

or devices upon their property therein mentioned and have caused the same to be published according to the laws existing at the time of such filing and publication, shall not be required to again file and publish such description; but such filing and publication shall be deemed to be a filing and publication within section one of this act.

Repealer.

30. SEC. 10. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Bridges.

I. BRIDGE ACT OF 1846, WITH SUPPLEMENTS.

1. Of erecting or repairing bridge when expense over \$500.
2. Same, when expense over \$50 and under \$500.
3. Same, when expense less than \$50.
4. Small bridge, how built.
5. Bridge between counties.
6. Act not to extend to toll bridges, &c.
7. Proceedings in Mounmouth county and Hunterdon county to erect, repair or rebuild bridge when expense over \$50 and under \$500.
8. When expense shall not exceed \$50.
9. Action may be brought against township or board of freeholders for neglect to repair bridge.
10. Proceedings in Sussex county to erect, rebuild or repair bridge, when expense over \$500.
11. Appointment of committee to be in writing and designate time and place of meeting.
12. Expenses, how defrayed.
13. Amended by sections 37 and 38.
14. Amended by section 28.
15. Penalty for fast driving.
16. Board of chosen freeholders may purchase toll bridges.
17. Proceedings when freeholders and owners cannot agree.
18. Proceedings in case of appeal.
19. Commissioners to take oath.
20. Freeholders may issue bonds to pay for such bridge.
21. Bonds a lien on property, when payable.
22. Principal and interest of bonds raised by tax.
23. Amended by sections 31 and 35.
24. Law heretofore passed, how construed.
25. Physicians exempt from penalty for fast driving.
26. Repealer.
27. Proceedings when two or more boards of chosen freeholders cannot agree as to location and construction of bridge.
28. Unlawful to drive over bridges at faster gait than a walk. Penalty.
29. Freeholders may purchase toll bridges.
30. Repealer.
31. Amended by section 35.
32. Repealed by section 36.
33. Amended by sections 34 and 40.
34. Amended by section 40.
35. Erection of bridges over navigable waters.
36. Repealer.
37. Amended by section 38.
38. Liability for damages when bridges over navigable waters are being repaired.
39. Repealer.
40. Bridges between two or more counties erected, &c., at joint expense.

II. MISCELLANEOUS BRIDGE ACTS.

41. Amended by section 47.
42. Bridge may be put in special care of person appointed.
43. Penalty for making vessel fast to bridge, &c.
44. Construction of words "hoist or hoisted."
45. Distance posts may be erected on both sides of bridges over navigable waters. Ball raised on approach of railway trains.
46. Penalty for person commanding vessel passing distance posts when ball is raised.
47. Regulations for approaching, passing and opening drawbridges. Penalty for damage to.
48. Justices of the peace have cognizance of violations of act. Proceedings before Justice.
49. Repealer.
50. Not to drive at faster gait than walk over toll bridge. Penalty.
51. Nor over free chain bridge. Penalty. Notice to be posted at ends of bridge.
52. Penalty for destroying such notices.
53. Penalty for destroying or removing timber, &c., from bridges over Delaware river.
54. Penalty for fast driving over bridges over Delaware river.
55. Penalty for carrying lighted cigars, &c., over such bridges.
56. Drivers shall keep to the right in driving over such bridges.
57. Notice of penalties to be posted on such bridges.
58. When act to take effect as to such bridges.
59. Amended by section 62.
60. Mortgages given by bridge companies without authority validated.
61. Mortgages to be lien upon rights and franchises.
62. Bridge companies may mortgage their property, rights and franchises.
63. Height of bridges over Morris canal and feeders.
64. Width and grade of approaches thereto.
65. Freeholders authorized to build bridges over railroad cuts or crossings.
66. May borrow money and issue bonds therefor.
67. Railroad company not relieved from legal requirements.
68. Bridge over navigable stream between two counties, how constructed and maintained.
69. Where such bridge shall extend when piers or wharf lines are established by law.
70. When a draw in such bridge shall be provided.
71. Regulations for protection of such bridges, how made.
72. Municipalities to construct approaches to such bridges.
73. Moneys for building such bridges and approaches, how raised.
74. Repealer.
75. Proceedings to acquire lands for such approaches. Commissioners appointed. Award to be made.
76. Award to be paid by municipality.
77. Title vested on payment of award.
78. Appeal in case of dissatisfaction with award.
79. On appeal, trial by jury may be had.
80. Freeholders may issue bonds for building bridges.
81. Payment of bonds to be provided for by taxation.
82. Act not to apply to certain counties.
83. Freeholders may acquire toll bridge as a free bridge.
84. Roads leading to toll bridges which have been acquired by any county deemed county roads.
85. Expense relating thereto provided for by the issue of bonds.
86. Repealer.
87. Freeholders may build new road in lieu of rebuilding a bridge where such course is less expensive.
88. Such work to be done by contract. How paid for.
89. When new road built, board relieved from rebuilding or repairing bridge.
90. Proceedings for condemnation of lands in building bridges over navigable waters. Commissioners appointed. Damages to be awarded.
91. Title to vest on tender of award.
92. Appeal may be had from award. Proceedings on.
93. Second-class counties may issue bonds not exceeding \$100,000 for building bridges.
94. Payment of bonds to be provided for by taxation.

95. Construction or reconstruction of bridges over navigable waters authorized.
96. Bonds may be issued therefor.
97. Work to be done by contract. Requisites of contract.
98. Rules and regulations for operation and working of such bridge authorized.
99. Repealer.
100. Two or more bridge companies may jointly agree concerning building, maintaining and operating bridges.
101. Conditions, provisions and powers under such union or joint agreement.
102. Repealer.
103. When freeholders may jointly construct and maintain bridge between two counties over navigable waters.
104. Bridge shall conform to wharf lines and piers.
105. When draw in such bridge shall be provided.
106. Boards may make regulations for protection of bridge—How regulations enforced.
107. Municipalities to construct approaches to such bridges.
108. Money for construction, how raised.
109. Lands for approaches may be acquired by condemnation. Proceedings therefor.
110. Awards to be paid.
111. On payment of award, title to vest.
112. Appeal from award may be had. Proceedings thereon.
113. Jury trial may be had on appeal.
114. Repealer.
115. Time for completing bridge over navigable waters between this and some other state extended.

I. Bridge act of 1846, with supplements.

An act respecting bridges.

Revision—Approved April 10, 1846.

Rev. 385.

P. L. 1845, p. 139.

R. S. 525.

305-1
S98-437a

1. That when it shall be necessary to erect, rebuild, or repair, any bridge in a township, or between any two townships in the same county, the expense whereof shall exceed five hundred dollars, it shall be the duty of the overseer of the highways, within whose limits or division the same may be, or either of the overseers of the highways of the adjoining townships, to give notice thereof in writing, under his hand, to the director of the board of chosen freeholders of the county, or in case of his absence, inability, or death, to the clerk of such board, who shall thereupon convene (in the like manner, and under the like penalties, as if such notification had been made and subscribed by any three of the chosen freeholders), the said board or corporation, for the purpose of their considering and deciding upon the utility and necessity of erecting, rebuilding or repairing the said bridge. (a)

Of erecting or repairing bridge when expense over \$500.

2. That when the expense of erecting, rebuilding, or repairing such bridge shall exceed fifty dollars, and be less than five hundred dollars, it shall be the duty of the overseer of the highways within whose limits or division the same may be, or of either of the overseers of the highways of the adjoining townships, to give notice thereof in writing, under his

Same, when expense over \$50 and under \$500.

(a) The term bridge includes not only the structure across the stream, but its abutments also, so finished that travelers may safely pass thereon. *Freeholders of Sussex v. Strader*, 3 Har. 108. *Newark Line Co. v. Mayor, &c., of Newark*, 2 McCarl. 64. Freeholders cannot erect bridges over navigable rivers without a special act of the legislature. *Tucker v. Freeholders of Burlington*, Sax. 282. *Attorney-General v. Stevens*, Sax. 870. *Allen v. Freeholders of Monmouth*, 2 Beas. 68. Every erection in a navigable river which obstructs or hinders navigation is a nuisance which equity will enjoin. *Attorney-General v. New Jersey R. R. Co.*, 2 Gr. Ch. 136. *Sinnickson v. Johnson*, 2 Gr. Ch. 374. *Gilbert v. Morris Canal Co.*, 4 Hal. Ch. 495. *Newark Plank Road Co. v. Elmer*, 1 Stock. 755. See *Attorney-General v. Brown*, 9 C. E. Gr. 89. *Morris Canal v. Fagin*, 3 C. E. Gr. 215, 7 C. E. Gr. 430. But a bridge erected under the authority of an act of the legislature will not be adjudged to be a nuisance if the terms of the act as to location, &c., be complied with. *Newark Plank Road Co. v. Elmer*, 4 Hal. Ch. 586, 1 Stock. 754. *Allen v. Freeholders of Monmouth*, 2 Beas. 68. *Pennsylvania R. R. Co. v. New York and Long Branch R. R. Co.*, 8 C. E. Gr. 157. *Easton v. New York and Long Branch R. R. Co.*, 9 C. E. Gr. 49. See *Stevens and Condit Co. v. Central R. R. Co.*, 4 Vr. 229, 5 Vr. 280. A viaduct over a river to be used exclusively for the passage of locomotives and cars, is not such a bridge as violates a charter granted by the legislature, conferring the exclusive right of maintaining bridges over said river. *Bridge Co. v. Hoboken Land Co.*, 2 Beas. 81, 503. Chosen freeholders may lawfully bridge a canal, or a watercourse created by surface-water. *McKintley v. Freeholders of Union County*, 2 Stew. 164. A court of equity refused to enjoin the erection of another bridge over the river Delaware "within three miles" of one already built, although such a condition existed in the first charter, such first bridge being so far appropriated to the uses of a railroad as to render it dangerous for ordinary travel. *Presidents, Managers, &c., v. Trenton City Bridge Co.*, 2 Beas. 46. See *Gifford v. New Jersey R. R. Co.*, 2 Stock. 171. The title to all public bridges constructed by a county is vested in the freeholders, and being public property, may be taken for public use without compensation. *Freeholders of Monmouth v. Red Bank Turnpike Co.*, 3 C. E. Gr. 91. The burden of erecting, maintaining and repairing bridges, when necessary, on public highways in a county, devolves upon the county. *Beatty v. Titus*, 18 Vr. 89. Where a turnpike company, whose charter had expired by limitation, sold their roadway, bridges, &c., to an individual, it was held that the surveyors could not lay out a highway over such roadbed without making

