

CHAP. 94.

Proviso

Also upon lands to
take away stone,
&c.When five miles of
canal are com-
pleted, &c. to be
viewed, &c.

Proviso

court, what damages, if any, will be sustained by the owner or owners of said ground, by reason of such lock, canal or sluice, passing through his, her or their land, which report being confirmed by the court, judgment shall be entered thereon, and execution may issue in case of nonpayment for the sum awarded, with reasonable costs, to be assessed by the court; and it shall be the duty of the jury, or the six appraisers, as the case may be, in valuing any land, to take into consideration the advantage derived to the owner or owners of the premises from the said navigation passing through the same; *Provided*, that either party may appeal to the court within thirty days after such report may have been filed in the clerk's office of the proper county in the same manner as appeals are allowed in other cases.

10. *And be it enacted*, That the president and managers, by and with their superintendants, engineers, artists, workmen and labourers, with their tools, instruments, carts, wagons and other carriages, and beasts of draft or burthen, may enter upon the lands contiguous and near to the said creek, giving notice to the owner or occupier thereof, and from thence to take and carry away any stone, gravel, sand or earth, doing as little damage thereto as possible, and repairing any breaches they may make in the inclosures thereof, and making amends for any damages that may be done to the improvements thereon, and paying for the materials taken away, the amount whereof, if the parties do not agree, shall be assessed and valued by any three freeholders residing in the neighbourhood, under oath or affirmation, to be appointed by the consent of the parties, and if they cannot agree, by any disinterested justice of the peace of the proper county.

11. *And be it enacted*, That as soon as the said president, managers and company, shall have perfected five miles at any one place of the said canal or slack water navigation, and so from time to time, as they shall perfect five additional miles of the same, they shall give notice thereof to the governor, who shall thereupon nominate and appoint three disinterested persons to view and examine that part said to be completed, and to report to him in writing, whether the said navigation is so far executed in a masterly and workman-like manner, according to the true intent and meaning of this act; and if at any time their report shall be in the affirmative, then the governor shall, by licence under his hand and the seal of the state, permit the said president, managers and company, or such person or persons as they shall from time to time appoint as toll collectors, or their deputies, to demand and receive of and from the person having the charge of any boat or other vessels passing through any lock erected on said canal or slack water navigation, ten cents at each lock, upon each and every ton of the ascertained burthen of such vessel; *Provided*, that at the expiration of two years after the said work shall be completed, the tolls, together with the interest of money arising from the sale of water power, or the rents or profits thereof, should enable the company, after paying all repairs and other necessary expenses, to divide more than nine *per centum per annum* on the capital stock expended, then and in such case the tolls shall be so reduced, that the dividends shall not exceed nine *per cent.* and shall so continue for five years; and if at the expiration of that time shall exceed fifteen *per cent.*

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