

*Public Office*

**ACTS**

OF THE

**General Assembly**

OF THE

1825-26

**COMMONWEALTH**

OF

**PENNSYLVANIA,**

PASSED AT A SESSION WHICH WAS BEGUN AND HELD

AT THE

**Borough of Harrisburg**

ON

**TUESDAY, THE SIXTH DAY OF DECEMBER,**

**IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND TWENTY-FIVE**

AND OF THE

**INDEPENDENCE**

OF THE

**UNITED STATES OF AMERICA**

**THE FIFTIETH.**

**PUBLISHED BY AUTHORITY.**

**HARRISBURG:**

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**1826.**



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## CHAPTER XVI.

## AN ACT

To provide for the commencement of a canal to be constructed at the expense of the state, and to be styled "The Pennsylvania Canal."

WHEREAS the construction of a canal within our own limits for the purpose of connecting the eastern and western waters, is believed to be practicable, and within the means of the state, and its speedy completion will advance the prosperity and elevate the character of Pennsylvania; and, by facilitating intercourse and promoting social interests, will strengthen the bands of the Union: *And whereas* there are important sections of the work which may be immediately begun without the danger of error:

Preamble.

Therefore,

SECT. 1. *BE it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met and it is hereby enacted by the authority of the same,* That the commissioners appointed by the act entitled "An act to appoint a board of canal commissioners," passed the eleventh day of April, eighteen hundred and twenty-five, are hereby authorised and empowered, in behalf of this state, immediately to locate and contract for making a canal and locks, and other works necessary thereto, from the river Swatara, at or near Middletown, to or near to a point on the east side of the river Susquehanna, opposite the mouth of the river Juniata; and from Pittsburg to the mouth of the Kiskiminitas; and also, as soon as they shall deem it expedient and practicable, to construct a navigable feeder of a canal, from French creek to the summit level at Conneaut Lake, sufficient to convey at least two hundred and twenty-one cubic feet of water per second, and to survey and locate the route of a canal from thence to Lake Erie: *Provided,* That if it shall be found necessary, in order to construct the said canals, to obstruct the navigation of either of the rivers Susquehanna and Allegheny by dams or other means, that before such obstruction shall be authorised to be made, that the said commissioners shall cause to be made a means of navigation, in either or both of said rivers, equally safe and practicable as now exist in the said rivers.

Commissioners authorised to contract for making a canal and locks from Swatara to Juniata, and from Pittsburg to Kiskiminitas. And construct a feeder from French creek to Conneaut lake, &c.

Proviso relative to navigation of the rivers Susquehanna and Allegheny.

SECT. 2. *And be it further enacted by the authority aforesaid,* That the said commissioners shall be authorised to appoint one or two of the board, as occasion may require, as acting commissioner or commissioners who shall receive four dollars per day each, while actually engaged in the superintendance of the works contemplated by this act, and which sum shall be in full of all compensation for services and expenses.

Acting commissioners to be appointed.

Their compensation.

State treasurer to be treasurer of the board.

Of engineers, &c.

Acting commissioners to enter into bond.

Commissioners receiving \$50,000 to settle their accounts, &c.

Acting commissioners to take duplicate receipts for money paid, &c.

Contracts to be made in writing, &c.

Notice of the time and place of receiving proposals to be given.

No extra allowance to be made.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the state treasurer for the time being shall, in addition to his official duties, act as treasurer to the board of canal commissioners; and the said board shall have power to appoint engineers, clerks and other officers, toll gatherers and such other agents as they shall judge requisite; and to agree for and settle their respective wages, and to establish reasonable toll.

SECT. 4. *And be it further enacted by the authority aforesaid,* That it shall be the duty of each and every acting canal commissioner, appointed in pursuance of this act, to superintend the making and constructing said canal, before entering upon the duties of his office, to enter into bond to the commonwealth, with at least two substantial freeholders as sureties, in the penal sum of fifty thousand dollars, conditioned for the faithful accounting of all moneys intrusted to him as canal commissioner, whenever and as often as he may be required to do so by law, or by concurrent resolution of the Senate and House of Representatives, or by the accounting officers of the treasury department; and the said bond shall be approved by the governor, and filed in the office of the secretary of the commonwealth.

