

JUDGMENTS IN CASES MADE VALID

Act of Apr. 1, 1837, P.L. 132, No. 67

Cl. 72

Section 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 for the purpose of erecting a bridge over the Lehigh River, at Parryville, in the county of Northampton, John C. Parry, George Jenkins, Lewis S. Coryell, John D. Bowman, Thomas Craig & William Lilly, be, and they are hereby appointed commissioners to do and perform the several duties hereinafter mentioned, that is to say; they shall on or before the first day of June next, provide a book or books for the entering of subscriptions, and shall write therein as follows: We whose names are hereunto subscribed do promise to pay to the president and managers of the Parryville Bridge company, for erecting a bridge over the Lehigh river, at Parryville, in the county of Northampton, the sum of twenty dollars for each and every share of the stock in the said company set opposite our respective names, in such manner and proportions and at such times as shall be determined on by the president and managers, in pursuance of an act of the general assembly entitled "An act to incorporate the Parryville Bridge company; Witness our hands this day of in the year of our Lord, one thousand eight hundred and thirty- ;" and shall thereupon give notice, in two of the public newspapers printed in the counties of Northampton and Lehigh, of the times and places where and when the said books shall be opened to receive subscriptions, at which time and places some one or more of the said commissioners shall attend for that purpose, and keep open the said books during six hours in each of three successive days, or until five hundred shares shall be subscribed; and if five hundred shares shall not be subscribed within that period, then the said commissioners may adjourn from time to time until the said number of shares shall be subscribed, of which adjournments public notice shall be given in some one or more of the newspapers before mentioned: Provided always, that every person, on entering his name in the said books as a subscriber, shall pay five dollars per share on each share he shall subscribe, as a fund out of which shall be defrayed the expenses attending the taking of subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation as soon as the same shall be organized; such first payment on each share to be taken and considered as a part of payment on each share subscribed.

Section 2. Fees of Auditor General

The Auditor General be and he is hereby authorized to demand and receive the following fees, to be accounted for and paid by him into the State Treasury, quarterly:

For every search, where no other service is performed to which any fee is attached.....	\$	.12 1/2
For copy of account, for every item.....	\$	.01
For copy of entry, or paper filed or any part thereof, for every ten words or figures.....	\$	.01
For certificate and seal.....	\$	.50

Provided, That each person settling an account in said office shall be entitled to a certified copy of said account without fee, as heretofore. 1837, April 1, P.L. 132, Sec. 2.

Section 3. The three persons just named in the letters patent of incorporation, shall, as soon as conveniently may be after sealing the same, give notice in one or more of the public

newspapers printed in the counties of Northampton and Lehigh, of a time and place to be appointed, not less than twenty days from the time of issuing said notice, at which time and place the said subscribers shall proceed to organize the corporation, and shall choose by a majority of votes of the said subscribers, taken by ballot, to be delivered either in person or by proxy duly authorized, one president, four managers, one treasurer, one clerk and such other officers as they may think necessary to conduct the business of the company during one year, and until other officers be chosen, and shall have power to make such by-laws, rules, orders and regulations not inconsistent with the constitution and laws of this state or of the United States, as may be necessary for the well ordering the affairs of the company: Provided always, That no stockholder shall have more than one vote for each share not exceeding five shares, and one vote for every two shares above five and not exceeding eleven, and one vote for every three shares above eleven and not exceeding twenty, and one vote for every five shares above twenty: Provided also, That no person shall have more than twenty votes at any election or in determining any question arising at such meetings, whatever number of shares he may have subscribed.

Section 4. A public meeting of the said stockholders shall be held on the first Monday in June next following the first election, had as aforesaid, and on the first Monday of June in every succeeding year, at such place as shall be fixed by the rules and orders of said company, for the purpose of choosing officers for the ensuing year, and the determination of any question affecting the interests of said company.

Section 5. (5 repealed Apr. 28, 1978, P.L.202, No.53)

Section 6. (6 repealed Apr. 28, 1978, P.L.202, No.53)

Section 7. (7 repealed Apr. 28, 1978, P.L.202, No.53)