compensation. *Matter of Highway*, 2 Zab. 293. *Alter* where such roadway was simply abandoned. *State v. Snedeker*, 1 Vr. 80. See *State v. Demott*, 2 Gr. 254. The building or rebuilding of bridges in the county is a discretionary power entrusted with the boards of chosen freeholders, nor will the supreme court interfere by mandamus with the lawful exercise of such discretion. *The State v. Freeholders of Essex*, 3 Zab. 214. If the board of freeholders willfully refuse to build or repair a bridge over a highway where it is necessary, they are indictable for the neglect of duty. The freeholders have no right to consider whether the road is necessary; the limit of their discretion is to determine whether a bridge is necessary, assuming the use of the road to be necessary. They must exercise their discretion in such manner as to make the highway passable and safe. *Freeholders of Bergen v. State*, 13 Vr. 263. The right of determining where bridges shall be built is committed to the chosen freeholders, and so long as they exercise their power honestly, their judgment is not open to review in the courts. *McKintley v. Freeholders of Union*, 2 Stew. 164. See *Plum v. Morris Canal Co.*, 2 Stock. 256. Can the inhabitants of a county be indicted for not repairing bridges over rivers? See *Freeholders of Sussex v. Strader*, 3 Har. 108. *State v. Morris Canal Co.*, 2 Zab. 537. *State v. Inhabitants of Hudson*, 1 Vr. 137. A private corporation is bound to erect and maintain bridges wherever a canal or railroad made by it, after a road is laid out, crosses such road. *In re Trenton Water Power Co.*, Spen. 659. But not where such public road is laid out after such canal is constructed. *Morris Canal Co. v. State*, 4 Zab. 62. Nor for the accommodation of an owner whose land is intersected by it. *Brantley v. Delaware and Barritan Canal Co.*, Spen. 239. *Green v. Morris and Essex R. R. Co.*, 4 Zab. 486. *Carpenter v. Easton and Amboy R. R. Co.*, 9 C. E. Gr. 249. Unless required by the charter. *Green v. Morris and Essex R. R. Co.*, 4 Zab. 486. *Ellsworth v. Central R. R. of N. J.*, 5 Vr. 93. A turnpike company is liable for damages for not keeping its bridges in repair. *Ward v. Newark, &c., Co.*, Spen. 323. And no notice is necessary. *Morris Canal Co. v. Ryerson*, 3 Dutch. 458. Or liable to indictment. *The State v. The Morris Turnpike Co.*, 1 South. *165 (a). *Central R. R. Co. ads. The State*, 3 Vr. 220. The franchise of taking tolls upon bridges is part of the sovereign prerogative, and can only be obtained by grant from the state. *Camden and Amboy R. R. Co. v. Briggs*, 2 Zab. 623, 679 (a). *Pennsylvania R. R. Co. v. National Railway Co.*, 8 C. E. Gr. 441. Construction of a charter granted for a limited time with reversion to the state. *Bridge Proprietors ads. The State*, 1 Zab. 394, 2 Zab. 593.

BRIDGES.

hand, to the chosen freeholders of such township and of the two next adjacent townships, and in such notice to appoint the time and place of their meeting, for the purpose of taking the same under their consideration; and the said chosen freeholders, or a majority of them, are hereby authorized to order, if they think proper, the said bridge to be built, rebuilt, or repaired, and to superintend or contract for the doing thereof; and for defraying the expense thereby incurred, the director of the board of chosen freeholders shall draw upon the county collector, who is hereby empowered and required forthwith to pay the same out of any county money in his hands. (a)

Same, when expense less than \$50.

3. That when the expense of erecting, rebuilding, or repairing such bridge shall not exceed fifty dollars, inclusive of the necessary materials, it shall and may be lawful for the overseer of the highways within whose limits and division the same may be, and the two chosen freeholders of the said township, or the major part of them, to direct such bridge to be built, rebuilt, or repaired, and to superintend or contract for the doing thereof; and for defraying the amount of the said expense, not exceeding the sum aforesaid, the director of the said board of chosen freeholders shall draw on the county collector, who is hereby authorized and directed to pay such order out of any county moneys in his hands. (b)

Small bridge, how built.

4. That every small bridge, to be built by virtue of this or any other act, shall be at least twelve feet in breadth, have four or more good sleepers, and be covered with sound and substantial logs, poles, or plank, well squared and fixed down, and as closely joined as the nature of such materials will admit.

Bridge between counties.

5. That the expense of building, rebuilding, or repairing any bridge between two counties shall be equally borne by such counties.

Not to extend to toll bridges, being private property, &c.

6. That this act shall not extend to or affect any toll bridge, being private property, or any bridge for which any township receives toll, unless the inhabitants of such township shall, at their annual or other meeting, relinquish and forever forego their right to such toll, or any bridge, which private individuals are bound by law or contract to make and keep in repair, or to contribute thereto in any degree above their ordinary and ratable proportion in the way of taxation, except so far as such contribution shall be inadequate; *provided always*, that no toll bridge, or any other bridge, being private or incorporated property, shall become a county charge, until a majority of the chosen freeholders of the said county shall consent and agree to the same.

Proviso.

Supplement.

Approved March 13, 1851.

P. L. 1851, p. 241.

Proceedings in Monmouth and Hunterdon counties to erect, repair or rebuild a bridge when expense shall exceed \$50 and be under \$500.

7. SEC. 1. That when it shall be necessary to erect, repair, or rebuild any bridge, in a township in the counties of Monmouth and Hunterdon, or between any two townships in said counties, the expense whereof shall exceed fifty dollars, and be less than five hundred dollars, it shall be the duty of the overseer of the highways, within whose limit or division the same may be, or of either of the overseers of the highways of the adjoining townships, to give notice thereof in writing under his hand, to three chosen freeholders of said counties nearest said bridge, or proposed bridge; *provided*, the chosen freeholders of the township, or the chosen freeholders of the townships in which said bridge is proposed to be erected, repaired, or rebuilt, be of the number; and, in such notice, to appoint the time and place of their meeting, for the purpose of taking the same under their consideration; and the said chosen freeholders, or a majority of them, are hereby authorized to order, if they think proper, the said bridge to be built, repaired, or rebuilt, and to superintend or contract for the doing thereof; and for defraying the expense thereby incurred, the director of

(a) When work on a bridge costing less than \$500 was not ordered by the freeholders of the townships designated by the act, but by some of such officers in conjunction with a freeholder of a different township, and such work was honestly done and paid for—*Held*, such transaction could be ratified by the board of chosen freeholders. *Cory v. Freeholders of Somerset*, 15 Vr. 445.

(b) Notice from an overseer of the highways is not necessary to authorize the board to build, rebuild or repair; they may do either without notice. *McKinley v. Freeholders of Union County* 2 Stew. 184. See *Beatty v. Titus*, 18 Vr. 89.

the board of chosen freeholders shall draw upon the county collector, who is hereby empowered and required forthwith to pay the same out of any moneys in his hands.

8. SEC. 2. That when it shall be necessary to erect, rebuild or repair any bridge in a township in the counties of Monmouth or Hunterdon, or between any two townships in said county, the expense whereof shall not exceed fifty dollars, inclusive of the necessary materials, it shall and may be lawful for the chosen freeholder within whose limits and division the same may be, and the chosen freeholder of one of the adjoining townships, or in case of a vacancy, two chosen freeholders of the adjoining townships nearest the location of said bridge or proposed bridge, to direct such bridge to be built, rebuilt, or repaired, and to superintend and contract for the doing thereof; and for defraying the amount of said expense, not exceeding the sum aforesaid, the director of the board of chosen freeholders shall draw on the county collector, who is hereby authorized and directed to pay such order out of any moneys in his hands.

Proceedings when the expense shall not exceed \$50.

Supplement.

Approved March 15, 1860.

P. L. 1860, p. 285.

9. SEC. 1. That in all cases where a township or the board of chosen freeholders of a county are chargeable by law with the erection, rebuilding, or repair of any bridge or bridges, and the said township or board of chosen freeholders shall wrongfully neglect to erect, rebuild, or repair the same by reason whereof any person or persons shall receive injury or damage in his or their persons or property, he or they may bring his or their action of trespass on the case against said township or said board of chosen freeholders, as the case may be, and recover judgment against them to the extent of all such damage sustained as aforesaid, which said judgment shall be paid by the township or county, as the case may be. (1) (a)

Action may be brought against township or board of freeholders for neglect to repair bridge.

307-9
37V-301
38V-405
34V-583

307-9
39V-623

Supplement.

Approved April 4, 1873.

P. L. 1873, p. 651.

10. SEC. 1. That the director of the board of chosen freeholders of the county of Sussex, for the time being, upon receiving such notice in writing from any overseer of the highways as is provided by the first section of the act to which this is a supplement (when it shall be necessary to erect, rebuild or repair any bridge the expense whereof shall exceed five hundred dollars), be and he is hereby authorized, if he shall think fit, instead of convening the board of chosen freeholders of said county, to appoint, not less than five nor more than nine, a committee for the purpose of considering and deciding upon the necessity and utility of erecting, rebuilding or repairing said bridge, and such committee so appointed shall have power to order, if they think proper, the said bridge to be built, rebuilt or repaired, and to superintend or contract for the erection, rebuilding or repairing of any such bridge as is mentioned in said first section of the act to which this is a supplement, and any contract made by said committee (of whom for the purpose of their appointment a majority shall constitute a quorum) shall be as binding in law upon the said county of Sussex and upon the other contracting party as if made in pursuance of a resolution of the board of chosen freeholders of the county of Sussex, for that purpose adopted.

