the cargo, in consequence of an unintentional error, exceeds the quantity stated in the bill or bills of lading, it shall be the duty of the master of such boat or float, immediately to report such overplus, and pay the lawful tolls thereon, to the collector at the place where such error may be discovered, if there be any collector at such place; and if there be no collector at such place, to the next collector, at or near whose office the boat shall arrive, after the discovery of such error is made; and any master of a boat or float, who shall fail to comply with the requisition of this section, shall forfeit and pay the sum of ten dollars, besides double tolls on all property omitted in the bill or bills of lading.
- Duty of master to report errors in bills of lading, &c. SEC. 88. 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.
- Penalty for not so doing.
- Property to be cleared no farther than boat.

SEC. 89. No boat or other float shall proceed beyond the place to which it shall be cleared, nor shall any article of its cargo be unladen after its arrival at the place for which such article is cleared, nor proceed beyond such place until the master thereof shall have delivered the clearance of such boat or float to the collector at the place for which it is cleared, if there be any collector at such place.

No boat to proceed beyond place cleared to, &c., unless, &c.

SEC. 90. If there be no collector at such place, the master shall deliver the clearance to the last collector whose office shall be passed by the boat, in the order of the voyage, and shall receive a permit from such collector to proceed to the place to which the boat or float is cleared.

Same subject.

SEC. 91. 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.

Penalty for not delivering clearance.

SEC. 92. 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 indorsements of other collectors, for which he shall be entitled to demand and receive from the persons applying for the same, if such certified copy does not contain over one hundred words, ten cents; and if such copy contains over one hundred words, he shall be entitled to receive pay therefor, at the rate of ten cents for every one hundred words.

Collector to give a certified copy of clearance, &c. when required;

—fees therefor.

SEC. 93. Such certified copy of any clearance shall have the same validity and effect as the clearance of which it is a copy.

Validity of such certified copies.

SEC. 94. Whenever a difference shall arise between a collector and the master of any boat or float, as to the amount of tolls chargeable on the lading of such boat or float, the collector shall detain the boat or float, and the articles on which toll is to be charged, and shall weigh, count or measure the articles, as the case may require; and if it shall be ascertained that the weight, number or feet, exceeds the amount stated in the bill of lading thereof, the collector shall charge tolls according to the weight, number or feet thus found; and the master shall pay to the collector the expense of such weighing, counting or measuring; and such expense shall be chargeable on such articles, and on the boat or float containing them.

When collector may detain boat, and weigh cargo.

Who to pay expenses thereof.

SEC. 95. The master of every boat or float, shall be liable for the payment of tolls and expenses, chargeable on such boat or float and its cargo; and it shall be the duty of every collector to detain all articles on which tolls or expenses are chargeable, and the boat or float containing them, until such tolls and expenses shall be paid.

Boat and cargo may be detained until tolls or expenses are paid.

SEC. 96. If such payment be refused, the collectors shall, in the name, and on behalf of the state of Ohio, distrain so much of the property detained as shall be sufficient to satisfy the charges thereon; and, at the expiration of ten days, if such charges shall remain unpaid, he shall expose to sale at public auction, the property distrained at his usual place of receiving

How collector may sell property to pay tolls, &c.

tolls, and sell the same to the highest bidder, between the hours of ten o'clock, A. M., and four o'clock, P. M., having first given two days notice of such sale, and a description of the property to be sold, by advertisement, posted up in three of the most public places in the township in which such collector's office is situated.

Surplus avails of sale may be paid to master.

SEC. 97. Any surplus avails of such sale, after the payment of the sum chargeable thereon, including costs of distress and sale, shall be paid, on demand, to the master of the boat or float, or to the owner of the property distrained.

Manner of making out list of canal passengers

SEC. 98. Every master of a boat or float, shall make out, for every voyage, a correct list of all passengers, over twelve years of age, that they may have transported on board of said boat or float for the distance of one mile or upwards; which list shall, in all cases, exhibit, distinctly and legibly, written with ink, in separate columns, to be provided for that purpose, first, the name of each passenger on board of the boat at the time of the arrival thereof, at any place where there is a collector's office, or who shall have been transported on board thereof during the voyage; second, the name of the place, or the distance from some place of notoriety on the canal where such passenger came on board; third, the place to which such person may have taken passage; fourth, the place where such passage actually ended, if at a place different from that to which passage was taken; which list shall, in all cases, be attached to the clearance of the boat, and, with the clearance, to be delivered to the collector to whom the clearance is required to be delivered, whose duty it shall be to examine said list, and see that all the passengers are correctly entered on the same.

List and clearances to be delivered to collector. &c.

Master to make oath to correctness of list of passengers, &c., and pay tolls.

SEC. 99. It shall be the duty of every collector, to whom any list of passengers is required to be delivered, at or near the termination of any voyage on the canal, to administer an oath or affirmation to the master of the boat as to the correctness of any such list, which oath or affirmation shall, also, be attached to said list, and be subscribed by the master of the boat, who shall, immediately, pay to such collector the amount of tolls due on said passengers.

Penalty for refusing to make such oath, &c., or to pay tolls.

SEC. 100. If any master of a boat or float shall refuse to make the oath or affirmation, and to subscribe the same, as is required in the preceding section or shall refuse or neglect to pay the tolls that may be due on passengers transported on board said boat, he shall, for every such refusal or neglect, forfeit and pay the sum of twenty dollars, over and above the tolls that may be due.

Penalty for refusing to make list of passengers.

SEC. 101. If any master of a boat shall wholly neglect or refuse to make out and present a list of passengers, when any passenger or passengers shall have been transported on board such boat, as is required by the ninety sixth [ninety eighth] section of this act, he shall forfeit and pay the sum of twenty five dollars, together with double tolls on all passengers transported during the voyage.

SEC. 102. For presenting an incorrect list of passengers, not conformable to the requirement of the ninety sixth [ninety eighth] section of this act, the master presenting the same, shall, for every omission, forfeit and pay the sum of five dollars, together with double tolls on the number of miles omitted in said list, provided that, for each passenger whose name shall be omitted on said list, the master shall forfeit and pay the sum of ten dollars.

Penalty for presenting an incorrect list of passengers.

SEC. 103. Every person, over twelve years of age, who shall go on board of any boat for the purpose of being transported, shall be considered a passenger, whether any price may be demanded for the transportation of such person or not, and whether he may pay for his passage in money, in labor, or otherwise.

Who are considered passengers.

SEC. 104. All tolls chargeable on any boat or float, for any voyage about to be made on either of the canals of this State, shall be paid to the collector, (who is required to issue a clearance for such voyage,) before such clearance shall be issued; and no collector shall be required to issue a new clearance for any boat till all arrearages of tolls, chargeable on such boat, shall be paid.

Tolls to be paid before clearance issued. No new clearance to be granted till all previous tolls are paid.

SEC. 105. Any collector, from whom is required a clearance, agreeably to the seventy second [seventy fourth] and seventy third [seventy fifth] sections of this act, may issue a permit, instead of a clearance, provided the voyage, for which such permit shall be issued, shall not extend to, nor within, a mile of any place on the canal where there is a collector's office.

When permits, instead of clearance, may be issued.

SEC. 106. In all cases where a boat or float shall commence a voyage, at any place more than one mile distant from any collector's office, and which voyage shall terminate at any place at which, or within a mile of which, there is a collector's office, all tolls chargeable on such boat, float, and cargo on board thereof, shall be paid to the collector at or near whose office such voyage terminates; and a permit shall be obtained from such collector for unloading, before any part of the cargo of such boat or float, or any article composing any such float, shall be unladen, landed, or removed from the canal; and for every violation of any of the provisions of this section, the master of such boat or float shall forfeit and pay the sum of ten dollars, and, also, double tolls on every article so unlawfully landed, removed, or unladen; for the payment of which penalties and tolls, such articles, and, also, every owner or part owner of any such boat, float, or article, shall be liable.

Manner of proceeding where voyage is commenced more than a mile from a collector's office.

SEC. 107. It shall be the duty of every collector, to whom bills of lading are required to be presented, in order to obtain a clearance for any voyage, agreeably to the seventy fifth [seventy seventh] and seventy sixth [seventy eighth] sections of this act, to make out, from such bill or bills of lading, in a book, to be provided by him for that purpose, a certificate, containing a pertinent description of the articles composing

Collectors who receive bills of lading to make out certificate, &c.;

the cargo of the boat or float, or composing such float, for which clearance is about to be issued, properly classified and designated, with reference to the rates and amount of tolls chargeable thereon; which certificate shall be signed by the master of such boat or float, who shall also attest, on oath or affirmation, to the correctness thereof, if required by the collector, before the clearance for such boat or float shall be issued.

—Which shall be signed by master, &c.

Who to make certificates of additional cargo.

SEC. 108. In case any property, not contained in the certificate prescribed in the preceding section, shall be received on board of any boat after said boat shall have proceeded one mile from any collector's office, the collector, whose office shall be next in order in the course of the voyage to the place where such property was received on board, shall make out a certificate of all such property, in a book to be provided by him for that purpose, conformably to the requisitions of the preceding section, which shall be signed, and, if the collector shall require, be attested by the master of such boat or float, on oath or affirmation.

Penalty under two preceding sections, and for signing false certificate.

SEC. 109. Every master of any boat or float, who shall, in any respect, refuse to comply with the requirements of the two preceding sections, or who shall sign a false certificate, shall, for every such refusal or offence, forfeit the sum of twenty five dollars.

Articles in certificate to be entered on clearance, and how.

SEC. 110. In every case where a certificate is required to be made out and signed, agreeably to the provisions of the one hundred and fifth [one hundred and seventh,] and one hundred and sixth [one hundred and eighth,] sections of this act, the collector shall enter upon the clearance a correct list or statement of all articles of lading contained in such certificate, properly classified and designated, with the amount of tolls charged and received thereon, and shall sign his name thereto.