Section 8. Before the president and managers of the company aforesaid shall proceed to build said bridge, it shall and may be lawful for them to contract with the owner or owners of any land, for the purchase of so much thereof as shall be necessary for the purposes of erecting and completing said bridge, and making all the necessary works and causeways to and from the same, if they can agree with the said owner or owners; but in case they cannot agree, then it shall and may be lawful for the said president and managers to apply to the court of Common Pleas of Northampton county, who, upon such application, are hereby authorized and required to appoint two discreet and disinterested freeholders of this state, and also to call upon the owner or owners of said lands, whose duty it shall be to appoint one, who, after being duly sworn or affirmed to perform the duties enjoined on them by this act, shall carefully proceed to view and examine the said lands, as shall be necessary, for the purpose of erecting and completing the said bridge, and making all the necessary works and causeways to and from the same, and shall, according to the best of their skill and judgment, estimate the value of lands so necessary to be taken as aforesaid, and having estimated the advantages as well as the disadvantages which may be sustained by the owner or owners of such lands, shall make an appraisement thereof in writing, and the same shall return, together with a map describing the bounds of such land, to the said court of Common Pleas, and the said appraisement, having been confirmed by the court, shall be filed in the prothonotarys office, together with the said map; and the said president, managers and company having paid to the said owners, respectively, the several sums awarded to be paid to them, together with the costs of the appraisement,

the said corporation shall be entitled to have and to hold, to them and their successors an assigned, the said lands, as fully as if they had been granted by their respective owners.

Section 9. The president and managers of said company, shall keep fair and just accounts of all monies received by them from the commissioners aforesaid, and from the subscribers to the capital stock of said company, for all penalties for delay in payment thereof, and of the amount of the profit on shares which may be forfeited as aforesaid, of all voluntary contributions and of all monies expended by them in the prosecution of the said work, and shall once in every year submit such accounts in detail to a general meeting of the stockholders, until the said bridge be completed, and all expenses incurred in erecting the same shall be fully paid and discharged, and the aggregate amount of all such expenses shall be liquidated and ascertained, and if upon such liquidation, or whenever the whole capital stock of the said company be nearly expended, it shall be found that the said capital stock will not be sufficient to complete said bridge, according to the true intent and meaning of this act, it shall be lawful for the said company, at a stated or special meeting to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand the receive the monies subscribed on such shares, in like manner and under like penalties as are herein provided for the original subscription.

Section 10. When the Parryville Bridge company shall have erected and completed a bridge at the place aforesaid, the property thereof shall be vested in the said company, and their successors and assigns, during and unto the end of forty years, to commence from the time when said bridge shall be completed, and the said company, their successors or assigns, are hereby empowered to erect gates and demand and receive tolls as follows, viz: for every foot passenger one cent; for every carriage of whatever description, used for the purposes of the trade or agriculture, having four wheels and drawn by six horses, fifty cents; for such carriage, having four wheels and drawn by five horses, forty-five cents; for every such carriage, having four wheels and drawn by four horses, forty cents; for every such carriage, having four wheels and drawn by three horses, thirty cents; for every such carriage, having four wheels and drawn by two horses, twenty-five cents; for every such carriage, having four wheels and drawn by one horse, twenty cents; for every carriage of whatever description, used for the purpose of personal accommodation or pleasure, having four wheels and drawn by four horses, one dollar; for every such carriage, having four wheels and drawn by two horses, fifty cents; for every such carriage, having four wheels and drawn by one horse, twenty-five cents; for every carriage of whatever description, used for the purpose of trade or agriculture, having two wheels and drawn by four horses, thirty cents; for every such carriage, having two wheels and drawn by three horses, twenty-five cents; for every such carriage, having two wheels and drawn by two horses, twenty cents; for every such carriage, having two wheels and drawn by one horse, twelve and a half cents; for every chair or other two wheeled carriage of pleasure, and for every horse used therein, fifteen cents; for every sleigh or sled drawn by four horses, thirty-seven and one half cents; for every sleigh or sled drawn by three horses, thirty-one cents; for every sleigh or sled drawn by two horses, twenty-five cents; for every sleigh or sled drawn by one horse, twelve and one half cents; for every horse, mare or gelding,

with or without a rider, four cents; for every carriage drawn by oxen, or partly by oxen and partly by horses, to be rated in proportion of two oxen for one horse, and in all cases a mule shall be rated the same proportion as a horse; for every head of horned or muley cattle, two cents; for every head of sheep or swine, one cent: Provided, That any person or persons attending funerals, going to or returning from divine worship, all persons going to or returning from elections or military trains, and students or children attending schools or seminaries of learning, shall at all times be exempted from the payment of any toll: And provided, That nothing in this act shall be so construed as to prevent the said company from contracting with any person or persons, desirous of using said bridge, for an annual sum in place of toll hereinbefore mentioned: And provided also, That when the toll shall exceed fifteen per cent, nett annual profit, the excess shall compose a fund for the redemption of the bridge, so as to render it free, save that there shall always be a small toll collected for keeping it in repair; and if at the expiration of the forty years aforesaid, the amount of the said fund shall be found adequate to the redemption of said bridge, so as to declare it free, (providing at the same time for its repairs,) then the said company shall be obliged to take such sum of money therefor as shall be allowed on a fair appraisement, by disinterested persons, to be chosen in such manner as directed by law; but if the said bridge shall not be redeemed and paid for as a free bridge, at the expiration of the said term of forty years, the said corporation may and shall continue to hold the same, on the terms of this act, beyond the said term, until the same shall be redeemed and paid for in the manner herein directed, or in some other manner as may be directed by the legislature.