Proceedings in Sussex county to erect, rebuild or repair any bridge when expense shall exceed \$500.

(1) See ROADS, Sec. 99. Supplement of March 23d, 1859, to act concerning roads (P. L. 1859, p. 626).

(a) This act gives a remedy by action for all injuries to persons or property for the safety of which the duty of rebuilding or repairing the particular bridge is by law cast upon the municipal body. The right of action is not limited to such injuries as happen to persons or property passing or being carried over the bridge. *Ripley v. Freeholders of Essex and Union*, 11 Vr. 45. Act gives an action where, of right, there is dependence upon the bridge for the full and safe performance of

its appropriate functions. *Jermee v. Monmouth*, 23 Vr. 553. The open and notorious continuance of a dangerous condition of the access of a bridge for over two weeks before the injury, was sufficient to warrant the charging the authorities with notice thereof, the same as if they had received actual notice. *Freeholders v. Hough*, 26 Vr. 628. See *Marvin Safe Co. v. Ward*, 17 Vr. 19.

Appointment of committee to be in writing and designate time and place of meeting.

11. SEC. 2. That the appointment of the committee provided for in the first section of this act shall be made by said director in writing and shall designate the time and place at which said committee shall meet to discharge the duties of their appointment; and said appointment shall be filed by the said director with the clerk of the said board, whose duty it shall be forthwith to notify the persons named therein of their said appointment by writing under his hand, directed to said persons, and left at their respective places of abode at least fourteen days prior to the day of meeting, mentioning therein the time, place and purpose of such meeting.

Expenses, how defrayed.

12. SEC. 3. That for defraying the expense of building, rebuilding or repairing any such bridge as is hereinbefore mentioned, the said director shall draw upon the county collector, who is hereby empowered and required forthwith to pay the same out of any county moneys in his hands; *provided*, that no such order from the director of said board shall be paid by said collector unless the same shall be accompanied by a copy of the appointment of said committee, certified by the clerk of said board, and by a certificate addressed to said director and signed by a majority of said committee, showing the nature of the work done, the expense thereof and the name of the person or persons entitled to be paid therefor, which said copy of appointment and certificate shall be retained by said collector as vouchers.

Proviso.

Supplement.

P. L. 1874, p. 90.

Approved March 24, 1874.

13. SEC. 1. [Amended by Secs. 37 and 38, *post.*]

Supplement.

P. L. 1876, p. 31.

Approved March 15, 1876.

14. SEC. 1. [Amended by Sec. 28, *post.*]

Penalty for fast driving.

15. SEC. 2. That one-half of said penalty, when collected, shall be paid to the person making the complaint, and the other half shall be paid to the county collector of said county.

Supplement.

P. L. 1876, p. 408.

Approved April 21, 1876.

Board of chosen freeholders may purchase toll bridge forming part of free public roads.

16. SEC. 1. That wherever any toll bridge has been constructed and now exists over any stream forming a part of a free public road in this state, it shall and may be lawful for the board of chosen freeholders of the county in which such toll bridge and road may be situate, to purchase such toll bridge, with all the franchises, privileges and rights, of the person or persons or corporation owning and maintaining such bridge, for such reasonable sum as in their judgment may be for the best interest of the county; and when any such bridge shall be so purchased it shall be forever thereafter free for public travel, and shall be maintained and renewed as other county bridges are directed to be. [See Sec. 29, *post.*]

Proceedings when freeholders and owners cannot agree as to valuation.

17. SEC. 2. That in case the chosen freeholders cannot agree with the bridge-owners as to the valuation of any such bridge, the justice of the supreme court holding the circuit within which such bridge is situate shall, upon application of either party, appoint three competent and disinterested persons commissioners to determine the true value of the bridge in question, and the said commissioners shall immediately upon their appointment proceed to estimate and determine the fair and just value of the said bridge and franchises, having given at least twenty days' notice in writing of the time and place when and where they will meet to hear any representatives on behalf of the said bridge-owners or of the board of freeholders, which notice shall be served upon the persons or corporation owning said bridge, and upon the director of the board of freeholders; and so soon as the said commissioners shall have determined the said valuation they shall prepare and sign a certificate thereof, and file the same in the office of the clerk of the county in which the said bridge is situate, and immediately upon the payment of the amount of the said valuation or award to the said bridge proprietors, or in case they will not

receive it, upon deposit of the same in such trust company or savings institutions as the aforesaid justice of the supreme court shall direct, the title to and right of possession of the said bridge shall become vested in the board of freeholders of the said county for public use in the same manner as if the same had been erected by said board in pursuance of law.

18. SEC. 3. That in case the said bridge-owners or the board of freeholders shall feel aggrieved or be dissatisfied by the action of the said commissioners, they may appeal therefrom to the supreme court of this state at any time within sixty days after the filing of the said certificate, and the said court shall order a jury, which jury shall assess the value of the said bridge and franchise, and the trial thereof shall be conducted as in other cases of trial by jury, and the final conclusion of said court shall be conclusive as to the said valuation, and the amount already paid or deposited shall be increased or diminished accordingly; *provided*, that in case of appeal, but one issue shall be framed, and one jury ordered for the trial thereof, and that the trial of such appeal, whether taken by the said bridge proprietors or by the board of freeholders, shall be held in the county in which such bridge is situate.

Proceedings in case of appeal.

Proviso.

19. SEC. 4. That before entering upon the duties hereinbefore specified, the said commissioners shall take and subscribe an oath before some person having authority to administer the same, that they will faithfully and impartially perform the duties required of them by this act; and the said commissioners shall be entitled to receive five dollars per day for the time they are necessarily employed by the duties imposed by this act.

Commissioners to take and subscribe oath.

20. SEC. 5. That for the purpose of paying the purchase-money for such bridge, it shall and may be lawful for the board of chosen freeholders of the county wherein the same may be, and they are hereby authorized, upon agreeing on the amount so to be paid, to issue the bonds of said county, under the corporate seal of said board, and signed by the director and attested by the clerk of said board, and countersigned by the county collector of said county, and of such denominations as they deem advisable, bearing legal interest, and not exceeding the sum required, with the necessary expenses, and from the proceeds of said bonds to pay to the owners of such bridge, upon receiving full and complete conveyances, releases and acquittances of the franchises, privileges and bridge of the person or persons or corporation owning the same, and all other rights appertaining thereto; *provided*, said bonds by this act authorized shall be sold under the order and directions of the board of chosen freeholders at public or private sale, as may seem to said board best for the interests of the county; *and provided further*, that said bonds shall not be sold or disposed of at less than ninety-five per centum of their par value.

Freeholders may issue bonds to pay for such bridge.

Proviso.

Proviso.

21. SEC. 6. That the bonds issued by virtue of this act shall specify the purpose for which they are issued, and shall be a lien upon all the property of said corporation, and the faith of the inhabitants of said county shall be pledged for the payment of the principal and interest; the said bonds shall be so issued that one-tenth of the principal shall be paid fifteen years after date, and one-tenth every year thereafter until the whole sum shall be paid; the interest shall be payable semi-annually by the county collector.

Bonds to be a lien on property of said corporation.

Principal and interest, when payable.

22. SEC. 7. That for the purpose of paying the interest on said bonds, and the principal of the same as they may become due, it shall be lawful for the board of chosen freeholders of the county where such bridge is so purchased, to raise the amount required by taxation in the same manner as other county taxes are raised.

Principal and interest may be raised by tax.

Supplement.

Approved April 5, 1878.

P. L. 1878, p. 343.

23. SEC. 1. [Amended by Secs. 31 and 35, *post*.]

24. SEC. 2. That no law heretofore passed, or action or organization under it, shall be construed so as to authorize any such bridge not now erected. [This section is amended by Sec. 32, *post*, which is repealed by Sec. 36, *post*.]

Law heretofore passed, how construed.

BRIDGES.

Supplement.

P. L. 1880, p. 33.

Physicians exempt from penalties for driving faster than a walk.

Repealer.

Approved February 17, 1880.

25. SEC. 1. That all licensed physicians, while visiting patients, shall be exempt from all or any of the penalties for driving faster than a walk on any toll or other bridge; *provided, however*, that nothing herein contained shall be construed to exempt a physician from liability for damage to a toll or other bridge, or to other persons, by reckless or negligent driving.

26. SEC. 2. That all acts or parts of acts inconsistent herewith be and the same are hereby repealed, and that this shall take effect immediately.

Supplement.

P. L. 1884, p. 56.

Proceeding when two or more boards of freeholders shall be unable to agree as to location and construction of bridge.

Approved March 5, 1884.

27. SEC. 1. That if two or more boards of chosen freeholders shall be unable to agree as to the location or character of any bridge proposed to be erected at the joint expense of such boards, or as to the materials of which it shall be constructed; or if such boards shall be unable to agree as to whether a bridge already erected and out of repair shall be repaired or shall be rebuilt; or if they decide to rebuild, and shall be unable to agree as to the character of the new bridge, or the materials of which it shall be constructed, it shall be lawful for any one or more of the boards so disagreeing to certify such fact to one of the justices of the supreme court of this state; said justice shall thereupon summarily inquire into the matter or matters in dispute, and to that end shall have power to employ one or more civil engineers and other persons, and within thirty days after such fact shall have been so certified to him, such justice shall make and sign an order, under his hand, and cause a copy thereof to be served upon each of the boards aforesaid, deciding the matter or matters in dispute, as certified to him, and such order shall be binding upon the boards aforesaid; any expenses incurred by such justice under this act shall be taxed by him and shall be paid in equal proportions by said boards. (a)

An act amending "A supplement to 'An act respecting bridges,' approved April tenth, one thousand eight hundred and forty-six," which supplement was approved March fifteenth, one thousand eight hundred and seventy-six.