When clearance shall be presented to collector.

SEC. 111. On the arrival of any boat or float at the place of destination, or at any place, in the course of the voyage, where there is a collector's office, if in the day time, the master thereof shall immediately present to the collector the bill or bills of lading, as required by the seventy sixth, [seventy eighth,] seventy seventh, [seventy ninth,] and seventy eighth [eightieth,] sections of this act, (a) [together with the clearance and list of passengers, and if such boat or float shall arrive in the night time, the same shall be presented between the time of arrival and one hour after sunrise.]

Bills of lading, cargo, and clearance to be examined and compared, and tolls paid, before boat shall proceed on its voyage.

SEC. 112. No boat or float shall proceed on its voyage until the bill or bills of articles of lading on board thereof, or composing such float, together with the clearance and list of passengers, shall have been presented to the collector, as provided in the preceding section; nor until all necessary examinations and comparisons of such bills of lading, clearance, and cargo shall have been made; nor until all tolls, chargeable on such boat, float, or cargo, payable at such office, shall have been paid,

(a) The part in brackets was enacted, but not enrolled.

and the necessary certificate of an additional cargo, if any, shall have been signed, and, if required by the collector, attested on oath or affirmation; and the collector may detain both the bills of lading and clearance, until the necessary entries shall be made on such clearance, and until all the requisitions of this section shall be complied with.

SEC. 113. In case any boat or float shall depart from any place where there is a collector's office, without a clearance or permit, or shall pass by any place where there is a collector's office, without first having complied with each and every provision of the preceding section, the master thereof shall, in each case, forfeit and pay the sum of ten dollars, together with double tolls on all articles on which tolls were payable at such office.

Penalty for passing by, or leaving collector's office, without clearance or permit.

SEC. 114. No part of the cargo of any boat or float, nor any article composing such float, or any part thereof, shall be unladen, landed, or removed from the canal, at the termination of any voyage on such canal, nor at any place on the canal, within one mile of a collector's office, until the clearance, together with the bill or bills of lading, of the whole cargo of such boat or float shall have been presented to the proper collector, and a permit obtained from such collector for such unloading, landing, or removal; which permit such collector is hereby required to grant, after a reasonable time shall have elapsed for the examination of such clearance, bills of lading, and cargo, and on the payment of all tolls which shall remain due; and for every violation of the provisions of this section the master of such boat or float shall forfeit and pay the sum of ten dollars, and, also, double the amount of tolls chargeable on the article or articles so unlawfully landed, removed, or unladen; provided, that in all cases where any boat shall be in a leaky condition, or, from any other cause, goods or property on board any such boat shall be in danger of damage or perishing by delay, and the proper collector cannot be found, such goods or property may be landed or secured until such collector may be found, and a permit obtained for the further removal of the same.

Penalty for unloading, &c., without permit.

SEC. 115. In any case where any boat or float shall navigate, or attempt to navigate, on either of the canals of this state, without being legally authorized so to do, it shall be the duty of every lock tender, superintendent, or other authorized agent of the state, on being notified thereof, to stop and detain such boat or float until the same shall be legally authorized to proceed.

Boats, &c., navigating canal without authority to be stopped.

SEC. 116. For the purpose of ascertaining whether any boat or float, which shall be found navigating on a canal of this state, is authorized so to do, it shall be the duty of the master thereof to exhibit to the lock tender, at the first lock at which such boat or float shall arrive, after having departed from, or passed by, any place at which there is a collector's office, the clearance of such boat or float; and if there be no lock tender

Clearance to be exhibited to lock tender or superintendent when demanded, or boat stopped.

at such lock, then the same shall be exhibited to the first lock tender or superintendent who shall be passed in the order of the voyage from such collector's office, and who shall demand to see such clearance; and if the clearance shall not be so exhibited, such lock tender or superintendent shall stop such boat or float from proceeding further on the canal, until the same shall be legally authorized so to do.

Penalty under two preceding sections-

SEC. 117. The master of any boat or float, who shall pass, or attempt to pass, in contravention of the provisions of the two preceding sections, shall forfeit and pay the sum of twenty five dollars, and, also, be liable for all damages that may accrue in consequence of such violation.

Property belonging to the United States to pass free of tolls.

SEC. 118. All boats, floats, or other property of the United States shall be permitted to navigate, or be transported on either of the canals of this state, free from the payment of tolls, provided satisfactory proof be made to the proper collector that the same is, bona fide, the property of the United States; but all such boats, floats, or other property, shall be reported cleared, and, in all other respects, be subject to all and singular the rules, regulations, provisions, forfeitures and liabilities prescribed by the laws of this state, or the orders of the board of public works in accordance therewith.

How to ascertain that property belongs to the United States.

SEC. 119. Any collector may examine, on oath or affirmation, the master of any boat or float for which exemption from the payment of tolls is claimed, under the provisions of the preceding section, and the master of any boat or float, on board of which is transported any property for which such exemption is claimed, as to the ownership of such boat, float, or other property, and if he shall refuse to answer such proper questions as may be propounded by such collector, in relation to such ownership, or if, from his answers, the collector shall not be satisfied that the boat, float, or property in question, is the property of the United States, tolls shall be charged and paid thereon, as in other cases.

Liability of owners, part owners, &c., to penalties, tolls, &c., incurred by master, &c.

SEC. 120. Every owner and part owner of any boat or float, and also such boat or float, shall be severally liable for the payment of all penalties and forfeitures incurred by the master thereof, or by any boatman, or other person assisting in the navigation or management of such boat or float, and also for the payment of all tolls chargeable thereon, or chargeable on any property or passengers transported on board thereof. (a)

Meaning of the term "float;"

SEC. 121. The term "float," as used in this act, shall be construed to embrace every boat, vessel, raft, or floating thing, navigated or moved on either of the canals, under the direction of any person or persons having 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.

—"Master."

(a) See, also, 131st section of this act.

SEC. 122. 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 auditor of state, and shall deposit the original books of accounts, together with such clearances and other papers, as he shall require, in the auditor's office, on or before the tenth day of December, in each year.

When collector to deposit in auditor's office accounts, clearances and books.

SEC. 123. Each collector shall make abstracts from such books, showing the amount of tolls received by him each day, and transmit the same, by mail, to the auditor, once in each month, and as often as the auditor shall require, if he shall think proper to require such abstracts more frequently than once in each month.

Daily abstracts to be kept by collectors, and when to be transmitted to auditor

(Amended; see page 35.)

SEC. 124. Each collector shall deposit, within six days after the close of each month, to the credit of the treasurer of state, in such bank as may, from time to time, be designated by the treasurer, all moneys received by such collector for tolls, penalties, and forfeitures, after deducting therefrom such portion of his salary as shall then be due, and such incidental expenses as shall have been allowed by the auditor; for which duplicate receipts or certificates of deposit shall be taken, one of which shall, without delay, be transmitted by mail to the auditor of state, who shall charge the same to the treasurer, and credit the amount to the canal fund.

When and where collectors to deposit moneys, &c.

(Amended; see page 35.)

—To forward certificate of deposit to auditor of state.

(Amended; see page 35.)

SEC. 125. If any collector of tolls shall omit to transmit any abstract or certificate of deposit, or to deposit in the office of the auditor of state the original book of account, clearance, or other paper, as required by the preceding sections, for the space of one month after the same should have been done, the auditor shall immediately notify the president of the board of public works of such omission; and such collector shall be immediately removed from office; and the auditor shall immediately cause suit to be instituted against such collector, and the sureties on the bond of such collector.

Collector to be removed and sued, if he neglects to deposit or to transmit abstracts and account.

(Amended; see page 35.)

SEC. 126. If any collector of canal tolls shall use, for his own benefit, or lend to any person, any of the moneys belonging to the state, that may come into his hands by virtue of his said office, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, before any court of competent jurisdiction, shall forfeit to the state a sum double the amount of that so used or loaned, and, moreover, be confined in the county jail a period not exceeding ninety days, at the discretion of the court.

Penalty if collector uses or loans moneys collected.

SEC. 127. The auditor of state shall open and keep a correct account with each collector of tolls in a book to be provided by him for that purpose; and, for the purpose of making out such account, shall carefully examine and compare the books, abstracts, and other papers returned by each collector; and shall also compare the same with the abstracts and papers returned by other collectors, which may furnish a corresponding account of any items contained in such abstracts.

Auditor of state to open account with collectors, and examine abstracts, &c.

Board to furnish auditor with names, salaries, &c, of collectors;

— And deposit collector's bonds with him;

Board authorized to make rules and regulations;

— To print and distribute them.

Masters, owners, part owners, and boats, liable for payment of penalties, &c.

Boat may be prevented navigating canal, till penalties, &c., paid.

SEC. 128. It shall be the duty of the board of public works to furnish the auditor with a statement, exhibiting the names of the several collectors of tolls, and of the place where each is to keep his office, the amount allowed each collector for his salary, office rent, or any other allowance authorized by the board; and of all changes, from time to time, made in the foregoing particulars; and to deposit in his office all bonds given by collectors, for the purpose of enabling the auditor to comply with the requisitions of the foregoing sections.

SEC. 129. The board of public works shall, from time to time, make such rules and regulations, not inconsistent with the laws of this state, in respect to the size and structure of boats, rafts, and other floats on the waters of the canals, and the weighing and inspecting of boats, and their loading, and in respect to all matters connected with the navigation of the canals, and impose such forfeitures of money for the breach of such rules and regulations as they may judge reasonable; and to provide for the detention and sale of any such boats, rafts, or other floats, as shall, or may, contravene such rules and regulations, in cases where the owner or owners of such boats, rafts, or other floats, shall neglect or refuse to pay such forfeiture; provided, that no forfeiture so imposed shall, for a single offence, exceed the amount of actual damage done thereby more than twenty five dollars; and, provided, also, that nothing in this section shall be construed to prevent said forfeitures being recovered by action of debt, at the suit of any commissioner, or any of the officers or agents employed by said commissioners, who are hereby authorized to sue for and recover the same for the use of the state.

