

5. SEC. 3. That it shall be furthermore the duty of the board of chosen freeholders in each county to provide and keep a standard measure of one rod in length, by which surveyors of lands in said county may compare, test and verify their several chains; the said standard measure to be kept under the control and in the custody of the county clerk, and to be accessible to all surveyors as aforesaid, under such restrictions and regulations as may be deemed by the said board of chosen freeholders to be compatible with the safety and proper preservation of the said standard measure.

Freeholders to provide and keep a standard measure.

6. SEC. 4. That it shall be furthermore the duty of the board of chosen freeholders of each county wherein the pillar provided for by the act to which this is a supplement shall have been erected, to cause to be determined the accurate latitude and longitude of the pillar aforesaid, reckoning the latter from the meridian of Washington, and to have the said latitude and longitude marked, distinctly and legibly, in degrees, minutes, seconds and parts of seconds, on the pillar aforesaid.

Latitude and longitude to be marked on pillar.

7. SEC. 5. That it shall be the duty of each and every surveyor engaged in surveying land within any county of this state, to test and note the actual variation of his compass from the true meridian line, at least once in every year, and to deposit a copy of the same, with the date and time of such test, and to deposit a certificate embodying the same with an affidavit verifying its correctness, with the clerk of the county in which he may reside, to be by him recorded in a book provided for that purpose; and every surveyor neglecting or refusing to comply with the provisions of this section shall be liable to the penalty of fifty dollars, to be sued for and recovered, with costs, as debts of like manner are recovered, before any justice of the peace, by the corporation of said county, or by any person, for its use and benefit, to be applied on recovery to such county uses as said corporation shall direct.

Surveyors to test variation.

8. SEC. 6. That for recording each certificate of variation, and affidavit of the correctness of the same appended, and for copies or abstracts of the same, and for drawing certificate and seal therefor, the county clerk shall be allowed the same fees as are now allowed by law for similar services in regard to other matters of record in his office, the said fees to be paid by the parties presenting the same for record, or demanding abstracts or copies, or the drawing of said certificate and the affixing of said seal. (1)

Fees of clerk for recording certificate of variation, &c.

(1) For supplement relating to counties of Salem and Cumberland, see P. L. 1869, p. 566.

Mills and Mill-Dams.

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| <ol style="list-style-type: none"> 1. Toll allowed to millers. 2. Penalty for taking unlawful toll. 3. Millers to keep toll measures. 4. Waste-gates to be constructed in mill-dams when required by township committee. 5. Persons not complying liable for damages. 6. When water overflows dam, owner to raise gate. 7. Person aggrieved may appeal. 8. Restriction of act. 9. Height of dam may be raised upon compensation to persons damaged. | <ol style="list-style-type: none"> 10. Upon petition, justice of supreme court to appoint commissioners to assess damages. 11. Commissioners to take oath and estimate damages. 12. Proceedings in case of appeal from decision of commissioners. 13. No right to raise dam until award is paid. 14. Provisions of act not to affect mill of other persons on which a mill dam has been lawfully erected, &c. |
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An act to ascertain the toll of millers.

Passed May 25, 1799.

R. S. 1057.

1. That every miller shall be allowed, for toll, one-tenth part of a bushel, and no more, out of every bushel of grain which he shall grind, including bolting; except malt, out of each bushel of which he shall be allowed one quart, and no more.

Toll allowed to millers.

2. That if any miller shall take or receive a greater toll for grinding than is allowed by this act, he shall, for every such offense, forfeit and pay three dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same. (a)

Penalty for taking unlawful toll.

(a) On a suit for these penalties, the verdict must show on what offenses the conviction was had. *Westbrook v. Van Auken*, 2 South. *478.

Millers to keep toll measures.

3. That every miller shall keep in his mill an exact measure of one-tenth part of a bushel, and of one-twentieth part of a bushel, for his toll measures, with a fit instrument to strike the said measures, which shall be stricken whenever toll is taken; and if he fail in any of these particulars, he shall forfeit and pay three dollars, to be recovered as aforesaid.

An act to provide for the construction of proper waste-gates in dams.

P. L. 1883, p. 155.

Approved March 23, 1883.

Preamble.

WHEREAS, During heavy freshets great damage is often occasioned by reason of the breaking away of mill-dams, for the want of proper waste-gates for the discharge of the surplus water, and bridges and other public and private property are thus destroyed; for the remedying thereof,

Waste-gates to be constructed in mill-dams when required by township committee.