P. L. 1885, p. 24.

Unlawful to drive over public road bridge faster than a walk.

Penalty.

Approved February 12, 1885.

28. SEC. 1. That the first section of the act of which this is amendatory [see Sec. 14, *ante*] be and the same is hereby amended to read as follows: [That it shall not be lawful for any person or persons to drive any kind of carriage or other vehicle drawn by one or more horses or mules, or to lead or drive any horses, mules or other cattle over any of the public road bridges of this state which may be constructed of wood or iron, or the spans of which may be of wood or iron, at a faster gait than a walk when the authorities in charge of such bridge shall have placed upon it a notice limiting the pace over it to a walk; any person or persons violating the foregoing provision shall be liable to a penalty of ten dollars with costs for each and every horse, mule or other cattle so unlawfully led or driven; said penalty may be sued for and recovered with costs by any person in any court of competent jurisdiction.]

Supplement.

P. L. 1886, p. 123.

Freeholders authorized to purchase toll bridges, &c.

Approved March 26, 1886.

29. SEC. 1. That whenever a majority of the board of chosen freeholders of any county of this state shall agree upon the utility of maintaining any toll bridge, being private or incorporated property, as a free public bridge,

(a) Such determination of the justice is that of a special statutory tribunal, subject to review under the provisions of the

supplement to the *certiorari* act, approved February 17th, 1881 P. L. 1881, p. 34. *Somerset v. Hunterdon*, 23 Vr. 512.

it shall be lawful for said chosen freeholders, at the expense of the county, to purchase said bridge and maintain the same as a free bridge for public use; *provided*, that this act shall not apply to any bridge used in connection with any turnpike or road owned or controlled by a corporation. [See Sec. 16, *ante*.] Proviso.

30. SEC. 2. That so much of the act of incorporation of any bridge company heretofore incorporated as is incompatible with the provisions of this act be and the same is hereby repealed. Repealer.

A supplement to the act entitled "A supplement to an act entitled 'An act respecting bridges' [Revision], approved April tenth, one thousand eight hundred and forty-six," which supplement was approved April fifth, one thousand eight hundred and seventy-eight.

Passed April 6, 1886. P. L. 1886, p. 197.

31. SEC. 1. [This section, amending Sec. 23, *ante*, is amended by Sec. 35, *post*.]

32. SEC. 2. [This section, amending Sec. 24, *ante*, is repealed by Sec. 36, *post*.]

Supplement.

Approved April 18, 1889. P. L. 1889, p. 306.

33. SEC. 1. [Amended by Secs. 34 and 40, *post*.]

A further supplement to an act entitled "A supplement to an act entitled 'An act respecting bridges' [Revision], approved April tenth, one thousand eight hundred and forty-six," which supplement was approved April eighteenth, one thousand eight hundred and eighty-nine.

Approved April 21, 1890. P. L. 1890, p. 272.

34. SEC. 1. [This section, amending Sec. 33, *ante*, is amended by Sec. 40, *post*.]

A supplement to the act entitled "A supplement to the act entitled 'A supplement to an act entitled "An act respecting bridges" [Revision], approved April tenth, one thousand eight hundred and forty-six,' which supplement was approved April fifth, one thousand eight hundred and seventy-eight," and which last supplement was passed April sixth, one thousand eight hundred and eighty-six.

Approved March 14, 1891. P. L. 1891, p. 140.

35. SEC. 1. That the said act to which this act is a supplement, entitled "A supplement to the act entitled 'A supplement to an act entitled "An act respecting bridges" [Revision], approved April tenth, one thousand eight hundred and forty-six,' which act was approved April fifth, one thousand eight hundred and seventy-eight," which last supplement was approved April sixth, one thousand eight hundred and eighty-six, be so amended that section one of said act shall read as follows:

[That no bridge, viaduct or fixed structure shall be erected by any person or corporation over or in any part of the navigable waters separating this state from other states where the tide ebbs and flows, without express permission of the legislature of this state heretofore or hereafter given, by statute for that purpose; *provided*, that nothing herein shall be construed to forbid the erection of docks or wharves.] Erection of bridges over navigable waters.

36. SEC. 2. That section second of said act be and the same is hereby repealed. Repealer.

An act to amend an act entitled "A further supplement to an act entitled 'An act respecting bridges,' approved April tenth, one thousand eight hundred and forty-six," approved March twenty-fourth, one thousand eight hundred and seventy-four.

P. L. 1891, p. 312.

Approved April 3, 1891.

37. SEC. 1. [This section, amending Sec. 13, *ante*, is amended by Sec. 38, *post*.]

An act to amend an act entitled "An act to amend an act entitled 'A further supplement to an act entitled "An act respecting bridges," approved April tenth, one thousand eight hundred and forty-six,' approved March twenty-fourth, one thousand eight hundred and seventy-four," approved April third, one thousand eight hundred and ninety-one.

P. L. 1892, p. 435.

Approved April 8, 1892.

38. SEC. 1. That section one of the above-entitled act, approved April third, one thousand eight hundred and ninety-one [see Secs. 13 and 37, *ante*], be amended so that when amended shall read as follows:

When bridges over navigable streams are being repaired, public authorities or corporation shall not be liable for damages for obstructing navigation.

Proviso.

[That whenever it shall be necessary to repair or rebuild any bridge or viaduct in this state over any navigable river or water, the public authorities, corporation or person so repairing or rebuilding such bridge or viaduct, shall not be liable for damages occasioned by obstructing or stopping navigation thereby; *provided*, the said repairs or rebuilding and obstructing or stopping of navigation be done between the first day of February and the twentieth day of February; *and provided, further*, that said repairs or rebuilding be prosecuted with all practical dispatch; *and provided, further*, that notice of such intended repairs or rebuilding be given at least three weeks prior to commencing the same by publishing a notice thereof in some newspaper circulating in the county adjacent to such bridge or viaduct. (a)]

Repealer.

39. SEC. 2. That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

A further supplement to an act entitled "A further supplement to an act entitled 'An act respecting bridges' [Revision], approved April tenth, one thousand eight hundred and forty-six," which supplement was approved April eighteenth, one thousand eight hundred and eighty-nine, and which further supplement was approved April twenty-first, one thousand eight hundred and ninety.

P. L. 1895, p. 612.

Approved March 22, 1895.

40. SEC. 1. That the supplement to an act approved April twenty-first, one thousand eight hundred and ninety, entitled "A further supplement to an act entitled 'An act respecting bridges' [Revision], approved April tenth, one thousand eight hundred and forty-six" [see Secs. 33 and 34, *ante*], shall be and the same is hereby amended so as to read as follows:

Bridges between two or more counties erected, &c., at joint expense.

Proviso.

[That where any stream, creek or river shall be the dividing line between any two or more counties of this state, the boards of chosen freeholders of said counties shall erect, rebuild, maintain and keep in repair suitable bridge or bridges across the waters, water-way or water-ways of such streams, creeks or rivers, at the joint expense of such counties, whether the waters of such stream, creek or river shall flow in one or more separate channels or water-ways; *provided, however*, that in case it shall be necessary to erect a bridge or bridges at a point on such stream, creek or river where the same shall flow in two or more channels or water-ways,

(a) A period of time defined as between two certain days does not include either of the terminal days. *D., L. & W. R. R. Co. v. Mehrhof Bros. Co.*, 24 Vt. 205. The provision that navigation in certain cases may be obstructed, does not authorize the owners of a bridge over a navigable stream to close the draw

of the bridge so as to entirely stop navigation, unless the work required to be done is of a nature or character which cannot be done properly and with reasonable dispatch with the draw open. *Lister v. Newark Plank Road Co.*, 9 Stew. 477.

the place where said stream, creek or river divides shall not be more than five hundred yards from the place where said channels or water-ways shall again join and flow as one channel or water-way; *and provided, further*, that this act shall not apply to any bridges over any stream, creek, river, water-way or channel that has been caused by the erection of any mill or mills for waste-waters or raceways from and to the same; *provided, however*, that said mill or mills and such stream, creek, river, water-way or channel caused by the erection of said mill or mills for waste-waters or raceways to and from the same, shall be in the same county.] (a)

Proviso.

Proviso.

II. Miscellaneous bridge acts.

An act for the protection of bridges in this state.

Har. 458.

Passed February 27, 1833.

R. S. 541.

41. SEC. 1. [Amended by Sec. 47, *post.*]

42. SEC. 2. That in case it should become necessary for the protection of any bridge, and the accommodation of persons passing over or through any bridge, to have the same put in the special care of some person suitable for said purpose, then and in that case, it shall and may be lawful for the board of chosen freeholders of said county for the time being, where such bridge may be, to make such regulations as they shall deem necessary for the better protection and accommodation of the same; *provided*, they shall be in accordance with the preceding section of this act.

Bridge may be put in special care of person appointed.

Proviso.

Supplement.

Approved March 12, 1852.

P. L. 1852, p. 206.

43. SEC. 1. That from and after the passage hereof, it shall not be lawful for any person, having the command of any steamboat or other vessel, to make fast to or lay the same alongside or in the draw of any bridge in this state, for the purpose of loading or unloading any marketing, produce or merchandise, of any kind whatever, from off said bridge; and any person so offending shall be subject to the same fines and penalties as are prescribed in said act to which this is a supplement.

Penalty for making vessel fast to or in the draw of any bridge.

44. SEC. 2. That the words "hoist or hoisted," in said act, shall be construed to mean "open or opened."

Construction of words "hoist or hoisted."

Supplement.

Approved March 15, 1881.