SEC. 130. The board of public works shall cause a sufficient number of all such rules and regulations, including the forfeitures for the breach thereof, to be printed; and shall distribute the same to the superintendents, the collectors of tolls, and lock keepers, to be kept in their respective offices for public inspection.

SEC. 131. The captain or master, and the owner or part owner of any boat or other float, on either of the canals authorized to be made in this state, and likewise the boat or float itself, shall severally be liable for the payment of any penalty or forfeiture, and likewise to all damages which may accrue in consequence of the violation of any of the provisions of any law of the state, or any order of the board of public works, duly made and published, relating to the canals, the navigation thereof, or the collection of tolls thereon, by any person navigating any such boat, or assisting in the navigation or management thereof, at the time of such violation; and every such boat or water float may, at the discretion of either acting commissioner, resident engineer, or any collector of toll, be prevented from navigating either of said canals until such penalty, forfeiture, and damages, and costs accrued in prosecuting therefor, shall be fully paid.

SEC. 132. 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 serving 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.

In suit for penalty, magistrate may insert clause in process to detain boat;

SEC. 133. 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 security 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 forthwith issued, under which the property so detained may be sold, in like manner as if the judgment had been rendered against the owner or owners thereof.

—But, if security is given, property may be released; otherwise to be sold.

SEC. 134. Every penalty and forfeiture prescribed by this act, or any order of the board, made in pursuance thereof, and for which any owner, master, boatman, navigator, or other person having charge of any boat or float, or assisting in the management thereof, when such penalty or forfeiture is incurred, may be liable, shall be chargeable on such boat or float; and a suit, in the name and on behalf of the state of Ohio, for the recovery of such penalty or forfeiture, may be brought by any collector, lock tender, superintendent, engineer, or acting commissioner, before any justice of the peace, or before any court of competent jurisdiction, either against the person who was master of the boat at the time the penalty or forfeiture was incurred, or against any person having charge or possession of such boat or float at the time such suit is commenced.

What penalties may be chargeable on boat.

SEC. 135. If any collector, superintendent, acting commissioner, engineer or other person, shall commence any suit, or institute any other proceedings under the provisions of this act, or any order of the board, and judgment shall be rendered for the defendant, in such suit or other proceeding, or discontinued without the consent of the parties, such collector, superintendent, acting commissioner, engineer or other person, commencing such suit or other proceeding, shall be liable to the defendant, or any other person interested therein, for all costs, hindrances, delay, and other damages sustained thereby, to be recovered by action on the case, in any court of competent jurisdiction, unless the court or jury, as the case may be, shall be satisfied by evidence, produced by the defendant in the action brought for the recovery of such damages, that there was probable cause for commencing and carrying on such former suit or other proceeding.

Who may bring suit for them.

Party commencing suit without probable cause, made liable for damages, costs and hindrances.

SEC. 136. In all prosecutions and proceeding under this act, it shall be lawful for either party to appeal to the court of common pleas of the proper county, upon the same conditions, and in the same manner, as appeals are allowed by law in civil cases, cognizable by justices of the peace.

The right of appeal.

Where suit may be brought under this act.

When adjournment is asked for by defendant, and granted, depositions of witnesses present to be reduced to writing, and how used.

Fines, penalties or damages, to be paid over to collector within twenty days.

Penalty for neglecting or refusing to pay over such money, and how collected.

SEC. 137. Either of the acting members of the board of public works, resident engineers, superintendents, lock tenders, or collectors, shall be authorized to commence suit against any person charged with the commission of any offence, or made liable under the provisions of this act, or the orders of the board, before any justice of the peace in any county in the state where the person so charged or made liable may be found, or in the county where the offence was committed; and if any person so charged or made liable, shall, when before the justice for trial, ask for an adjournment of the trial, or a continuance of the case, and the justice shall deem it expedient to grant such adjournment, or continuance, it shall thereupon be his duty to reduce to writing the testimony of each witness in attendance on the part of the state, and to cause the same to be subscribed and sworn to; the defendant shall have a right to cross-examine witnesses; and the depositions so taken shall be competent evidence on the trial of the case, before said justice; and should the case be appealed, they shall be competent evidence upon the trial in the appelant court.

SEC. 138. All moneys received on behalf of the state, for fines, penalties or damages, under the provisions of this act, or the orders of the board, by any person other than a collector, shall, after the costs and expenses of collection are deducted, be paid over to the collector whose office is nearest to the place where such moneys are received or collected, within twenty days of the time that such money was received or collected, and to be by such collector accounted for in the same manner as he accounts for tolls collected by him.

SEC. 139. Any person who shall neglect or refuse to pay over moneys received or collected by him, agreeably to the provisions of the preceding section, shall, on conviction thereof, forfeit and pay twenty five per centum on the amount so detained by him, as a penalty, which penalty and amount detained, shall be sued for and collected by the collector, to whom the moneys so detained should have been paid, in an action of debt, for and on behalf of the state. (a)

An act to provide for the internal improvement of the State of Ohio by navigable canals.

[Passed and took effect, February 4, 1825. 23 v. Stat., 50.]

Power of commissioners, &c. to appropriate lands, &c., for public uses.

SEC. 8. That it shall and may be lawful for the said canal commissioner, and each of them by themselves, and by any and every superintendent, agent and engineer employed by them, to enter upon, and take possession of, and use, all and singular, any lands, waters, streams and materials, necessary

(a) This act supersedes the following: 29 v. Stat., 381, 393, 373 376, 379. 37 v. Stat., 66. 35 v. Stat., 63.

for the prosecution of the improvements intended by this act; (a) and to make all such canals, feeders, dykes, locks, dams, and other works and devices, as they may think proper for making said improvements, doing, nevertheless, no unnecessary damage; and that in case any lands, waters, streams or materials, taken and appropriated for any of the purposes aforesaid, shall not be given or granted to this state, it shall be the duty of the canal commissioners, on application being made to them by the owner or owners of any such lands, waters, streams or materials, to appoint, by writing, not less than three, nor more than five, discreet, disinterested persons, as appraisers, who shall, before they enter upon the duties of their appointment, severally take an oath or affirmation, before some person authorized to administer oaths, faithfully and impartially to perform the trust and duties required of them by this act, a certificate of which oath or affirmation, shall be filed with the secretary of the canal commissioners; and it shall be the duty of said appraisers, or a majority of them, to make a just and equitable estimate and appraisal of the loss or damage, if any, over and above the benefit and advantage to the respective owners and proprietors, or parties interested in the premises, so required for the purposes aforesaid; and the said appraisers, or a majority of them, shall make regular entries of their determination and appraisal, with an apt and sufficient description of the several premises, appropriated for the purposes aforesaid, in a book or books, to be provided and kept by the canal commissioners, and certify and sign their names to such entries and appraisal, and in like manner certify their determination as to those several premises which will suffer no damages, or will be benefitted more than injured by, or in consequence of, the works aforesaid; and the canal commissioners shall pay the damages, so to be assessed and appraised, and the fee simple of the premises, so appropriated, shall be vested in this state; provided, however, that all such applications to the board of canal commissioners, for compensation for any lands, waters, streams or materials so appropriated, shall be made within one year after such lands, waters, streams or materials shall have been taken possession of, by the said commissioners, for the purposes aforesaid. (b)

—Damages therefor, how ascertained, &c.

(a) This section authorizes not only the opening of canals for navigation, but taking materials afterwards to repair breaches.—*Bates v. Cooper*, 5 O. R. 115. This section is extended to all the public works of the state; for which, see ante page 14. And see 36th, 40th and 41st sections of this act.

(b) By act of March 3, 1834, 32 v. stat 46, the time for said application and adjustment of damages was extended to December 1, 1834.

AN ACT

In relation to the Muskingum Improvement.

*Passed and took effect, March 27, 1841:*Improvements
on the Muskin-
gum river to be
considered one
work.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the several improvements heretofore authorized to be made on the Muskingum river shall hereafter be deemed and taken to constitute one work in the same manner as if the construction thereof had been authorized and directed by a single act of the legislature.

Power of board
of public works
over such works
&c.

SEC. 2. That the board of public works, and the several members thereof, shall have the same powers and authority, in all respects in regard to said work, that they now have by the existing laws over the canals of this state; and all the provisions of said laws, in regard to said canals, shall be applicable to said improvement, in all respects, in the same manner as if said improvements were specially mentioned in said act.

SEABURY FORD,

Speaker of the House of Representatives.

WILLIAM M'LAUGHLIN,

Speaker of the Senate.

March 27, 1841.

AN ACT

To amend the act entitled "an act to provide for the protection of the canals of the State of Ohio, the regulation of the navigation thereof, and for the collection of tolls."

Part of former
act repealed.Rafts of round
timber, permit-
ted on Walhond-
ing canal and
Muskingum im-
provement.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio,* That so much of the thirty fifth section of said act, as provides that no raft or float, composed in whole or in part of round or unhewn timber shall be permitted to float, or be navigated on either of the canals of this state, be and the same is hereby so far repealed, and no farther, that it shall not hereafter be so construed as to extend to the navigation of that part of the canals of this state known as the Muskingum Improvement and the Walhonding canal. This act to be subject to the same restrictions, as regards fines, provided by the act to which this is an amendment, and to such rules and regulations as the board of public works shall, from time to time, deem it necessary to adopt, having due regard to the best interests of the state.

Provisions of
12th section of
former act ex-
tended to guard
gates, &c.

SEC. 2. That the provisions of the 12th section of the said act, be and the same are hereby extended so as to include guard locks, guard gates, head gates, and feeder gates, belonging or appertaining to any canal or slackwater navigation of this state.