SECT. 5. *And be it further enacted by the authority aforesaid,* That whenever the sum or sums of money paid to any canal commissioner, shall amount to fifty thousand dollars, it shall not be lawful for the treasurer of the board to advance or pay to such canal commissioner, any further sum or sums of money, until he shall first have produced an account and vouchers to the accounting officers of the treasury department, showing the payment and expenditures of the moneys received by him.

SECT. 6. *And be it further enacted by the authority aforesaid,* That in order the better to guard against mistakes and losses, it shall be the duty of the acting canal commissioners respectively to take duplicate receipts for all sums of money which they may advance and pay to their engineers, contractors and agents, one whereof in each and every case, shall be filed with the accounting officers of the treasury department; and all contracts for the construction of any part of the improvements contemplated by this act shall be made in writing, one copy of which shall be forthwith deposited with the state treasurer, and one copy shall be given to and retained by the contractor; and at least thirty days notice shall be given in one or more of the newspapers printed in Philadelphia, Harrisburg and Pittsburg, respectively, and in such other newspapers as may be deemed expedient by the canal commissioners, or a majority of them, of the time and place at which proposals will be received for entering into such contracts; and no extra allowance shall, in any case, be made for the performance of any such contract beyond the sum stipulated therein.

SECT. 7. *And be it further enacted by the authority aforesaid,* That the location and dimensions of the said canals and locks shall be determined by a majority of the board, with the approbation of a skilful engineer, and with the consent of the governor. Of the location and dimensions of canals and locks.

SECT. 8. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said board, or a majority of them, to agree with the owner or owners of any land, through which the said canal is intended to pass, for the purchase, use, and occupation thereof, on behalf of the state; and in case of disagreement, or in case the owner or owners thereof shall be a feme covert, under age, non compos, out of the state or county, on application to a justice of the county in which such land shall be, the said justice of the peace shall issue his warrant, under his hand, to the sheriff of the county, to summon a jury of eighteen inhabitants of his county, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter; and the sheriff, upon receiving the said warrant, shall forthwith summon the said jury, and when met, shall administer an oath or affirmation to every juryman who shall appear, being not less than twelve in number, that he will faithfully, justly and impartially value the land, and all damages the owner or owners shall sustain, by cutting the canal through such land, or the partial or temporary appropriation, use or occupation of such land, according to the best of his skill and judgment; and that, in such valuation, he will not spare any person or persons for favor or affection, or any person or persons grieve for malice, hatred or ill-will; and in every such valuation and assessment of damages, the jury shall be and they are hereby instructed to consider, in determining and fixing the amount thereof, the actual benefit which will accrue to the owner or owners from conducting the said canal through, or erecting any of the said works upon his land, and to regulate their verdict thereby, except that no assessment shall require any such owner or owners to pay or contribute any thing where such benefit shall exceed, in the estimate of the jury, the value and damages ascertained as aforesaid; and the inquisition thereupon taken, shall be signed by the sheriff and some twelve or more of the jury, and returned by the sheriff to the clerk or prothonotary of his county; and unless good cause be shown against the said inquisition, it shall be affirmed by the court and recorded; but if the said inquisition should be set aside, or if, from any cause, no inquisition shall be returned to such court within a reasonable time, the said court may, at its discretion, as often as may be necessary, direct another inquisition, to be taken in the manner above prescribed; and upon every such valuation, the jury is hereby directed to describe and ascertain the

Authority to agree for the purchase of land.  
Mode of proceeding in order to ascertain damages, &c. in case of disagreement between owners of land and commissioners.