P. L. 1881, p. 110.

45. SEC. 1. That it shall and may be lawful for the owner or owners of any bridge erected and maintained across any navigable waters within this state, under the provisions of any law thereof, to erect and maintain in such waters, on both sides of the drawbridges of such bridges, a substantial and conspicuous distance post, at the distance of five hundred yards from said drawbridge, in such position as to cause the least practicable obstruction to the navigation of such waters, and to erect upon such drawbridge a pole, not less than thirty feet in height, to the top of which a ball, not less than two feet in diameter, may be raised; and it shall be the duty of the person having special care of such drawbridge to raise said ball to the top of said pole whenever any railway passenger train about to cross said drawbridge shall have arrived within the distance of one mile from said drawbridge, and to keep the said ball so raised until such train shall have passed over said drawbridge, and then promptly to lower said ball; and if such person shall neglect to raise and lower said ball in manner aforesaid, he shall forfeit and pay the sum of one hundred dollars, to be recovered in an action of debt, before any court of competent jurisdiction, with costs of suit, by any person who shall sue for the same.

Owner or owners of drawbridges erected across navigable waters may erect on both sides thereof distance posts, &c.

Ball to be raised on the approach of railway trains.

Penalty for neglect to raise and lower ball.

(a) See *Somerset v. Hunterdon*, 23 Vr. 512, which declares the supplement of April 18th, 1889 (Sec. 33, *ante*) to be constitutional.

Penalty for any person commanding vessel passing the distance posts when the ball is raised.

LIABLE for damages done to bridge, train, &c.

46. SEC. 2. That if any person or persons having the command of any vessel about to pass through any drawbridge comprised within the provisions of the first section of this act, shall, while the ball mentioned in the said first section is raised as aforesaid, cause or permit such vessel to pass the distance post aforesaid, erected on that side of such drawbridge toward which such vessel is approaching, he or they so offending shall, for each and every such offense, forfeit and pay the sum of one hundred dollars, besides being liable for all damage that may be done to said bridge, or the owner or owners thereof, or to any railway train thereon, by reason of such offense, to be recovered in an action of debt, before any court of competent jurisdiction, with costs of suit, by any person or persons who shall sue for the same.

Supplement.

P. L. 1894, p. 191.

Approved May 1, 1894.

47. SEC. 1. That section one of the act to which this is a supplement [see Sec. 41, *ante*] be and the same is hereby amended so as to read as follows:

Regulations for approaching, passing and opening drawbridges.

[That if any person having command of any vessel shall come within ten rods of any drawbridge without first lowering his sails so as to prevent said vessel from coming against such bridge, until it is opened, so that the said vessel can pass gently through, without doing any damage to such bridge; or if any person shall open any draw and keep it open more than fifteen minutes, when not absolutely necessary for the passage of some vessel or boat through the same, or shall cut, remove or destroy any piece or pieces of timber, plank or planks, post or posts, pile or piles, or any stonework, belonging to or a part of such bridge or draw, or otherwise willfully damage or do any act which may have a tendency to injure such bridge or draw; or if any person having command of any steamboat, tugboat or other vessel or boat, shall at any time make fast to or lay any steamboat, tugboat, vessel or boat alongside of such bridge, or of any wing thereof, or in the draw thereof, for the purpose of loading or unloading, or for any purpose whatever, except of passing through the same, he or they so offending shall forfeit and pay a penalty of not less than twenty dollars, nor more than fifty dollars, besides all damages that may be done to such bridge. (a)]

Penalty for willful damage, &c.

Justices of peace and recorder may have cognizance of violations of act.

Proceedings before justice.

48. SEC. 2. That every justice of the peace and recorder in any county where the offense is committed is hereby empowered, on the affidavit of one or more persons made according to law, that any person or persons has or have violated any provision of this act, by warrant under his hand and seal directed to any constable or constables of the county, to cause such person or persons so charged to be arrested and brought before him for trial; and the said justice or recorder shall have power to adjourn said trial from time to time, and to require the person or persons so charged to give bail to appear for trial at such time as said justice or recorder shall appoint, and on the return of said warrant, or at the time so appointed, the said justice or recorder shall hear the proofs and determine the guilt or innocence of the person or persons so charged, and upon the conviction of the person or persons so charged shall impose a penalty upon the person so convicted of not less than twenty dollars and not more than fifty dollars; and if any person so convicted shall fail to pay the penalty so imposed, together with the costs of the prosecution, the said justice or recorder may commit the offender to the common jail of the county for a period of not more than twenty days; and all penalties recovered under this act shall be paid to the county collector for the use of the county.

Repealer.

49. SEC. 3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

(a) Commander of a vessel not required to take down the sails entirely on approaching a drawbridge. It is only his duty to lower his sails so as to enable the vessel to approach the

bridge with such diminished speed as will permit the removal of the draw, and enable the vessel to pass gently through the bridge. *Ripley v. Freeholders of Essex and Union*, 11 Vt. 46.

An act relative to toll and chain bridges.

Revision—Approved April 10, 1846.

Rev. 800, 672.

R. S. 536.

50. SEC. 1. That it shall not be lawful for any person or persons to drive any kind of carriage, wagon, cart, sled or sleigh, drawn by more than one horse, over any of the toll bridges in this state, or any kind of carriage, wagon, cart, sled or sleigh whatever, or ride any horse or mule, over any of the toll bridges built over the river Delaware, at a faster gait than a walk, and every person willfully so offending, shall forfeit and pay to the proprietor or proprietors of such bridge or bridges the sum of one dollar, to be recovered by action of debt, with costs of suit, in any court of competent jurisdiction.

Not to drive faster than a walk over toll bridge.

Penalty.

51. SEC. 2. That it shall not be lawful for any person or persons to drive any kind of carriage, wagon, cart, sled or sleigh, or ride any horse or mule over any free chain bridge in this state, at a faster gait than a walk, and every person so offending, shall forfeit and pay the sum of one dollar, to be recovered by action of debt, with costs of suit, in any court of competent jurisdiction, by any person who will sue for the same, one moiety to the prosecutor, the other to the collector of the county, for the benefit of the same; *provided always*, that this act shall not be construed to prevent any physician or midwife, or person or persons going for such physician or midwife, or returning from said errand, riding express by order of any public officer of this state or of the United States, or pursuing a fugitive from justice, runaway servant or apprentice, from driving or riding over any toll or chain bridge at a faster gait than a walk; *provided also*, that the said proprietor or proprietors of such toll bridge, and the board of chosen freeholders of such county where any free chain bridge now is or may be erected, shall cause to be fixed and always kept up at each end of the bridge aforesaid in some conspicuous place, a board on which shall be painted in large letters, "one dollar fine for traveling over this bridge at a faster gait than a walk," and on neglect of such notice, the aforesaid fine shall not be incurred.

Nor over free chain bridge.

Penalty.

Proviso.

Notice to be put up.

52. SEC. 3. That if any person or persons shall maliciously break down or deface such board or boards as aforesaid, he, she or they so offending, shall forfeit and pay to the proprietor or proprietors, if on a toll bridge, and to the county collector, if on a free chain bridge, twenty dollars, to be recovered by action of debt, with costs of suit, by any person who will sue for the same.

Penalty for destroying such notices.

An act for the protection of bridges over the river Delaware.

Approved February 28, 1872.

P. L. 1872, p. 16.

53. SEC. 1. That if any person or persons shall willfully cut, destroy, break or remove from any bridge over the river Delaware, between this state and the state of Pennsylvania, any pieces of timber, planks, stones, chains, rods, bolts, screws or any other materials whatsoever, belonging to said bridge, or shall remove or take away, from within the space of thirty feet from above or below any of the piers or abutments of any such bridge, or from alongside thereof, any sand, gravel or stones, or other materials used for ripraps, or breakers, or protection of said piers or abutments; or otherwise willfully, maliciously or voluntarily damage the same, he or they shall forfeit and pay for every such offense, over and above the damages done, the sum of thirty dollars, with costs of suit, to be recovered by the corporation so injured, before any court having cognizance of that sum, in either of the counties of this state, or of the state of Pennsylvania, where the said bridge may be situated.

Penalty for destroying or removing any timber or other material from bridges over the river Delaware.

54. SEC. 2. That if any person or persons shall ride or drive any horse, mule or wagon over any of the toll bridges over the river Delaware, as aforesaid, at a faster gait than a walk, he or they shall forfeit and pay for every such offense, the sum of ten dollars, with costs of suit, to be recovered in the same manner as the penalty in the preceding section; *provided*, that this act shall not be construed to prevent any physician or midwife,

Penalty for riding or driving at a faster gait than a walk.

Proviso.

or persons going for the same and returning from said errand, or riding express, by order of any public officer of these two states, or carrying the mail of the United States, from riding or driving over any of such toll bridges at a faster gait than a walk.

Penalty for carrying fire on the bridges or exploding fireworks, &c.

55. SEC. 3. That it shall not be lawful for any person or persons passing, riding or driving over any toll bridge, as aforesaid, to carry any lighted cigar or pipe, or to carry fire in any form, or to light any match, or cigar, or pipe, or to fire off any gun, or other firearms, or to explode any fireworks of any description, on said bridge, or within its inclosures; or to engage in any game with cards or other device for money, or the value of money, or for pleasure, or to engage in any foot-racing, or other racing; or to congregate upon such bridge so as, in any wise, to interfere or annoy persons traveling over the same, under the penalty of ten dollars for each and every such offense, to be recovered as aforesaid, with costs of suit against each and every person so offending.

Shall keep to the right.

56. SEC. 4. That every person passing with horses, mules, cattle or wagons over any of said bridges, shall keep to the right-hand side of the roadway thereof, under forfeiture and penalty of five dollars, with costs of suit, for each and every violation of this section, to be recovered as aforesaid.

Notices to be kept up.

57. SEC. 5. That the several toll bridge companies over the river Delaware, shall cause to be placed, and kept up, upon each end of said several bridges, a painted notice, specifying the offenses, in this act mentioned, and the penalties therefor, excepting those stated in the first section hereof.

When act shall take effect.

58. SEC. 6. That this act shall go into effect so soon as the same shall be ratified by the legislature of the state of Pennsylvania.

An act to empower bridge companies to mortgage their corporate rights and franchises to secure bonds or other indebtedness, to validate mortgages of corporate rights and franchises already executed, and declaring such mortgages to be a lien upon the corporate rights and franchises not included therein.