4. SEC. 1. That in all mill-dams more than six feet high and sixty feet long, heretofore or hereafter constructed in any of the waters of this state, there shall be placed, when required by the township committee of the township where the same is or is to be located, or if the same is or is to be located in two townships, then by the township committees of both townships, at least one suitable waste-gate for the free and rapid discharge of surplus water in time of freshet or other emergency, which gate or gates shall be kept in good order at all times by the owner or lessee of the water-power furnished by such mill-dam; such gate or gates shall be of such dimensions as may be approved by a reputable engineer and the chosen freeholder of the township wherein such dam may lie, or if the same shall be in two townships, then by the chosen freeholders of both townships, and a plan and written specification of the construction of such gate or gates, approved as aforesaid in writing, shall be filed by the owner or lessee of said dam, and under whose authority the same has been or is to be constructed, in the county clerk's office of the county or counties wherein the same may be located, before it shall be lawful to construct such dam, and notice of such filing shall be given by such owner or lessee to the board of chosen freeholders of any county wherein such dam doth or is to lie.

Plan to be filed in office of county clerk.

Person not complying with provisions of act liable for damages.

5. SEC. 2. That any person who shall construct or maintain a dam more than six feet high and sixty long, without complying with the provisions of the first section of this act, shall be liable for any and all damages, to either public or private property, which shall be proved in any court of competent jurisdiction to have resulted from such non-compliance.

When water overflows dam, owner to raise gate.

6. SEC. 3. That when any heavy rainstorm or freshet shall occur, and the waters backed up by any dam shall overflow the same, it shall be the duty of such owner or lessee to raise the waste-gate or gates in such dam to a height sufficient to allow the surplus water to run off freely, and relieve the pressure against such dam, in order to avoid the danger of the same being carried away; and in case of the failure or neglect of such owner or lessee to so raise such gate or gates, it shall be lawful for the roadmaster of any road district wherein such dam shall wholly or partly lie, to raise the gate or gates as aforesaid.

Person aggrieved may appeal.

7. SEC. 4. That if any person who shall be notified to construct a gate or gates under this act shall feel aggrieved, he may, within ten days after the service of the notice upon him, appeal to the board of chosen freeholders of the county by serving a written notice of appeal upon the clerk of said board, and by serving a copy of such notice of appeal upon the clerk of the township committee or committees who gave the notice requiring such gate, personally, or by leaving the same at his or their residence; and thereupon, said board of freeholders shall have power to hear and determine said appeal, and the decision of a majority thereof thereupon shall be final; if no appeal be taken, such gate or gates shall be constructed within ninety days from the service of the notice requiring the same; and if an appeal be taken, and the board of chosen freeholders decide that said gate or gates shall be constructed, the same must be constructed within ninety days after such decision; and it shall be the duty of the board of chosen

freeholders to hear and determine any such appeal within forty days after the appeal is taken.

8. SEC. 5. That this act shall not apply to any dams located on tide-water. Restriction of act.

An act concerning mills and mill-dams.

Passed May 12, 1890 P. L. 1890, p. 324.

9. SEC. 1. That any person owning a water mill which has been used as a public grist mill, saw mill or manufactory for the period of twenty years or upwards, desiring to raise the height of the dam used for working said mill for the more effective working of the same, and the raising of the said dam would cause an overflow or damage to the lands of another, and compensation for such damages cannot be agreed upon by the parties interested, he or they may raise such dam to a height not exceeding two feet; *provided*, the raising thereof will only overflow marsh land which is not cultivated; *provided*, compensation is first made to the person or persons so damaged thereby in the manner hereinafter provided.

Height of dam may be raised upon compensation to persons damaged.

Proviso.

Proviso.

10. SEC. 2. That the person or persons proposing to raise such dam may apply to one of the justices of the supreme court of this state by petition setting out the title of the petitioner or petitioners to said water mill and dam, the user of such mill as a public mill aforesaid for the said period, the height to which the said dam is proposed to be raised and the title and description of the lands which would be overflowed or damaged thereby; and the said justice, being satisfied of the truth of the facts contained in said petition, after reasonable notice to all persons interested, shall appoint, under his hand and seal, three disinterested, impartial and judicious freeholders, residents of the county in which such damages arise, commissioners to determine in relation to the matters set forth in said petition, and assess the damages, upon such notice to be given to the person interested as shall be directed by justice making such appointment, to be expressed therein, not less than ten days.

Upon petition, justice of supreme court to appoint commissioners to assess damages.