Section 11. If the said company, their successors or assigns, or any person employed by them, shall collect or demand any greater rate or prices for the passing over the said bridge than what is hereinbefore prescribed, or shall neglect to keep the said bridge in repair, he or they shall forfeit and pay, for every such offence, the sum of twenty dollars, to be recovered before any justice of the peace of said county, one half thereof to be paid to the directors of the poor of the county of Northampton, for the use of the poor of said county, and the other half to the person who shall sue for the same: Provided always, That no suit shall be brought in respect of this unless within fifteen days after the offence be committed: And provided also, That the judgment of the said justice, in any such case brought before him, shall be liable to reversion either by appeal to the court of Common Pleas of said county, if the merits of the case be contested, or by certiorari, if the legality of his proceedings of jurisdiction be disputed.

**Compiler's Note:** Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

Section 12. The said president, managers and company shall keep a just account of all monies received by their several collectors of tolls for crossing the said bridge, and shall declare and make a dividend of the income and profits thereof, among all the subscribers to the said companys stock, in proportion to their respective shares, first deducting all contingent costs and charges, and such proportion of the income as may be sufficient for a fund to proved against the decay, the repairing or the rebuilding of the said bridge, as time and

accident may render necessary, and shall on the first week of June of every year, publish the dividend to be made of the clear profits arising from the tolls among the stockholders, and of the time and place when and where the same shall be paid, and shall cause the same to be paid accordingly in ten days thereafter, or as soon as the same shall be demanded.

Section 13. It shall and may be lawful for the president and managers, their superintendents, surveyors, engineers, artists and hands, when so directed or authorized by the president or managers, to enter in and upon all the lands, tenements and enclosures for the purpose of examination and location.

Section 14. If the said president and managers shall refuse or neglect to enforce the collection and payment of the instalments required of stockholders, agreeably to the seventh section of this act, the said president and managers for the time being, shall be held personally liable for any loss that may accrue to the said company from such refusal or neglect: Provided always, That if any of the said managers shall dissent from the proceedings of said board, in relation to the duties required by this section, and shall record their dissent upon the minutes of the board, and notify the Governor of such proceeding, such managers so dissenting shall be exonerated from the liabilities which would otherwise be incurred under the provisions of this section.

Section 15. If any person or persons shall wilfully pull down, break or destroy, with intent to injure any part of parts of the said bridge, or any toll house, gates, bars or other property of the said corporation, erected for the use of said bridge, or the persons employed in conducting the business thereof, or shall wilfully deform or destroy the letters or figures, in any list of the rates of tolls affixed in any place for the information of passengers, or who shall wilfully and maliciously obstruct or impede the passage on or over the said bridge, or any part or parts thereof, he, she or they so offending shall, each of them, forfeit and pay for every such offence, to the said corporation, the sum of thirty dollars, to be sued for and recovered before any justice of the peace or alderman as debts of like amount are recoverable, and he, she or they so offending shall remain liable to actions at the suit of said corporation, for such wrongs, if the said sum or sums herein mentioned by not sufficient to repair and satisfy said damages: Provided always, That no such suit shall be brought unless within thirty days after such offence shall have been committed, and the judgment of the said justice of alderman shall be liable to reversal, as provided for in similar cases by law.

**Compiler's Note:** Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

Section 16. The said company shall not have power to issue any note or notes in the nature of bank notes, or to make discounts or receive deposits after the manner of any bank or banks, or to do or conduct any other business in the nature of banking business; and in case they should do so, contrary to the provision of this section, then their chartered privileges shall be null and void.

Section 17. If the president, managers and company for erecting the bridge aforesaid, over the Lehigh river, shall not proceed to carry on the said work within the space of three years from the passing of this act, and shall not within the

space of six years from the passing thereof complete the same, it shall and may be lawful for the legislature of this commonwealth to resume all and singular the rights and privileges hereby granted to the said company.