P. L. 1877, p. 32.

Approved February 27, 1877.

59. SEC. 1. [Amended by Sec. 62, *post.*]

Mortgages heretofore given validated.

60. SEC. 2. That all mortgages of or upon the corporate rights and franchises of such corporations heretofore given or executed without special authority be and the same are hereby validated and confirmed; *provided*, that said mortgages shall have been or shall be within one year after the passage of this act, recorded in the proper office or offices for recording the same.

Proviso.

Mortgages given to be a lien upon rights and franchises.

61. SEC. 3. That every mortgage heretofore given or executed by any such corporation upon their corporate property, real or personal, to secure the payment of their bonds or other indebtedness, and recorded in the proper office for recording such mortgages, and in which mortgage the corporate rights and franchises of such company are not mentioned or included, shall be deemed and taken to be a mortgage, lien and incumbrance of and upon the corporate rights and franchises of the corporation which executed the same, from and after the passage of this act, with the same effect to all intents and purposes as if the said corporate rights and franchises were mentioned or included in said mortgage; *provided, however*, that such mortgage shall not be deemed or taken to be a lien or incumbrance, as provided in this section, unless the company shall execute and seal with their corporate seal, and file in the office of the secretary of state a certificate describing such mortgage in general terms, and setting forth that the said company, with the consent and authority of the stockholders holding a majority in amount of stock of said company, desire and declare that such mortgage shall be deemed and taken to be a mortgage, lien and incumbrance of and upon the corporate rights and franchises of the said company.

Proviso.

Supplement.

Approved February 23, 1881. P. L. 1881, p. 43.

62. SEC. 1. That the first section of the above-mentioned act, which reads as follows [see Sec. 59, *ante*], be and the same is hereby amended so as to read as follows:

[That every bridge company incorporated by the laws of this state, and doing business, operating works or owning property in this state, or partly in this state and partly in another state, and whose charter, or the supplements thereto, do not confer an express power to mortgage or convey in trust their corporate rights and franchises to secure their bonds, either issued or to be issued, be and is hereby authorized and empowered to execute a mortgage or mortgages of and upon their corporate property, rights and franchises, to secure the payment of any and all bond or bonds, or other indebtedness, issued or incurred, or to be issued and incurred by such corporation, notwithstanding the amount of such indebtedness may exceed the amount to which said corporation may be authorized by its charter to hold real and personal property; *provided*, such excess shall not be more than fifty thousand dollars.]

Bridge companies authorized to mortgage their corporate rights and issue bonds, &c.

Proviso.

An act in relation to bridges across the Morris canal.

Approved March 14, 1879. P. L. 1879, p. 321.

WHEREAS, By the twelfth section of the act entitled "An act to incorporate a company to form an artificial navigation between the Passaic and Delaware rivers," passed December thirty-first, one thousand eight hundred and twenty-four, it was provided "that when the said canal shall cross any public road or farm, it shall be the duty of the company, at their proper expense, to make good and sufficient bridges across said canal, and to keep the same in repair, so as to prevent any inconvenience in the usage of the said road or farm, by reason of the said canal crossing the same;" *and whereas*, the said company have, from time to time, raised their bridges across said canal, and in one thousand eight hundred and seventy-three adopted an ordinance providing that all bridges thereafter constructed across their canal should be so built that the lowest part of any bridge should be ten feet from the water; *and whereas*, in pursuance of said ordinance many of their bridges have been since raised, and the company have required the boards of chosen freeholders of the several counties intersected by said canal, also to conform to said ordinance.

Preamble.

63. SEC. 1. That all bridges over the Morris canal and its feeders, hereafter to be built or rebuilt, shall be so constructed as to leave a clear space of ten feet from the usual high-water mark of said canal to the lowest part of said bridge, and it shall not be lawful for the Morris canal and banking company to raise any bridge across their canal, or any of its feeders, so far above the present height thereof that the upper side of the flooring of such bridge shall be, in the highest point, more than twelve and a half feet above the said usual high-water mark of said canal or feeder, where crossed by such bridge; nor shall it be lawful for said company to prevent or interfere with the erection of any bridge across said canal or its feeders, which shall be constructed as herein directed; *provided*, such bridge shall be in other respects legal and proper.

Height of bridges over the Morris canal and feeders.

Proviso.

64. SEC. 2. That if said company shall hereafter raise any of their bridges in the line of any public highway above the present height thereof it shall be their duty to so fill in the approaches thereto that the grade shall not be more than one foot in ten, and to make the said approaches at least one rod wide.

Width and grade of approaches to bridges.

An act relating to the building of bridges over railroads by boards of chosen freeholders of counties in this state.

P. L. 1886, p. 181.

Freeholders authorized to build bridges over railroad cuts or crossings.

Petition of property-owners.

May borrow money and issue bonds therefor.

Railroad company not relieved from legal requirements.

Approved March 26, 1886.

65. SEC. 1. That where any railroad shall cross at least eight feet below grade any street in any city in this state, and said street where the same is crossed by any such railroad shall have been dedicated and shall have been wholly or in part opened or improved subsequent to the building of such railroad, and by reason of such railroad cut or crossing it shall be necessary to construct a bridge across said railroad cut or crossing for the convenience of public travel over any such street, and for the purpose of making such street a continuous highway, it shall be lawful for, and the board of chosen freeholders of any county in this state in which any city containing such street is situated is hereby authorized and empowered to construct and maintain a proper bridge across any such railroad cut or crossing, together with suitable abutments to connect the termini of any such street on either side of such railroad cut or crossing, upon petition therefor, presented or to be presented to any such board, which petition shall be signed by the owners of at least one-third of the property within a radius of five hundred feet each side along the line of any such street.

66. SEC. 2. That for the payment of the cost of constructing such bridge and abutments, as aforesaid, if it shall appear that the appropriation for such purposes for any year in which such bridge shall be built is not sufficient to pay for the construction thereof, it shall be lawful for, and any such board of chosen freeholders is hereby authorized to borrow an amount not exceeding the sum of fifteen thousand dollars, and to issue bonds therefor, which said bonds shall be sealed with the seal of any such county, signed by the proper county authorities, and shall run for a term of years and for a rate of interest to be agreed upon by any such board of chosen freeholders, or a majority thereof; *provided, however,* that the interest thereon shall not exceed the rate of five per centum per annum; *and provided further,* that such bonds shall not be sold for less than par.

67. SEC. 3. That nothing in this act contained shall be construed to relieve any railroad corporation from any requirement to build any bridge over any railroad under any existing law.

An act to authorize the construction and maintenance of bridges and the approaches thereto, over navigable streams which mark the dividing line between counties in this state.

P. L. 1888, p. 158.

Bridge over navigable stream between two counties, how constructed and maintained.

Where bridge to extend when piers or wharf lines are established by law.

When a draw in a bridge shall be provided.

Approved March 8, 1888.

68. SEC. 1. That where a navigable stream marks the dividing line between two counties of this state, and the respective boards of chosen freeholders of such counties have resolved, or may hereafter resolve, that a bridge or bridges across such stream at any point or points, or between any points, is a public necessity, it shall and may be lawful for such boards jointly to construct and maintain such bridge or bridges, and the expense thereof shall be borne by the said counties equally. (a)

69. SEC. 2. That whenever pier or wharf lines shall be or have been established by any act of the legislature, or by any person or persons, commissioner or commissioners, or person or corporation, authorized by the act of the legislature to fix and establish such lines, then in every such case the structure to be erected by said boards of chosen freeholders shall extend from such pier line to pier line, and so much further only as may be necessary for the construction of proper foundations or abutments; and if in any case it shall be found necessary, in building such bridge, to place the abutments on either side of such stream upon a public highway, it shall be lawful so to do.

70. SEC. 3. That in case such bridge, when constructed, will interfere with the navigation of such stream, then the same, when constructed, shall be pro-

(a) See *Ballantine v. Kearny Township*, 23 Vr. 338. *Kearny v. Ballantine*, 25 Vr. 194.

vided with a suitable draw, the width of said draw to be determined by the said boards of chosen freeholders, any law, public or special, to the contrary notwithstanding, and to be placed as nearly as practicable at right angles with the channel of such stream, and of sufficient width to allow vessels used thereon to pass through the same freely, and the expenses of operating such draw and caring for such bridge, shall be borne by such counties equally.

71. SEC. 4. That boards of chosen freeholders of said counties, or the joint committees having charge of said bridge, may make such regulations not inconsistent with the provisions of this act, as they shall deem necessary, for the protection of said bridge and the accommodation of passengers crossing the same, and may place the said bridge in the special care or charge of such suitable persons as they may appoint for that purpose, and may thereupon apply to the governor of this state to commission such person or persons to act as policemen in respect to the said bridge, and the enforcement of the provisions of this act, and of such regulations as shall be made as aforesaid.

Boards of freeholders may make regulations and appoint police for protection of bridge.

72. SEC. 5. That if in any case it shall be found necessary to construct approaches to such bridge in order to connect the same with the public roads or streets at either end thereof, or to make such roads or streets conform to the grade of the bridge so constructed, then in every such case it shall be the duty of the common council, board of aldermen, township committee, or other governing body of the town, township or municipality through which such approach or approaches shall lie, to construct and maintain the same at the expense of such town, township or municipality. [See Sec. 75, *post.*]

Municipal authorities to construct approaches to bridge.

73. SEC. 6. That for the purpose of furnishing the moneys necessary for building, rebuilding, repairing and maintaining any such bridge, it shall and may be lawful for said boards of chosen freeholders to use any moneys of their respective counties not otherwise appropriated, and to raise money from time to time by taxation, and for the purpose of building and rebuilding such bridge, they may also issue the bonds of their respective counties for any sum not exceeding one hundred thousand dollars, and may negotiate and sell the same at any price not less than par; such bonds, if issued, shall be made payable in not more than twenty years from the date of their issue, and shall bear interest at a rate not greater than five per centum per annum, and for the purpose of furnishing the money to make and maintain such approach or approaches, it shall and may be lawful for the common council, board of aldermen, township committee or other governing body of the town, township or municipality through which such approach or approaches shall lie, to raise money by taxation and to issue the bonds of such town, township or municipality for such sum as may be found necessary to construct such approach or approaches, which bonds shall be issued under the same regulation as is herein provided for bonds to be issued by the said boards of chosen freeholders.