RUFUS P. SPALDING,

Speaker of the House of Representatives.

JAMES J. FARAN,

Speaker of the Senate.

March 7, 1842.

Extract from "An act to provide for paying the temporary liabilities of the state, the interest on the state debt, and for other purposes," passed March 7, 1842.

SEC. 7. That the auditor of state shall require each collector of canal tolls, on the Monday of each week during the time when the canals shall be open for navigation, to make out and transmit to his office abstracts of all moneys received for tolls, fines, penalties, forfeitures and water rents, during the preceding week, together with such accounts, statements and vouchers, as may be necessary to show the balance of money due to the state from such collector; and each collector shall, within ten days from the time when such abstracts and accounts are required to be made out, pay into the state treasury, or deposit with such person or agent, and in such place as the treasurer may designate, the full amount of money which may be found due to the state; and, in case of deposit, such collector shall forthwith transmit, by mail, to the auditor of state, a certificate of deposit for the money so deposited; and if any collector of canal tolls shall fail to make out and transmit to the auditor of state the abstracts, accounts and vouchers, so as aforesaid required, or shall fail, within the time hereinbefore limited, to pay over or deposit the amount of money due the state, and transmit a certificate thereof, in case of deposit, as hereinbefore required, then, and in either case, such delinquent collector, and his sureties, shall be proceeded against as provided by the seventy third and seventy fourth sections of the act entitled "an act to regulate the navigation and collection of tolls on the canals of this state," passed February 23, 1830; which sections are hereby revived and declared to be in full force.

Collectors to make weekly abstract of all moneys received for tolls.

To make payment within ten days from making each abstract.

Penalty.

Sections referred to in the preceding section.

SEC. 73. If any collector of tolls shall neglect to deposit, according to law, and the directions of the auditor, the moneys that, from the abstracts transmitted to the auditor, shall appear to be due from such collector, the auditor may issue a warrant under his hand and seal, directed to the sheriff of any county where such collector, or any of his securities may be found, thereby commanding such sheriff, in the name and on behalf of the state of Ohio, to cause the amount appearing to be due from such collector to be levied and made of the goods, chattels, lands and tenements of such collector; and in case the same shall be insufficient, 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 therein, to the auditor, within sixty days from the date thereof.

Auditor to issue his warrant against collector, neglecting or refusing to pay, &c.

Sheriff receiving warrant, how to proceed, &c.

SEC. 74. The sheriff, to whom any 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 from the court of common pleas of this state.

Fees allowed as in other cases.

Passed February 23, 1830.

AN ACT

To punish trespassers on the Public Lands.

Trespassers on public lands to be fined or imprisoned.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person who shall wrongfully, and without any lawful authority, cut down, fell, box, bore, or otherwise injure or destroy any living tree or trees, standing or growing on any lands, the property of the state of Ohio, whether canal lands, school or ministerial lands, within this state, or shall otherwise trespass thereon, shall, on conviction thereof, be fined in any sum not exceeding one hundred dollars, nor less than one dollar, or be imprisoned in the county jail, not exceeding twenty days, or both, at the discretion of the court.

Mode of prosecution;

—prosecuting attorney to inform, and prosecute.

SEC. 2. All prosecutions under this act shall be by indictment before the court of common pleas, in the county where the offence shall have been committed, or by action of debt before some justice of the peace of the county; and it shall be the duty of the prosecuting attorney, in each county, to give information and prosecute all such offenders against the provisions of this act.

March 31, 1837.

AN ACT

To amend the act entitled "An act to punish trespassers on the Public Lands," passed March 31, 1837.

Prosecuting attorney to bring suit against trespassers on public lands.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all cases where any of the trespassers, mentioned in the first section of the act to which this is an amendment, shall hereafter be committed on any of the canal, school, or ministerial lands of the state of Ohio, it shall be the duty of the prosecuting attorney of the county in which such lands are situate, and he is hereby required, on being notified of such trespass, to cause such trespasser or trespassers, to be arrested and arraigned before a justice of the peace of the proper county, whose duty it shall be to issue a warrant or warrants for such arrest on the demand of such prosecuting attorney, and when brought before him, to cause such trespasser or trespassers to be committed to the jail of the county, unless he or they shall enter into a recognizance, with one or more good and sufficient securities, to appear at the court of common pleas next to be holden in said county, and abide its determination of the matter of complaint, and that he or they will commit no further trespasses on such lands, whereupon, the prosecution shall be continued by indictment before said court.

Duty of county surveyors in res-

SEC. 2. It shall be the duty of the county surveyor of the proper county, and he is hereby required to ascertain all such

trespasses, as aforesaid, to identify the trespassers; obtain the names of the necessary witnesses, and faithfully report the result of his proceedings to the prosecuting attorney of his county, for which services he shall be paid out of the fines to be collected, and from the sales of lumber, as hereinafter provided.

SEC. 3. That in all cases where trespasses have been heretofore committed on any of said lands, it shall be the duty of the prosecuting attorney of the county in which the offence has been committed, and he is hereby required, to proceed to the prosecution of such trespasser or trespassers to final judgment, according to the provisions of the act to which this is an amendment; and the said prosecuting attorney is, also, hereby authorized and required to seize, or cause to be seized, all hewed timber, logs, rails, staves, heading, and other lumber, the product of any timber or trees which may have been, or may hereafter be, cut upon such canal or school lands, wherever the same may be found, and to sell the same, after five days notice of such sale, at public auction, to the highest bidder; and after paying the expenses of such seizure and sale, and the costs of such prosecution as shall be instituted under this act, to pay the balance, if any, to the treasurer of state.

RUFUS P. SPALDING,

Speaker of the House of Representatives.

JAMES J. FARAN,

Speaker of the Senate.

March 7, 1842.

AN ACT

To regulate the mode of settlement of accounts between the different departments connected with the Public Works, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the State of Ohio,* That each superintendent and resident engineer on the public works, before he shall enter upon the duties of his appointment shall take an oath faithfully and honestly to do and perform all the duties of his office, according to law, to the best of his skill and abilities; and shall enter into bonds, to the State of Ohio, with at least two responsible sureties resident in this state, to be accepted by the board of public works, in the sum of one thousand dollars, conditioned for the faithful and honest performance of all his duties as such officer, which said bond shall be deposited in the office of the board of public works, with the oath, aforesaid, indorsed thereon, and every official act of such resident engineer and superintendent, shall be taken to have been performed under his said oath of office.

SEC. 2. It shall be the duty of each superintendent to render quarterly statements of his accounts to the resident engineer, in which he shall give the date and amount of each item

pect to trespassers on public lands.

Prosecuting attorney to seize timber, &c., and make sale of same.

Superintendent and resident engineer to take an oath, and give bonds;

Superintendent to render quarterly statements to resident engineer;

- of expenditure, specifying the time, place and amount of labor performed, the rate of compensation allowed per day, week, or month, as the case may be, with the names of the persons performing such labor or contract, together with a list of the articles purchased, and other incidental expenses incurred, with the date of each item of expenditure, and the names of the persons entitled to compensation in the amount so rendered.
- What they shall contain.
- Engineer to make quarterly settlements with superintendents;
- And to certify to the acting commissioner of public works.
- Each acting commissioner to make out schedules of checks issued, &c.
- To whom to be transmitted.
- To settle with the acting commissioner of the canal fund.
- Checks of acting commissioner of board of public works when redeemed and compared by auditor shall remain in office of state treasurer;
- Treasurer to make out duplicate schedules of checks redeemed, &c.;
- Not to pay check of any acting commissioner of
- SEC. 3. That each resident engineer shall make quarterly settlements with the several superintendents of the public works under his charge, and the vouchers and accounts of the superintendents, as allowed by him, shall remain in the possession of said engineer, as vouchers for the certificate which he shall issue; and he shall certify to the acting commissioner of public works that he has examined the account of the superintendent, and allowed the amount for which he has drawn the certificate, and a full copy of said account allowed by the engineer, shall be deposited with the acting commissioner before he issues his check on the treasurer of state, for the sum specified in the certificate of the engineer.
- SEC. 4. That each acting commissioner of the board of public works, shall, on the 15th day of each month, make out triplicate schedules of the checks he has issued, giving the number, date and amount of each check, specifying also the work and contract upon which the labor has been performed, one of which shall be transmitted to the auditor of state, one to the treasurer of state, and one to the acting commissioner of the Ohio canal fund.
- SEC. 5. That each acting commissioner of the board of public works shall settle with the acting commissioner of the canal fund on the 15th days of May and November in each year; and on such settlement the receipts or vouchers for every check issued shall be filed and deposited in the office of the commissioners of the canal fund, and duplicate schedules of the receipts or vouchers so filed and deposited, shall be made out by the acting commissioner of the canal fund, one of which shall be transmitted to the auditor of state, and the other to the treasurer of state.
- SEC. 6. That the checks of each acting commissioner of the board of public works, when redeemed by the state treasurer, shall, after examination and comparison by the auditor with the schedule of payments hereinafter provided to be made by the treasurer to the auditor, remain in the office of the treasurer, as his vouchers for the money appropriated by the commissioners of the canal fund for the payment of said checks; and the treasurer shall, on the 15th days of January, March, May, July, September and November, make out duplicate schedules of the checks he has redeemed, one of which shall be deposited with the auditor of state, and the other with the commissioners of the canal fund.
- SEC. 7. That the state treasurer shall not be authorized to pay the check of any acting commissioner of the board of pub-

lic works, other than those issued on his unrestricted account, unless the same shall be accompanied with the certificate of the resident engineer, and no indorsement on any check or statement that the amount of such check is included in a former certificate shall be received by the treasurer, instead of such certificate of the engineer.

board of public works, &c., unless accompanied with certificate of resident engineer.