11. SEC. 3. That it shall be the duty of said commissioners (having first taken and subscribed an oath or affirmation before some person duly authorized to administer an oath, faithfully and impartially to examine the matter in question and to make a true report according to the best of their skill and understanding) to meet at the time and place appointed to hear the parties and view the premises, and if they shall be of the opinion that the said mill is a public mill or of use and benefit to the people of this state, and that the raising of the said dam to the height proposed is necessary for the use or more efficient working of the said mill, then they shall estimate the damages to be paid by the party proposing to raise the height of said dam, and shall make report in writing under the hands and seals of said commissioners or any two of them, which report, together with the petition and appointment, shall, within ten days, be filed in the clerk's office of the county in which said damages may arise, to remain of record therein; and the payment or tender of the amount so awarded shall vest in the said person or persons so owning such water mill and dam the right to raise and maintain the said dam to the height proposed; and the said justice of the supreme court shall, upon the application of either party, and on reasonable notice to the other, and allow all costs, fees and expenses as he shall think just, to be paid by the said person or persons proposing to raise such dam; *provided, always*, that either party may appeal from the decision of the said commissioners to the next circuit court in the county wherein such damages would arise.

Commissioners to take oath and estimate damages.

To make report.

Costs, fees and expenses, by whom paid.

Proviso.

12. SEC. 4. That every appeal from the decision of the commissioners appointed under the preceding section shall be made in writing and in form of a petition to said court and filed with the clerk of said circuit court, and notice in writing of such appeal shall be given to the opposite party within ten days after the filing thereof, which proceeding shall vest in the said circuit court full power to hear and adjudge the same, and to direct a proper issue for the trial of said controversy to be formed between the said parties, and to order a jury to be struck and a view of the premises

Proceedings in case of appeal from decision of commissioners.

to be had, and the said issue to be tried at the next term of said court to be holden in said county upon like notices and in like manner as other issues in the said court are tried ; and it shall be the duty of the jury to determine whether the said mill is of use and benefit to the people of this state, and that the raising of said dam to the height proposed is necessary for the effective working of said mill for which said dam is designed, and if they shall so determine, then they shall assess the damages to be paid by the party so raising or proposing to raise such dam ; and the said court shall render judgment upon the verdict of such jury, and if damages are assessed shall render judgment for such damages with seventy-five per centum thereof to be added thereto, and said court may award costs to either party, at its discretion ; *provided, however*, if the jury shall be applied for by the owner of the land so damaged or proposed to be damaged, and shall assess a less sum than was awarded by the commissioners, then the costs shall be paid by the said applicant or applicants, and either deducted out of the sum awarded or execution issued therefor, as the court may direct.

Proviso.

No right to raise dam until award is paid.

Provisions of act not to affect mill of other persons on which a mill-dam has been lawfully erected, &c.

Act not applicable to navigable waters, &c.

13. SEC. 5. That no person or persons shall derive any right to raise said dam until he has paid or tendered to the person or persons likely to be damaged thereby the amount of such adverse award or judgment.

14. SEC. 6. That the provisions of this act shall in no way affect any mill of other persons on which a mill-dam has been lawfully erected and used, nor the right of any owner of such mill or mill site, unless the right to maintain on such last-mentioned site shall have been lost or defeated by abandonment or otherwise ; neither shall they affect the right of any town, township, borough or city in any highway or bridge which such town, township, or borough or city may by law be liable to keep in repair, nor shall said provisions be applicable to any navigable waters in this state, nor in any way interfere with any right or privilege heretofore granted to any person or corporations by any act of the legislature of this state ; this act shall not take away the right of any person injured by the raising of said dam to sue the party raising said dam, or maintaining it thus raised, for any damage suffered thereby.

Money.

An act regulating the money of account in this state.

R. S. 798.

Passed February 21, 1799.

Money of account to be expressed in dollars, &c.

1. That from and after the fourth day of July next, the money of account of this state shall be expressed in dollars or units, dimes or tenths, cents or hundredths, and mills or thousandths ; a dime being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mill the thousandth part of a dollar ; and that all accounts in the treasury of this state, all accounts in the treasuries of the different counties of this state, all assessment rolls and duplicates, and all decrees, verdicts, judgments and executions, in the courts of justice of this state, from and after the said fourth day of July next, shall be made, kept, entered and expressed in conformity to this act, and not otherwise. [See INTEREST.]

Monuments, Museums and Statues.

1. Associations for erecting monuments or statues.
2. Certificate of incorporation, what to contain and where filed.
3. Upon making and recording certificate, to be a body corporate.
4. Election of trustees. Powers of.
5. Failure to elect trustees yearly not to work dissolution.
6. When association may loan and invest moneys.
7. Power to collect moneys loaned.
8. Governor authorized to procure collection of designs of pottery, &c.
9. Expenses, how paid.
10. Custody of collection of scientific objects and military relics.
11. Room where preserved to be open to public.
12. Association for making collections of art, erecting museums and monuments.
13. Certificate of incorporation.