Section 18. Any railroad company, incorporated by the legislature of this state, whose road is located within or partly within the counties of Northampton and Lehigh, shall be authorized to subscribe to the stock of the Parryville Bridge company; and the legislature shall have power to alter the rates of toll fixed by this act, and the managers of said company may lessen the same whenever they shall believe it necessary, for the well being of the company or the community at large.

Section 19. That it shall be the duty of the Supreme Court of this commonwealth, to fix a time or times for holding, and hold a special Circuit Court or Courts, in the county of Montgomery, for the purpose of trying two suits or actions wherein the Beaver Meadow Railroad and Coal company are plaintiffs, and the Lehigh Coal and Navigation company are defendants, brought in the Court of Common Pleas of Montgomery county, to the Term of August, in the year of our Lord one thousand eight hundred and thirty-six, and which shall be removed into such Circuit Court for trial, before one or more judges of the said Supreme Court, and the whole proceedings in such special Circuit Court or Courts, shall be conducted in the manner prescribed by the several acts of assembly in relation to Circuit Courts, which were in force on the first day of May, in the year of our Lord one thousand eight hundred and twenty-eight, with the right of appeal by either party to the Supreme Court, as provided for by those acts; and either party shall be entitled to a struck jury and view in the same manner as is usual in actions of ejectment where boundaries are in question, and the costs of summoning the jurors and the jurors pay, shall be paid by the county of Northampton, as if the cause had been there instituted.

WHEREAS, an action of ejectment, instituted as of July Term, one thousand eight hundred and thirty-five, No. \_\_\_\_\_, in the Court of Common Pleas of Schuylkill county, by Anthony F. Miller, plaintiff, against Samuel Brooke, John Schall, John Dreher, James Cresson, John H. Cresson and others, defendants, was removed to the county of Lehigh, by virtue of an act of assembly, entitled, "An act authorizing the removal of a certain action of ejectment, brought by Anthony F. Miller against Samuel Brooke, John Dreher, James Cresson, and others, which is now pending in the court of Schuylkill county to an adjacent county for trial," approved on the twenty-ninth day of March, one thousand eight hundred and thirty-six: And whereas, it is represented to the legislature that a great excitement prevails in the said county of Lehigh in relation to the said cause, and that a fair and impartial trial thereof cannot be had in the said county: Therefore,

Section 20. The action of ejectment originally brought to July term, one thousand eight hundred and thirty-five, No. \_\_\_\_\_, in the court of Common Pleas of Schuylkill county, wherein Anthony F. Miller is plaintiff, and Samuel Brooke, John Schall, John Dreher, James Cresson, John H. Cresson and others, are defendants, be, and the same is hereby removed from the county of Lehigh to the county of Northampton, and the trial of said suit, and all other proceedings, shall be had therein in the same manner as if the suit had been originally brought in said county, and in like manner as other suits properly brought in said county are prosecuted: Provided, That all expenses incurred by the county of Northampton, in relation to

this trial, shall be refunded to said county by the commissioners of Schuylkill county, after being taxed and allowed by the court of Common Pleas of the said county of Northampton, and that from and after the passage of this act, it shall and may be lawful for either party, in the action of ejectment now pending in the Court of Common Pleas of the county of Schuylkill, wherein Hammon Dugan, Frederick James Dugan, and John Spear Smith, are plaintiffs, and Henry W. Conrad and others defendants, to remove the same into the court of such other adjoining county, in another judicial district, as shall be approved by the court of Common Pleas of Schuylkill county, which action so removed shall be proceeded in by the proper court in like manner, and subject to like rules and proceedings, as if it had remained in the court in which it was originally brought, and upon final judgment, testatum habere facias possessionem and testatum executions may issue as in other cases: Provided, That the plaintiffs or defendants so removing, or some one on their behalf, shall first take and subscribe an oath or affirmation, before an authorized person, to be filed of record with the cause, that such removal is not made for the purpose of delay, but because he or they firmly believe a fair and impartial trial cannot be had in the said county of Schuylkill.

**Compiler's Note:** Section 24 of Act 128 of 1842 provided that so much of section twenty as authorizes an action of ejectment pending in the court of Common Pleas of Schuylkill county, wherein Hammond Dugan and others are plaintiffs, and Henry W. Conrad and others are defendants, to be removed into the court of such other adjoining county, in another adjoining county, in another Judicial District, as may be approved by the court of Common Pleas of Schuylkill county, be and the same is hereby repealed.