SEC. 8. That it shall not be lawful for any acting commissioner to deliver to any person any check, or check book, signed in blank as such acting commissioner; nor shall he employ any agent to deliver his check to the person entitled thereto, but shall, at stated periods, hereinafter mentioned, attend in person, for the purpose of paying out his check to the persons entitled thereto.

Acting commissioner not to deliver to any person any check or check book, signed in blank; —Nor shall he employ an agent to deliver check, &c.;

SEC. 9. That it shall be the duty of each acting commissioner to attend in person on the line of the work, under his charge, at such places as convenience may require, to be designated by the board of public works, and made public in such manner as they shall direct, at regular periods, as often as once in three months, for the purpose of paying out his check to persons entitled thereto, on the certificates of the resident engineers; and it shall be unlawful for any acting commissioner to pay out his check at any other times than as in this section prescribed, provided that if sickness, or other unavoidable casualty, shall prevent the attendance of the acting commissioner at such times, he shall deliver his checks to persons so entitled thereto, afterwards, on request by such persons.

—But he shall attend in person, at convenient places, as often as once in three months for the purpose of paying out checks;

—Not to pay out checks at any other time, except in case of sickness.

SEC. 10. It shall be the duty of the board of public works annually, or before the 15th day of November, to make out and file in the office of the auditor of state their annual account.

Board of public works to make out annual account.

JOHN M. GALLAGHER,

Speaker of the House of Representatives.

THOMAS W. BARTLEY,

Speaker of the Senate.

March 13, 1844.

ORDERS OF THE BOARD OF PUBLIC WORKS.

At a meeting of the Board of Public Works, at their office, in Columbus, on the 20th day of March, 1844, the following Orders, or Rules and Regulations, in addition to those provided by law, relating to the canals of the State of Ohio, and the works and devices connected therewith, were adopted in lieu of all former regulations, to wit:

Boats not to prevent the passage of other boats.

1. No boat or other float shall lie in a lock, nor in any other part of either of the canals of this state, in such a position as to prevent the free passage of any other boat or float, which otherwise could navigate or pass on the canal.

Heavily laden boats to be so managed and moored as not to obstruct the passage of lighter boats.

2. In all cases where the water shall be partially drawn off from any part of either of the canals, or in consequence of a breach, or for the purpose of making repairs, or from any other cause, so as to prevent the passage of heavily laden boats thereon, every boat or other float, detained or prevented from proceeding on its voyage thereby, shall be so moored and placed as not to obstruct the passage of other boats or floats requiring less depth of water to enable them to navigate the canal; and if any boat or float, so detained or prevented from proceeding in consequence of the want of sufficient water, shall, either by design or by accident, or inadvertence, be so moored or placed as to prevent the passage of other boats, the master or other person having, for the time being, the care of the boat or float so moored or placed, on the application of the master of any other boat or float whose passage is obstructed thereby, shall, immediately cause the boat or float, occasioning such obstruction, to be removed, if practicable, so as to permit the free passage of other boats or floats.

Penalty.

3. The master of any boat or float, who shall violate any of the provisions of the two preceding orders, shall, for every such violation, forfeit and pay the sum of ten dollars.

Preferences to packet boats in passing locks.

4. Any boat, employed principally in the transportation of passengers, and paying toll as such, after having arrived within two hundred yards of any lock, shall have the privilege of passing through such lock in preference to any boat employed principally in the transportation of property other than passengers, and paying toll as such, not having actually entered such lock at the time when such passage boat shall have arrived within two hundred yards of such lock, provided, nevertheless, that any boat employed principally in the transportation of property, passing on the canal in an opposite direction from such passage boat, if within two hundred yards of any lock which is at the same time ready to receive such freight boat, shall have the privilege of entering and passing through such lock so being ready, in preference to such passage boat.

5. The master of any boat or float who shall violate the provisions of the foregoing order shall forfeit and pay the sum of ten dollars, and, moreover, be liable for all damages consequent upon such violation. Penalty.

6. No boat or other float, strapped or faced with iron on the front part of the stem, or other most prominent part of the bow thereof, so as to be liable to strike with such iron facing against any part of any lock, lock-gate, guard-gate, bridge, or other work or device appertaining to the canal, shall be permitted to navigate, or be moved, on either of the canals of this state, unless there shall be suspended, and thoroughly secured in front of the stem, or other most prominent part of the bow of such boat or float, in such a manner as effectually to prevent the iron facing or strap thereof from striking upon or against any lock, lock-gate, guard-gate, bridge, or other work or device appertaining to the canal, a good and sufficient fender, composed of rope or rope yarn, at least six inches in diameter. Boats strapped with iron to have fenders on the bow.

7. The master of any boat or float, which shall be found navigating or moving on either of the canals of this state, in contravention of the preceding order, shall forfeit and pay the sum of five dollars for each offence; and each mile that a boat or float shall be moved in contravention of the provisions thereof, shall be considered a new offence. Penalty.

8. No clearance shall be granted to any boat or float which shall not, at the time of applying for such clearance, be provided with such fenders, in cases when the same shall be required by the preceding order; and it shall be the duty of every collector of tolls, inspector, superintendent, or resident engineer, lock-tender, or superintendent of repairs, to see that the said order be strictly enforced; and, for that purpose, each and every of them shall be authorized to detain any boat or float moving, or attempting to move, on either of the canals, until that order be complied with, and all penalties for the violation thereof be fully paid and satisfied. Duty of collectors and superintendents when boats have no fenders.

9. If any boat or float shall be found navigating the canals of this state, without a good and sufficient bow-line, the master thereof shall forfeit and pay the sum of five dollars for each and every offence; and each mile such boat or float shall proceed in violation of this order, shall be considered a new offence. Boats to have good bow-lines.

10. Each collector of tolls, superintending engineer, superintendent of repairs, or lock-keeper, on the canal where such boat or float shall pass, is hereby authorized to determine the sufficiency of the bow-line; and each and every of them are hereby authorized to detain such boat or float until the requisitions of the aforesaid orders are complied with, and all penalties incurred by their violation paid. Who shall determine the sufficiency of the bow-line.

11. No lake boat or vessel shall be permitted to pass, or attempt to pass, through the sloop locks at Cleveland, without first obtaining, from the collector of canal tolls at Cleveland, a permit so to do, and paying to said collector, for each permit, one dollar, which permit shall be presented to the lock-tender Lake vessels to obtain permit for passing sloop locks at Cleveland.

at said lock, who shall have the direction as to the time and manner of passing said vessel or boat.

Penalty.

12. The captain, or any one having charge of any lake boat or vessel, who shall violate any of the provisions of the preceding order, shall forfeit and pay the sum of twenty five dollars for each and every offence, and, moreover, be liable for all the damages incident thereto, and for the payment of which the boat or vessel, and likewise, each master, owner, or part owner, shall be severally liable.

Not permitted to pass lock 43 without a clearance.

13. No boat or float shall be permitted to enter, or attempt to enter, lock No. 43, at Cleveland, on its outward passage, without first presenting a clearance or permit for that purpose from the collector of canal tolls, at Cleveland, to the lock-tender.

Not permitted to pass lock 44 after 9 o'clock P. M.

14. No boat or float shall pass, or attempt to pass, lock No. 44, at Cleveland, between the hours of 9 o'clock in the evening, and sunrise of the next day.

Penalty.

15. The master of any boat or float, who shall violate any of the provisions of the two preceding orders, shall forfeit and pay the sum of ten dollars for each and every offence.

No two boats to have the same name.

16. No boat or float shall be permitted to navigate either of the canals of this state, having the name of any other boat, on the same canal.

Penalty.

17. The master of any boat or float, who shall violate the preceding order, shall forfeit and pay the sum of ten dollars for each and every offence; and every mile navigated in contravention thereof, shall be considered a distinct offence.

Hay, straw, &c., not permitted in the canal.

18. No hay, straw, manure, or other litter of any kind, shall be deposited in any part of either of the canals of this state, nor on either of the banks thereof.

Penalty.

19. Any person violating the preceding order shall forfeit and pay the sum of ten dollars for each offence, and all damages incident thereunto.

Liability of owners, part owners, &c.

20. The master of any boat or float, who shall violate the provisions of either of the aforesaid orders, or permit it to be done by the hands or passengers on board said boat or float, shall forfeit and pay the penalties and damages aforesaid; and the owners and part owners, and, also, the boat or float itself, shall be held liable; and said boat or float may be detained by any collector, lock-keeper, superintendent, or engineer, on said canals, until all penalties and forfeitures are paid.

Penalty for passing horses over bridges faster than a walk, or over lock walls.

21. The Horse or horses of any boat, navigating the canals of this state, shall not pass over a towing path bridge faster than 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 of any boat or float, who shall violate this regulation, or permit it to be done by others, shall forfeit and pay the sum of five dollars.

Penalty for not having lights.

22. 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 infraction of this order shall subject the master, owner, or navigator to the penalty of ten dollars.

23. The provisions of the act entitled "an act to provide for the protection of the canals of the state of Ohio, the regulation of the navigation thereof, and the collection of tolls," which prescribe the duties of commissioners, engineers, superintendents and collectors, in respect to the commencement and prosecution of suits, and the detention of boats or floats, be and they are hereby extended, so as to include inspectors.

Inspectors authorized to commence suit, and detain boats.

24. Any person who shall carry fire, in any form, on, or across any wooden structure, on any of the public works of this state, unless the same shall be inclosed in a lantern, or some other closed vessel, shall, for every such offence, forfeit and pay the sum of ten dollars, and, moreover, be made liable for all damages occasioned by such violation.

Penalty for carrying fire across wood structures.

25. Where the canal is composed either wholly or in part of embankment, no fence shall be placed on any part of the embankment. Where the canal is composed, either wholly or in part, of excavation, no fence shall be placed within fifteen feet of the front edge of the towing path, nor within ten feet of the front edge of the berm bank; provided, that where the canal shall be of extra width, the acting commissioner may, at his discretion, permit such deviations from the foregoing regulations as he may deem proper, so far as the construction of fences on the berm side of the canal is concerned.