Moneys for building bridge and constructing approaches, how raised.

74. SEC. 7. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

Supplement.

Approved April 10, 1889.

P. L. 1889, p. 257.

75. SEC. 1. That in case it shall be necessary to acquire land for the approach or approaches mentioned in the fifth section of the act to which this act is a supplement [see Sec. 72, *ante*], and the municipal authorities and the owner or owners of the said land cannot agree upon the price to be paid therefor, it shall and may be lawful for any justice of the supreme court, and the said justice is hereby directed, upon application by the common council, board of aldermen, township committee or other governing body of the town, township or municipality through which such approach or approaches shall lie, upon two weeks' previous notice, served in person, or by leaving a copy thereof at the dwelling-house or usual place of abode of the owner

Proceedings in case authorities and owners cannot agree as to price for land.

Commissioners to be appointed.

or owners of said lands and the tenants, if any there be, or in case of the absence from the state or legal disability of the owner or owners or tenants, then the said notice shall be published in a newspaper published in the county where said lands are situate, for two weeks prior to the time fixed for such application, to appoint three disinterested persons commissioners, which said commissioners shall be residents of the county where said lands are situate, to condemn and assess and ascertain the value of the lands necessary for such approach or approaches, which commissioners shall appoint a time and place at which they shall meet and execute the duties of this appointment, and shall cause two weeks' notice thereof to be given to the owner or owners and tenant or tenants thereof, either by personal service or by leaving a copy thereof at the dwelling-house or usual place of abode of said owner or owners and tenant or tenants, or in case of the absence from the state or legal disability of said owner or owners or tenant or tenants, then said notice shall be published in a newspaper printed in the county where said lands are situate, for two weeks prior to the time of such meeting; at which time and place the said commissioners, or any two of them, shall meet and view the premises and lands, and hear all the parties interested, and take evidence, if any shall be offered, and for that purpose shall have power to administer oaths and affirmations, and to adjourn from time to time; and the said common council, board of aldermen, township committee or other governing body shall make and exhibit to the said commissioners, at their meeting aforesaid, a description of said lands required for such approach or approaches as aforesaid, either in writing or by maps or drawings, or both; and the said commissioners, or any two of them, shall thereupon ascertain and assess the value of said lands and shall execute under their hands and seals, or the hands and seals of any two of them, an award to said common council, board of aldermen, township committee or other governing body in the description aforesaid, stating therein the compensation therefor by them assessed, in favor of said owner or owners, tenant or tenants, if any there be, and a description of the said lands, which said award shall be acknowledged by the commissioners making the same and filed in the register's office of the county where said lands are situate, and recorded by the said register in the same manner and in the same books that deeds for real estate are now recorded.

Commissioners to ascertain and assess value of lands, &c.

Award and assessment to be paid owners on filing award of commissioners.

76. SEC. 2. That when the said commissioners, or any two of them, shall make their award and assess the value of the lands aforesaid, that it shall be the duty of the common council, board of aldermen, township committee or other governing body to pay to the owner or owners of said land and to the tenant or tenants, if any there be, the amount so assessed by the said commissioners, and in case the said owner or owners, tenant or tenants refuse to receive the same, or reside out of this state, or are legally disqualified or cannot be found, then the said common council, board of aldermen, township committee or other governing body shall pay the said amount so assessed to the clerk of the circuit court of the county where said lands are situate.

Title vested on payment of award.

77. SEC. 3. That the award of the commissioners aforesaid, or any two of them, and the payment of the money so assessed as aforesaid by the common council, board of aldermen, township committee or other governing body in the manner aforesaid, shall vest in the common council, board of aldermen, township committee or other governing body the lands and premises described in said award, the same estate as would have vested in them had the owner or owners thereof conveyed the same to the common council, board of aldermen, township committee or other governing body, under their hands and seals in fee-simple.

Proceedings in case cities or owners are not satisfied with assessment of commissioners.

78. SEC. 4. That if the common council, board of aldermen, township committee or other governing body, or the owner or owners, or the tenant or tenants of said lands are not satisfied with the assessment of the said commissioners of the amount to be paid to the owner or owners, to the tenant or tenants of said lands, then and in that case either party may appeal to the next or second term thereafter of the circuit court of the

county where said lands are situate, by filing a petition with the clerk of said circuit court, and serving a notice of such appeal upon the opposite party three weeks prior to such term, or by publication in a newspaper printed in the county where said lands are situate, for four weeks prior to such term; which petition, when filed, and the notice served or published as aforesaid, shall vest in said court full power to hear and determine said appeal.

79. SEC. 5. That in all cases of appeal from the assessment of the commissioners, it shall and may be lawful for either party to demand and have a trial by jury, and the assessment of the court or jury shall be final. Trial may be by jury on appeal.

An act to authorize the issue of bonds for building public bridges in counties.

Passed March 12, 1888. P. L. 1888, p. 163.

80. SEC. 1. That it shall be lawful for the board of chosen freeholders of any county in this state, for the purpose of building any new public bridge or bridges in any county, to issue bonds in the corporate name and under the corporate seal of any county, signed by the director and the clerk of the board of chosen freeholders of any such county, and countersigned by the county collector thereof, to be denominated on their face "bridge bonds," to an amount not exceeding fifty thousand dollars; such bonds may be registered or coupon bonds, and shall bear a rate of interest not exceeding six per centum per annum, payable half-yearly, and shall be redeemable not exceeding ten years from their date, in the discretion of the board of chosen freeholders of any county; which bonds may be sold at public or private sale for the best price they can obtain for the same, but shall not be sold for less than their par value; and all real estate and property within any such county, shall be liable for the payment of the principal and interest that may become due on the bonds to be issued by virtue of this act. Lawful for board of freeholders to issue bonds for building public bridges.

81. SEC. 2. That the board of chosen freeholders of any county that shall issue bonds by virtue of this act, shall have power and authority to provide by taxation for the payment of the said bonds, and the interest thereon, and shall yearly and every year until the said bonds shall be redeemed and paid off, order and cause to be assessed and collected by tax, at the same time and in the same manner as other taxes are assessed and collected in such county, a sum of money sufficient to pay the interest on the said bonds as the same shall become due and payable, and to pay and discharge the principal at the several times it shall become due and payable. May provide by taxation for payment of bonds and interest thereon.

82. SEC. 3. That this act shall take effect immediately, but shall not apply to any county having over fifty thousand inhabitants as shown by the last state census. Act not to apply to certain counties.

An act respecting bridges and the causeways or other roads leading thereto.

Approved March 22, 1888. P. L. 1888, p. 200.

83. SEC. 1. That whenever a majority of the board of chosen freeholders of any county in this state shall agree upon the utility of maintaining any toll bridge or bridge for crossing which toll is charged or exacted, as a free public bridge, it shall be lawful for said chosen freeholders, by gift or purchase for one dollar or other mere nominal consideration, to acquire such bridge; and thereafter such bridge shall be, become and remain a free public bridge as if originally built by such board of chosen freeholders; *provided, however,* any causeways or other roads leading thereto and now maintained and kept in repair by the owners, lessees or assignees of such lessees of such bridge, shall be surrendered and delivered up at the same time as the said bridge shall be acquired by and delivered to the said chosen freeholders, and such causeways or other roads shall thereafter be and remain a public highway, and shall be maintained and kept Freeholders may acquire toll bridge as a free bridge. Proviso.

BRIDGES.

in repair as such by the proper public or municipal authorities, and the said owners, lessees or assignees of any such bridge and causeways or other roads, are hereby authorized and empowered to surrender and deliver said bridge and causeways or other roads leading thereto, to said chosen freeholders, notwithstanding the term demised by any lease thereof may not then have expired; and upon such delivery and acceptance, the duties of such owners, lessees or assignees of any such lease to maintain or keep in repair said bridge, causeways or other roads shall cease and end.

Supplement.

Approved April 7, 1890.

P. L. 1890, p. 219.

Roads deemed to be county roads.

To be maintained and kept in repair by chosen freeholders.

Proviso.

Expense provided for by the issue of bonds.

Repealer.

84. SEC. 1. That when and where any bridge that is or was a part of the system of any toll bridge which connected or connects the road, roads or causeways leading to and across the same, which has been acquired by or surrendered to any county through its board of chosen freeholders, under and by virtue of the provisions of the act to which this is a supplement, and which bridge has been accepted, managed and controlled by such board of freeholders, the road, roads or causeways leading thereto, and of which such bridge was a part of the system as aforesaid, and such road, roads or causeways having been acquired by or surrendered to any county in manner aforesaid, the same shall thereafter and hereafter be deemed and taken to be a free, public, county road, and as such shall be maintained and kept in good repair by the board of chosen freeholders of the county within which said road or turnpike is situated, and that the board of chosen freeholders of any such county as aforesaid is hereby directed and required to take prompt and efficient action immediately on the passage of this act, to provide for the proper maintenance and repair of such road or causeway, and the means therefor shall be raised and provided in the same manner as other county expenses; *provided, however*, that for the purpose of carrying out the provisions of this act, it shall be lawful for the board of chosen freeholders, and it is hereby so directed to use and utilize the labor of prisoners in the penitentiary of such county in the performance of work on such road and the preparation and conveyance of material therefor, so far and to such extent as may be practicable and expedient and due regard for the public welfare will permit or demand, and under such restrictions as to said prisoners while in and about the performance of said work as to said board shall seem prudent and expedient to properly guard said prisoners.