bounds of the land by them valued, and the quality and duration of the interest and estate in the same, required by the said board, for the use of the state, and their valuation shall be conclusive on all persons, and shall be paid for by the said board to the owner or owners of the land, or his, her or their legal representatives; and on payment thereof, the state shall be seized of such lands as of an absolute estate in perpetuity or with such less quantity and duration of interest or estate in the same, or subject to such partial or temporary appropriation, use or occupation, as shall be required and described as aforesaid, as if conveyed by the owner or owners; and whenever, in the construction of the said canal or any of the works thereof, locks, dams, ponds, feeders, tunnels, aqueducts, culverts, bridges, or works of any other description whatsoever, appurtenant thereto, it shall be necessary to use earth, timber, stone or gravel, or any other material to be found on any of the lands adjacent or near thereto, and the said board, or their agent, cannot procure the same for the works aforesaid, by private contract of the proprietor or proprietors, owner or owners; or in case the owner or owners should be a feme covert, non compos, or under age, or out of the state or county, the same proceedings, in all respects, shall be had as in the case before mentioned, of the assessment and condemnation of the lands required for the said canal, or the works appurtenant thereto.

**LABORERS ON CANALS TO BE EXEMPT FROM MILITIA DUTY.**

SECT. 9. *And be it further enacted by the authority aforesaid,* That every person actually engaged in laboring on any canal authorised by law, shall be exempt from doing militia duty in this state, except in cases of insurrection or invasion, during the time when he is so actually engaged; and the certificates of the contractor, who shall employ such men so liable to perform militia duty, in the performance of their contracts, shall be prima facie evidence of such engagement.

**\$300,000 APPROPRIATED.**

SECT. 10. *And be it further enacted by the authority aforesaid,* That the sum of three hundred thousand dollars be and the same is hereby appropriated, to be paid by the state treasurer in such sums as shall be required for the execution of the work, which sums shall from time to time be paid into the hands of the acting canal commissioner or commissioners, by direction of a majority of the board, and by warrant of the governor, subject to the provisions of the fifth section of this act.

**MAY AGREE WITH HARRISBURG CANAL, FIRE INSURANCE AND WATER COMPANY FOR TAKING WATER FROM CANAL.**

SECT. 11. *And be it further enacted by the authority aforesaid,* That the commissioners aforesaid be and they are hereby authorised, if they shall deem it proper and expedient, to agree with the president and managers of the Harrisburg Canal, Fire Insurance and Water Company, for taking water from the canal herein provided to be made, from such point on the same as shall be deemed by said commissioners least injurious to the said canal, and least likely to impede the

navigation thereof, for supplying the borough of Harrisburg with water, and for propelling machinery.

SECT. 12. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the canal commissioners on or before the first Monday of February in each and every year, to settle and account with the accounting officers of the treasury department for all moneys by them received from the treasurer of the board; and it shall be the duty of the auditor general to report the settlement so made to the legislature as soon thereafter as may be, detailing the sums allowed by them to the engineers and agents respectively employed in the superintendance and construction of said canal, and the works connected therewith.

Commissioners to settle their accounts annually.

Auditor general to report settlement to legislature.

JOSEPH RITNER, *Speaker*  
of the House of Representatives

ALEXANDER MAHON,  
*Speaker of the Senate.*

APPROVED—the twenty-fifth day of February, one thousand eight hundred and twenty-six.

J. ANDW. SHULZE

CHAPTER XVII.

AN ACT

Authorising the election of additional constables in certain townships therein mentioned, and for other purposes,

SECT. 1. *BE it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met and it is hereby enacted by the authority of the same,* That the electors of the township of Smith, in the county of Washington, shall annually, on the day appointed for the election of constables in the different townships of this commonwealth, hereafter elect four suitable persons, inhabitants of said township, and return the names of the persons so elected to the next general court of quarter sessions, to be held for the county of Washington, two of whom shall be appointed constables for said township, in the same manner, with like powers and authority, and subject to the same reg-

Smith township, Washington county, authorized to elect two constables.