Construction of fences near canals.

26. Any person who shall violate either of the provisions of the foregoing section shall forfeit and pay the sum of ten dollars for each violation, and, moreover, be liable for all expenses incurred by the agents of the state in removing any fence placed or constructed in contravention of the foregoing section.

Penalty; and liability for removal, &c.

27. If any person, except a commissioner, engineer, superintendent, lock-tender or collector, shall, under any pretence whatever, without express direction or permission from some one of said agents, open, or in any way interfere with either of the drawbridges on the Muskingum Improvement, he shall pay a fine of five dollars for each offence, and, moreover, be liable for all damages incident upon any such interference.

Penalty for opening drawbridge.

REGULATIONS FOR THE COLLECTORS OF CANAL TOLLS.

Ordered, That the collectors of tolls on the canals of this state conform, in the discharge of their official duties, to the following instructions:

First. In granting clearances to boats, collectors will require the weight, number, or quantity (as the case may be,) of the articles composing the cargo to be correctly ascertained, either by actual weight, counting, or measurement, or by calculating the weight of the articles contained in barrels, such as flour, pork, salt, &c., from the number and ascertained average weight of each barrel, in the usual method; and will not grant clearances on bills of lading which do not exhibit the actual weight, number, or quantity, or which exhibit only the *supposed* weight, number, or quantity of the articles of which it is composed.

Second. Every collector will require the exhibition of the bills of lading *of all the articles composing the cargo of a boat at the time of her leaving the port at which his office is held*—will enter all such articles on the clearance before it shall be finally delivered to the master of the boat, and receive toll thereon.

Third. Collectors will not enter on a clearance any article or articles of lading *to be taken* on board of the boat, after her leaving the port where the collector's office is situated.

Fourth. All collectors, except those located at the termination of the canal, will see that the names of all passengers on board of every boat, at the time of passing his office, or who may have been transported on such boat previously to its arrival at his office, during the voyage, are entered on the list of passengers attached to the clearance, and shall, in every instance, inquire and demand of the master of the boat whether they are so entered; and, if he shall ascertain or suspect that the master has neglected to enter any name on said list which should be entered on said list, he shall detain the clearance until he shall be satisfied that all the proper entries are made.

Fifth. On the arrival of a boat at any port where there is a collector's office, either on its way to any place beyond, or at the end of the voyage, the collector *will, in all cases,* require the exhibition of the clearance, and all the bills of lading of the cargo on board of such boat, and diligently compare the clearance with the bill or bills of lading; and if he shall find any article, contained in the bill or bills of lading, omitted in the clearance, he will enter the same on the clearance, and receive the tolls chargeable thereon; and if he shall find any article entered on the clearance, which is not contained in any bill of lading, or erroneously entered on the clearance, he will note such erroneous or improper entry on the margin of the clearance.

Sixth. For the purpose of ascertaining whether all the articles composing the cargoes of boats are entered upon the bills of lading and clearance of such boats, and whether the names of all passengers are entered on the passage-list attached to their clearances, it shall be the duty of the collectors (or inspectors, where there are inspectors,) to go on board of every boat, on its arrival at the port at which his office is kept, or, as soon thereafter as is practicable, in all cases when the boat shall arrive or be in port between sunrise and usual bed time, and carefully inspect the same, so far as can be done without the removal of the cargo, and ascertain, as nearly as practicable, whether the passengers are correctly entered on the list thereof.

Seventh. It shall be the duty of every collector with whom the clearance for any voyage on either of the canals is required to be deposited, carefully to examine and compare the same with the bill or bills of lading, and, also, with the cargo; to revise the charges and calculations of tolls entered thereon; to correct, and note thereon, all errors which may be discovered; and if he shall find that the amount of the tolls received, agreeably to such clearance, falls short of the proper sum, he shall receive and account for the balance, as in other cases of tolls received; and if he shall find that the amount of tolls actually paid on such clearance exceeds the correct amount, he shall refund to the master the excess, for which he shall take the master's receipt, and charge the same in the proper account.

Eighth. When a clearance is granted on the Muskingum Improvement to a boat that intends to arrive at, or pass a collector's office, on the Ohio canal, the collector, granting such clearance shall clear the boat to the first collector's office on the Ohio canal which it is intended said boat shall arrive at or pass, and collect tolls *only* for the distance passed or to be passed on the Muskingum Improvement.

Ninth. When any clearance shall be granted at any collector's office on the Ohio canal, to any boat intending to arrive at or pass any collector's office on the Muskingum improvement, it shall be the duty of the collector, granting the clearance, to clear the boat to the nearest office on the Muskingum improvement, and only collect toll for the distance passed, or to be passed on the Ohio canal.

Tenth. Property shipped from either the Walhonding or Hocking canals, or Muskingum improvement, destined to pass on the Ohio canal, shall have the same advantage as to distance and decrease of rates of toll, as property has, shipped on the Ohio canal; but when shipped on the Ohio canal to any port on the foregoing works, nearer than two hundred miles from Cleveland, such property shall be charged for the additional distance over two hundred miles, at the lowest rates charged on such property.

Eleventh. Clearances shall be deposited, and check abstracts made in the aforesaid cases, in the same manner as is required to be done at the several offices on the Ohio canal.

Tolls shall be refunded in the following cases:

First. When there has been an error made by the collector, to whom the tolls were paid, in computing the amount chargeable on any article, of which a correct bill of lading was presented to such collector.

Second. Where toll has been charged on a boat, float, or any article of lading to a certain port or place, and such boat, float, or article of lading, has been prevented from proceeding to such port or place, in consequence of a breach, the freezing of the canal, or other insurmountable obstructions to the navigation of the canal, the toll charged on such boat, float, or article of lading, *for such part of the voyage or distance as it is so prevented from proceeding on the canal*, shall be refunded by the collector with whom the clearance for the voyage is deposited; or, if the boat, float, or article of lading, so prevented from proceeding, shall only be delayed in proceeding, and shall afterwards proceed on its voyage, or be transported to the place to which it was originally cleared, the collector may permit such boat, float, or article of lading, to proceed, or be transported free from

the payment of toll, on the production of satisfactory evidence, or his own personal knowledge, that the boat, float, or article of lading, is the same that was so delayed, and that the tolls thereon have not been refunded.

Third. The collector, with the concurrence of the acting commissioner, may refund tolls improperly or erroneously charged, in consequence of an accidental error in the weight, measure, or quantity of any article in the bill of lading, if they shall be satisfied that due diligence has been used by the owner or shipper thereof to ascertain the weight, measure, or quantity thereof; or when the toll has been charged at an improper rate by the collector receiving the same, provided the error shall, in either case, amount to five dollars.

The collector may remit fines or penalties levied on an erroneous statement of facts, on receiving satisfactory proof of such error, and of the existing facts in the case, provided such correct statement of facts would be insufficient to warrant the infliction of the fine or penalty so remitted.

Each collector shall demand and receive, for giving an order to change the name of a boat, receiving and recording a certificate of registry, and transmitting a copy thereof to the other collectors on the canal, as required by law, in each case, where the name of a boat shall be changed, the sum of one dollar, to be paid by the person applying for the order to change the name of the boat, at the time of making such application.

The collectors of canal tolls shall not be required to issue original clearances for any boat or float between ten o'clock in the evening and sunrise in the morning, nor keep his office open for that purpose between those times; and that, unless full and complete bills of lading for all the cargo on board of a boat or float, at the time of her leaving the port at which a clearance is required to be granted, are presented to the collector before nine o'clock in the evening, the collector shall not be required to issue a clearance therefor until the next succeeding day.

OFFICE OF THE BOARD OF PUBLIC WORKS,
COLUMBUS, *March 20, 1844.*

I hereby certify that the foregoing Orders, Rules, and Regulations of the Board of Public Works are correctly copied from the records in this office.

A. F. WHITE,
Secretary of Board of Public Works.

RATES OF TOLL.

At a meeting of the Board of Public Works, held in the city of Columbus, on the 20th day of March, 1844, it was

Ordered, That from and after the first day of April next, on each article of property transported on the canals of this State, and on the Muskingum Improvement, there shall be charged and collected the rates of toll hereinafter affixed to such article, in lieu of the rates heretofore charged, to wit:

PROPERTY CHARGED WITH TOLL ACCORDING TO WEIGHT.

ARTICLES.	PROPERTY CHARGED WITH TOLL ACCORDING TO WEIGHT.			ARTICLES.	PROPERTY CHARGED WITH TOLL ACCORDING TO WEIGHT.		
	For each mile not exceeding 100.	For each mile exceeding 100 and not exceeding 200.	For each mile in addition to 200.		For each mile not exceeding 100.	For each mile exceeding 100 and not exceeding 200.	For each mile in addition to 200.
<i>On each 1,000 pounds, and in the same proportion for a lesser or greater weight:</i>				<i>On each 1,000 pounds, and in the same proportion for a lesser or greater weight:</i>			
	Mills.	Mills.	Mills.		Mills.	Mills.	Mills.
Of Ale, - - - - -	9	6	4	Fruit, (undried, U. States,) -	6	4	4
Agricultural instruments, -	9	6	4	Fish, (fresh water,) - - -	9	6	4
Animals, (domestic,) - - -	9	6	4	Furniture, (household,) - -	20	15	0
Anvils, - - - - -	15	10	5	Feathers, - - - - -	15	10	5
*Beef, - - - - -	9	6	4	Flags, (for chair bottoms,) -	15	10	5
Beans, - - - - -	9	6	4	Furs and peltries, (including deer, buffalo and bear,) -	20	15	0
Bread, - - - - -	9	6	4	Ginseng, - - - - -	9	6	4
Beer, - - - - -	9	6	4	Grindstones, - - - - -	6	4	4
Butter, - - - - -	9	6	4	Gypsum, - - - - -	6	4	4
Baggage, - - - - -	20	15	0	Glass, (Ohio,) - - - - -	10	5	5
Beeswax, - - - - -	9	6	4	Hemp, - - - - -	9	6	4
*Bacon, - - - - -	9	6	4	Hides, - - - - -	9	6	4
Brooms, - - - - -	9	6	4	Horns and tips, - - - - -	9	6	4
Broom handles, - - - - -	9	6	4	Hair, - - - - -	9	6	4
Broom corn, - - - - -	9	6	4	Hops, (Ohio,) - - - - -	15	10	5
Bristles, - - - - -	9	6	4	Hames, - - - - -	10	6	4
Buhr Blocks, - - - - -	12	6	3	Iron, (pig or scrap,) - - -	6	4	4
Barley, - - - - -	9	6	4	Iron, (wrought or cast,) - -	15	10	5
Buckwheat, - - - - -	6	4	4	Iron tools, (weighing over five pounds each,) - - -	15	10	5
Blood, - - - - -	6	4	4	*Lard, - - - - -	9	6	4
Barrels, (empty,) - - - - -	6	4	4	Lime, (hydraulic,) - - - -	9	4	4
Blooms, - - - - -	15	10	5	Merchandise, (including dry goods, groceries, hardware, cutlery, crockery and glassware, and all articles not specified,) - -	20	15	0
Cheese, - - - - -	9	6	4	Manilla, - - - - -	9	6	4
Crackers, - - - - -	9	6	4	Malt, - - - - -	9	6	4
Cordage, (Ohio,) - - - - -	9	6	4	Meal, - - - - -	6	4	4
*Cotton, (raw, in bales,) - -	9	6	4	Marble, (unwrought,) - - -	6	4	4
Coopers' ware, (Ohio,) - - -	9	6	4	Marble, (wrought,) - - -	15	10	5
Carpenters' and joiners' work, - - - - -	9	6	4	Millstones, - - - - -	12	6	3
Carriages, - - - - -	9	6	4	Machinery, - - - - -	15	10	5
Candles, (tallow,) - - - - -	9	6	4	Mechanics' tools, - - - -	15	10	5
*Candles, (lard,) - - - - -	9	6	4	Nuts, (United States,) - -	9	6	4
*Corn, - - - - -	6	4	4	Nails, - - - - -	15	10	5
Cider, - - - - -	6	4	4	Oats, - - - - -	6	4	4
Cut stone, (for building or mechanics' use, except ashler,) - - - - -	6	4	4	Oil cake, - - - - -	6	4	4
Clocks, - - - - -	15	10	5	Oil, (linseed and corn,) - -	15	10	5
Domestic spirits, (other than whiskey,) - - - - -	20	15	0	Oil, (lard, Ohio,) - - - -	9	6	4
Eggs, - - - - -	9	6	4	Peas, - - - - -	9	6	4
*Flour, - - - - -	9	6	4	Provisions, (salt and fresh,)	9	6	4
Flax, - - - - -	9	6	4				
Fruit, (dried, U. States,) - -	9	6	4				

RATES OF TOLL—Continued.

PROPERTY CHARGED WITH TOLL ACCORDING TO WEIGHT.

ARTICLES.	For each mile not exceeding 100.	For each mile exceeding 100 and not exceeding 200.	For each mile in addition to 200.	ARTICLES.	For each mile not exceeding 100.	For each mile exceeding 100 and not exceeding 200.	For each mile in addition to 200.
	Mills.	Mills.	Mills.		Mills.	Mills.	Mills.
<i>On each 1,000 pounds, and in the same proportion for a lesser or greater weight:</i>				<i>On each 1,000 pounds, and in the same proportion for a lesser or greater weight:</i>			
*Pork, - - -	9	6	4	Skins, (sheep, &c.) - -	9	6	4
Pot and pearl ashes, -	9	6	4	Sleds and sleighs, - -	9	6	4
Porter, - - -	9	6	4	Saddle trees, - - -	10	6	4
Palm leaf, - - -	9	6	4	Shorts, - - -	6	4	4
Potters' ware, - - -	9	6	4	Ship stuff, - - -	6	4	4
Pitch, - - - [bles,]	9	6	4	Spikes, - - -	15	10	5
Potatoes, (and other vegeta-)	6	4	4	Starch, (Ohio,) - - -	9	6	4
Paper, (Ohio,) - - -	15	10	5	Tallow, - - -	9	6	4
Powder, (Ohio,) - - -	15	10	5	Tails, (cattle's,) - - -	9	6	4
Rags, - - -	9	6	4	Tar, - - - [marble,]	9	6	4
Rosin, - - -	9	6	4	Tombstones, (other than	6	4	4
Rye, - - -	6	4	4	Trees, shrubs or plants,			
Salt, - - -	10	5	2½	(living,) [tured,]	6	4	4
Salt, (Ohio,) - - -	5	2½	2½	*Tobacco, (not manufac-	9	6	4
Salt, (shipped at Portsmouth				Vinegar, - - -	9	6	4
or Harmar,) - - -	20	5	2½	*Wheat, - - -	9	6	4
Seeds, (domestic,) - - -	9	6	4	*Whiskey, - - -	9	6	4
Saleratus, (Ohio,) - - -	9	6	4	Wool, - - -	9	6	4
Salts of ley, (black & white,)	9	6	4	Woodware, (Ohio,) - -	9	6	4
Soap, - - -	9	6	4	Wagons, (and other vehicles)	9	6	4
Sumach, - - -	9	6	4				

ARTICLES.	For each mile not exceeding 20.	For each mile in addition to 20.	ARTICLES.	For each mile not exceeding 20.	For each mile in addition to 20.
	Mills.	Mills.		Mills.	Mills.
Ashes, (wood,) - - -	4	2	Hoops, (materials for,) -	3	1½
Bran, - - -	6	4	Ice, - - -	1	0
Bark, (tanners') - - -	6	3	Lime, - - -	5	3
Charcoal, - - -	6	3	Manure, - - -	4	2
Coal, (mineral,) - - -	3	1	Ore, (iron,) - - -	3	2
Coke, - - -	5	2	Straw, - - -	6	3
Clay, - - -	3	2	Staves, - - -	3	1½
Hay, (and other fodder,) -	6	3	Sand, (and other earths,) -	3	2
Heading, - - -	3	1½			

EXCEPTIONS.

	Mills.
Only the following rates shall be charged on beef, pork, bacon, lard, wheat, flour, and tobacco, <i>not manufactured</i> , if transported <i>up</i> the Hocking Canal, or Muskingum Improvement, <i>down</i> the Walhonding Canal or Miami and Extension Canals; or on the Wabash and Erie Canal, or Ohio Canal towards Lake Erie, to wit:	
For each mile not exceeding 100, - - - - -	7½
For each mile exceeding 100, and not exceeding 200, - - - - -	5
For each mile in addition to 200, - - - - -	3
On corn transported as aforesaid—	
For each mile not exceeding 100, - - - - -	5
For each mile exceeding 100, - - - - -	3
On sugar and molasses in barrels or hogsheads, transported on the Ohio canal towards Lake Erie—	
For each mile not exceeding 50, - - - - -	20
For each mile exceeding 50, and not exceeding 200, - - - - -	10
For each mile exceeding 200 <i>no toll</i> shall be charged:	
<i>Provided</i> that the tolls on each 1,000 pounds of wheat, flour, beef, pork, bacon, lard, oil or candles manufactured from lard in this State, transported on the public works of this State, shall not exceed, - - - - - \$1 25	
On corn, - - - - -	80
Raw cotton in bales, - - - - -	1 25
Whiskey, - - - - -	1 50
Tobacco not manufactured, - - - - -	1 00
Pig iron, - - - - -	1 00
Railroad iron, - - - - -	2 00
And on lead in pigs, hemp and tobacco, <i>not manufactured</i> , received via the Ohio river, and shipped at Portsmouth, - - - - -	75

This (*) shows that more than one rate is charged on these articles. (See "Exceptions.")

NOTE.—Each passenger of 8 years old and upwards is allowed 50 pounds of the baggage or household furniture owned by such passenger, or the family to which such person belongs, to pass free of toll.

ARTICLES CHARGED WITH TOLL BY NUMBER OR MEASURE.

On each 1,000 superficial feet of <i>Lumber</i> , (sawed) } For each mile not exceeding 20, - - - - -	c. m.
reduced to inch measure, all over 1 inch thick, } For each mile in addition to 20, - - - - -	1 0
On each 100 cubic feet of <i>Timber</i> , (hewed or } For each mile not exceeding 20, - - - - -	1 0
round) transported in boats, } For each mile in addition to 20, - - - - -	5
<i>Timber</i> , (hewed or round) transported in rafts on } For each mile not exceeding 20, - - - - -	2 0
the Muskingum Improvement, } For each mile in addition to 20, - - - - -	1 0
Ditto on the Walhonding Canal, - - - - -	For each mile, - - - - - 3 1
On each 1,000 Brick, - - - - -	For each mile, - - - - - 1 0
Laths, or { } For each mile not exceeding 50, - - - - -	2½
Shingles, } } For each mile in addition to 50, - - - - -	1
On each 100 Posts, or rails, for fencing, } For each mile, - - - - -	1 2
On each cord of Wood, (for fuel) } For each mile not exceeding 15, - - - - -	1 2
If used in the manufacture of salt in this state, } For each mile in addition to 15, - - - - -	6
On each perch (16½ cubic feet) of Stone, (dressed for ashler) - - - - - } For each mile, - - - - -	5
Stone, (rough for building, &c.,) - - - - - } For each mile, - - - - -	3

ON BOATS.

On each boat used chiefly for transportation } per mile, 2 4 } Provided the amount of toll charged	
of freight, } } on the boat for any voyage, on any	
On each boat used chiefly for transporting } per mile, 2 0 } clearance shall not exceed \$6	
coal, } } On the Ohio and Miami Canals, - 4 0	
On each boat used chiefly for transportation } per mile } On the Wabash and Erie and other	
of passengers, } } canals, - - - - - 5 0	
On each steamboat, of less than 60 tons burden, For each mile, - - - - -	8 0
On each steamboat, of over 60 tons burden, For each mile, - - - - -	10 0

ON PASSENGERS.

On each passenger of 8 years old and upwards,	Per mile,	Mills.
		3

In ascertaining the amount of toll chargeable on any article, the weight of the cask, box, bag, crate, vessel, or thing in which said article is contained, shall be added to the weight of such article, and the toll charged accordingly.

If two or more articles chargeable with different rates of toll, shall be contained in the same cask, box or thing, the whole shall be charged with the highest rates of toll chargeable on any article so contained.

In case any article, the product of this State, or the United States, shall be chargeable with a lower rate of toll than a similar article, the product of other countries, the collector shall charge the rate of toll which would be chargeable on such articles if of foreign product, unless the owner, shipper, or master of the boat, shall produce satisfactory evidence to the collector that such article is the product of the State, or of the United States.

OFFICE OF THE BOARD OF PUBLIC WORKS,
Columbus, March 20, 1844.

I hereby certify that the foregoing "rates of toll," established by the Board of Public Works, are correctly copied from the records in this office.

ALEX. F. WHITE, *Sec'y B. P. W.*

DISTANCES ON THE OHIO CANAL.			OHIO CANAL—CONTINUED.		
Names of Places.	From Cleveland.	From Portsmouth.	Names of Places.	From Cleveland.	From Portsmouth.
	Miles.	Miles.		Miles.	Miles.
CLEVELAND,-----	0	309	Licking Town,-----	170	139
Rathbun's Lock,-----	5	304	NEWARK,-----	176	133
Mill Creek,-----	9	300	Granville Feeder,-----	181	128
Tinker's Creek,-----	13	296	Munson's Forge, } on Granv	184	131
Pinery Feeder,-----	17	292	Granville, } Feeder,---	187	134
Boston,-----	21	288	Hind's Basin,-----	182	127
Peninsula,-----	24	285	Hebron,-----	185	124
Niles,-----	30	279	Licking Summit,-----	189	120
Old Portage,-----	32	277	Millersport,-----	191	118
North Akron,-----	37	272	Baltimore,-----	196	113
SOUTH AKRON,-----	38	271	Havensport,-----	202	107
New Portage,-----	44	265	CARROLL,-----	204	105
Wolf Creek Lock,-----	47	262	Lockville,-----	206	103
Clinton,-----	52	257	Waterloo,-----	209	100
Fulton,-----	56	253	Winchester,-----	210	99
Wellman's Mill,-----	61	248	Rareysport,-----	214	95
MASSILLON,-----	65	244	Sharp's Landing,-----	215	94
Navarre and Bethlehem,-----	71	238	Lockbourn,-----	221	88
Bolivar,-----	80	229	COLUMBUS, on Colum. Feeder,-----	232	100
Zoar,-----	83	226	Holmes' Landing,-----	224	85
Jenning's Bridge,-----	86	223	Willpert and Bloomfield,-----	228	81
DOVER,-----	93	216	CIRCLEVILLE,-----	236	73
Lockport,-----	97	212	Westfall,-----	241	68
New Castle,-----	99	210	Yellowbud,-----	246	63
Trenton,-----	103	206	Deer Creek,-----	250	59
Eastport, on Trenton Feeder,-----	107	210	Andersonsville,-----	252	57
Gnadenhutten,-----	108	201	Clinton Mills,-----	256	53
Port Washington,-----	112	197	CHILLICOTHE,-----	258	51
Newcomerstown,-----	118	191	Pomlinson's,-----	264	45
Evansburg,-----	122	187	Stoney Creek,-----	267	42
Lewisville,-----	132	177	Head of Big Bottom,-----	269	40
Roscoe,-----	135	174	Sharonville,-----	276	33
Adams' Mill,-----	145	164	Waverly,-----	280	29
Webbsport,-----	149	160	Trimble's Bridge,-----	283	26
Dresden on Dresden sidecut,-----	151	162	Jasper,-----	286	23
Hartford's,-----	152	157	Howard's Lock,-----	291	18
Frazey'sburg,-----	155	154	Cutler's Station,-----	294	15
Nashport,-----	161	148	Brush Creek,-----	301	8
Licking Dam,-----	166	143	PORTSMOUTH,-----	309	0

WALHONDING CANAL.			HOCKING CANAL.		
Names of Places.	From Roscoe.	From Rochester.	Names of Places.	From Carroll.	From Athens.
	Miles.	Miles.		Miles.	Miles.
ROSCOE,-----	0	25	CARROLL,-----	0	56
Crooked Run Bridge,-----	2	23	Lancaster,-----	9	47
Walhonding Dam,-----	6	19	Ream's Mills,-----	14	42
Warsaw,-----	8	17	Rush Creek,-----	16	40
Simmon's Bridge,-----	9	16	McCann's Mill,-----	17	39
Bedford Road, (crossing,)-----	10	15	Green's Mill,-----	22	34
Darling's Bridge,-----	11	14	Plunk's Mill,-----	23	33
Gamble's Lock,-----	12	13	Hocking Falls,-----	27	29
Butler's (lower crossings,)-----	13	12	Logan,-----	28	28
Turner's Saw Mill,-----	14	11	Wright's,-----	33	23
Butler's (upper crossings,)-----	15	10	Pattonsville,-----	34	22
Walhonding, (town,)-----	18	7	Seven Mile Run,-----	36	20
Mohican, (road crossing,)-----	19	6	Nelsonville,-----	41	15
Gamble's Saw Mill,-----	19	6	Monday Creek,-----	44	12
Cummins' Bridge,-----	21	4	CHAUNCEY,-----	49	7
Mohican Dam,-----	23	2	Wolf's,-----	51	5
Cavallo,-----	24	1	Athens,-----	56	0
Rochester,-----	25	0			

WABASH AND ERIE CANAL.			MIAMI CANAL EXTENSION.		
Names of Places.	From Manhat- tan.	From State Line.	Names of Places.	From Day- ton.	From Junc- tion.
	Miles.	Miles.		Miles.	Miles.
Manhattan,	0	88	DAYTON,	0	115
TOLEDO,	4	84	Tippecanoe,	14	101
Sidecut,	5	83	Froy,	21	94
Termination of Sidecut, mouth of Swan creek,....	6	84	Piqua,	30	85
Port Miami,	12	76	Loramie's Feeder,	33	82
MAUMEE CITY,	13	75	Lockport,	36	79
Sidecut,	14	74	Newport,	48	67
Termination of Sidecut, Perrysburg,	16	76	Berlin,	53	62
Waterville,	18	70	Minster,	56	59
Otsego,	25	63	Bremen,	59	56
Providence,	30	58	St. Marys Feeder,	65	50
Damascus,	36	52	St. Marys,	67	48
Napoleon,	44	44	Deepcut,	80	35
Florida,	52	36	Junction,	115	0
Independence,	57	31	SIDNEY FEEDER.		
DEFIANCE,	61	27			
Junction,	70	18	Names of Places.	From Lock- port.	From Port Jefferson
Reservoir,	81	7			
Antwerp,	84	4			
State Line,	88	0			
MIAMI CANAL.					
Names of Places.	From Cincin- nati	From Day- ton.			
	Miles.	Miles.		Miles.	Miles.
CINCINNATI, (and including <i>in</i> & <i>out</i> of Hamilton basin, 66) ..	0	65	Lockport,	0	13
Lockland,	12	53	Sidney,	8	5
Hamilton Sidecut,	28	37	Port Jefferson,	13	0
HAMILTON, (end of Sidecut,) ..	29	38	ST. MARYS FEEDER AND RESERVOIR.		
MIDDLETOWN,	41	24			
Franklin,	47	18	Names of Places.	From St. Marys Feeder.	From Celina.
Miamisburg,	53	12			
Carrollton,	56	9		Miles.	Miles.
Alexandersville,	57	8	St. Marys Feeder,	0	11
DAYTON,	65	0	East Bank,	3	8
And including <i>in</i> and <i>out</i> of Hamilton Basin,	66		Montezuma,	10	1
MUSKINGUM IMPROVEMENT.			Celina,	11	0
Names of Places.	From Dres- den.	From Marietta	GENERAL DISTANCES.		
	Miles.	Miles.			Miles.
Dresden,	0	91	From Cleveland to Roscoe, entrance of Walhonding Canal,		135
Simm's Creek,	6	85	From Cleveland to Rochester, head of Wal- honding Canal,		160
ZANESVILLE,	16	75	From Cleveland to Dresden, commence- ment of Muskingum Improvement, ..		151
Taylor'sville & Duncan's Falls, ..	26	65	From Cleveland to Marietta, at termina- tion of Muskingum Improvement, ..		242
Rokey and Eagleport,	36	55	From Cleveland to Carroll, entrance of Hocking Canal,		204
McCONNELLSVILLE and Malta, ..	43	48	From Cleveland to Athens, termination of Hocking Canal,		260
Windsor,	53	38	From Cleveland to Portsmouth, termina- tion of the Ohio Canal,		309
Luke's Chute,	58	33	From Manhattan to Junction of Miami Canal Extension,		70
Beverly and Waterford,	68	23	From Manhattan to Indiana State Line, via Wabash and Erie Canal,		88
Lowell,	79	12	From Manhattan to Cincinnati, via Wa- bash and Erie, and Miami Canals, ..		250
Devoll's,	86	5	⚓ Collectors' Offices are located at those towns printed in SMALL CAPITALS.		
Marietta and HARMAR,	91	0			

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