85. SEC. 2. That for the purpose of meeting any necessary expense which may be incurred under the provisions of this act, it shall and may be lawful for the board of chosen freeholders, and they are hereby so authorized, to raise by the issue of temporary loan bonds a sum of money not to exceed the sum of five thousand dollars, and provide for the payment of the same in the next tax levy or appropriations made by said board of chosen freeholders in and for such county.

86. SEC. 3. That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

An act to authorize boards of chosen freeholders to change the location of county bridges, and to construct the approaches thereto.

P. L. 1889, p. 404.

When board of freeholders may purchase right of way and build new road in lieu of rebuilding bridges.

Approved May 9, 1889.

87. SEC. 1. That in any place upon any public road of any of the counties of this state, where any bridge or bridges need rebuilding or repairing, and the board of chosen freeholders of any such county shall, by a unanimous vote of said board, decide that they can, for a less amount than it will cost to rebuild or repair said bridge or bridges, purchase the right of way over adjoining lands, and build said road or roads and put the same in traveling condition, then it shall and may be lawful that the said board may, by said vote of said board, make such purchase of said

right of way, if it can be done, and the new road built and put in traveling condition for a sum deemed to be less than it would cost to rebuild or repair said bridge or bridges; *provided*, that the point where said new road shall start shall not be more than five hundred yards from where it shall again join said old road.

Proviso.

88. SEC. 2. That the work of building and making of any such road shall be done by contract; the notice of receiving sealed bids for the letting thereof shall be published in at least one newspaper printed and published in the county, and circulated in the township or townships where said road is proposed to be built, and notices thereof shall be set up in at least ten public places in said county; three thereof shall be in the township where said road is to be made; and if said work shall be contracted, completed, and when accepted by the board the payment of said right of way, as well as the building of said road, shall be authorized by the board to be paid by the county collector, out of the funds of said county; and the working and keeping in repair of said road shall thereafter be done by the respective townships wherein said road shall have been built, the same as the regularly laid out roads of said townships.

Work to be done by contract.

How paid for.

89. SEC. 3. That on and after the rebuilding of said new road as aforesaid, the board of chosen freeholders of said county shall be relieved from the rebuilding or repairing of said bridge or bridges and from liability from damages that might accrue by any person or persons continuing to use said bridge or bridges, if they are not removed by the order of said board, which they may do by a two-thirds vote of said board.

When new road built, board of freeholders relieved from liability to build bridges, &c.

An act to provide for the condemnation of lands under water, leased or conveyed by the riparian commissioners, when the same are required to be used for a public road bridge and draw.

Approved March 27, 1890.

P. L. 1890, p. 129:

90. SEC. 1. That whenever the board of chosen freeholders in any county of this state shall be authorized by law to build and construct, or to cause to be built and constructed, a public road bridge across any of the navigable waters in this state, and in the construction of the said bridge or any draw in said bridge, and in the operation of the said draw it is necessary to take, use or occupy lands under water which may have been heretofore conveyed or leased by the riparian commissioners of this state to any person or persons, or in respect to which any person or persons may own any right, privilege or franchise by virtue of such grant or lease, it shall be lawful for said board of chosen freeholders, in case it cannot agree with the owner or owners or other persons interested in any such lands as to the amount of compensation to be paid therefor, to apply to any justice of the supreme court of this state, who, upon such application and upon two weeks' previous notice, served personally, or by leaving at the dwelling-house or usual place of abode of such owner or owners, or in case of absence from the state or legal disability published in a newspaper published nearest the lands in question, may appoint three disinterested commissioners resident of the county in which said lands are situated, to assess and ascertain the value of the lands so proposed to be taken, used and occupied, and the damages to be done to any lands by the occupation and maintenance of such works and by the operation of said draw, which commissioners shall appoint a time and place at which they shall meet to execute the duties of their appointment, and shall cause two weeks' notice thereof to be given to the parties interested therein, either by personal service or by publication in a newspaper published in the county where such lands may lie, at which time and place the said commissioners shall meet and view the premises and hear the parties interested, and take evidence, if any be offered, and for that purpose shall have power to administer oaths or affirmations; and the said board shall make and exhibit to the said commissioners, at their meeting aforesaid, for the use of the parties interested, a statement and description in writing, or by drawings or maps, or both, of the lands by them sought to be taken as aforesaid,

Proceedings for condemnation of lands under water in building bridges over navigable waters.

Appointment of commissioners.

Commissioners to assess damages and file award.

and of the use and occupation upon any lands by them sought to be made; and the said commissioners shall thereupon ascertain and assess the value and damages as aforesaid, and shall execute under their hands and seals or the hands and seals of a majority of them, and award to the said owner or owners of the lands, rights, privileges and franchises so sought by said board of chosen freeholders in the statement and description aforesaid stating therein the amount of damages and compensation therefor by them assessed in favor of such owner or owners, which award shall be by them acknowledged and filed in the county clerk's office, and by him recorded in the registry of deeds.

Upon tender of award of damages to owners, lands to vest in board of freeholders.

91. SEC. 2. That before taking possession of any such lands or entering thereon for the purpose of the use or occupation thereof, said board shall pay or tender to such owner or owners, or in case of absence from the state or legal disability, shall deposit with the clerk of the circuit court of said county the amount of damages so awarded, and the award of said commissioners and the payment or tender or deposit as aforesaid of such damages shall vest in said board of chosen freeholders the lands, rights, privileges and franchises by them sought, described and set forth in said statement and description, in all respects the same as if the same had been conveyed to the said board by the said owner or owners under their hands and seals.

Parties aggrieved by assessment and award may appeal.

92. SEC. 3. That if either party feel aggrieved by said assessment and award, such party may appeal to the next or second term of the circuit court of said county, by petition and notice thereof served upon the opposite party two weeks prior to such term, or published a like space in a newspaper published nearest the lands in question, which petition and notice so served or published shall vest in said court full power to hear and determine said appeal, and, if required, they shall award a venire for a jury to come before them, who shall hear and finally determine the issue under the direction of the court, as in other trials by jury; and it shall be the duty of the said jury to assess the damages to the said lands as above mentioned, and the value of such as shall be absolutely taken; and said court shall have power to order a struck jury, or a jury of view, or both, to try any such appeal; and the right of said board to appeal from and dispute the correctness of any award shall not be waived or taken away by the paying or tendering the amount of the award and taking possession of the land or exercising the rights covered by such award; and the right of any owner of any such lands or rights in like manner to appeal shall not be waived or lost by the acceptance of the amount so awarded, when tendered, and upon the final determination of any such appeal the said court shall render such judgment in favor of the one party and against the other as the right and justice of the case shall require, and shall award to the party substantially succeeding and prevailing in said appeal, his, her or their costs of said appeal against the opposite party, and shall have power to enforce the judgment so rendered by execution, as other judgments are enforced, and also by summary proceedings and attachments for non-payment thereof.

An act to authorize the issue of bonds for rebuilding bridges in counties of the second class.

P. L. 1891, p. 61.

Second-class counties may issue bonds not exceeding \$100,000 for the purpose of rebuilding bridges.

Passed February 24, 1891.

93. SEC. 1. That it shall be lawful for the board of chosen freeholders in counties of the second class in this state, for the purpose of rebuilding any of the public bridges of any such county, to issue bonds in the corporate name and under the corporate seal of any such county, signed by the director and the clerk of the board of chosen freeholders of any such county, countersigned by the county collector of any such county, to be denominated on their face "rebuilding bonds," to an amount not exceeding one hundred thousand dollars; such bonds may be registered or coupon bonds, and shall bear a rate of interest not exceeding five per centum per annum, payable half-yearly, and shall be redeemable at any time not exceeding

twenty years from their date, in the discretion of the board of chosen freeholders of any such county; which bonds may be sold at public or private sale for the best price they can obtain for the same, but shall not be for less than the par value; and all real estate and property within any such counties shall be liable for the payment of the principal and interest that may be become due on the bonds to be issued by virtue of this act.

94. SEC. 2. That the board of chosen freeholders of any such county shall have power and authority to provide by taxation for the payment of the said bonds and the interest thereon, and shall yearly and every year until the said bonds shall be redeemed and paid off, order and cause to be assessed and collected by tax, at the same time and in the same manner that other taxes in any of such counties are assessed and collected, a sum of money sufficient to pay the interest on the said bonds as the same shall become due and payable, and to pay and discharge the principal at the several times it shall become due and payable.

Boards of chosen freeholders to provide by taxation for the payment of interest.

An act to enable the board of chosen freeholders of any of the several counties of this state to construct and reconstruct bridges over and across navigable rivers or streams therein, in certain cases, and providing for the regulation thereof.

Approved March 28, 1892.

P. L. 1892, p. 308.

95. SEC. 1. That whenever, in any county of this state, any draw or other bridge of such county, under the operation and control of the board of chosen freeholders thereof, extending or stretching over and across any navigable river or stream in such county, shall be in a state of dilapidation or decay, and such board shall deem the reconstruction of the same or the construction of a new bridge to take the place of such bridge in such state of dilapidation or decay a public necessity, and shall so declare at a regular meeting, by resolution, adopted by an affirmative vote of not less than a majority of all the members of such board, then and in that case such board may, by resolution to be adopted in like manner, order and provide for and proceed with the construction and reconstruction of such bridge, with the draw or draws and all the necessary apparatus, appliances and things required therefor; *provided*, the entire cost and expense thereof shall not exceed the sum of one hundred thousand dollars.

Boards of chosen freeholders authorized to reconstruct or construct new bridges over navigable rivers or streams.

325-95
A02-380

Proviso.

96. SEC. 2. That to defray and meet such cost and expense such board of chosen freeholders are hereby authorized to issue bonds of such county, in the proper corporate name and under the corporate seal thereof, for such sum or sums of money as may be needed; *provided*, the total sum, exclusive of interest to be paid on such bonds, shall not exceed said sum of one hundred thousand dollars; said bonds so authorized to be issued shall be signed by the director or director-at-large of such board of chosen freeholders, and the county collector of the county, and shall state upon the face thereof for what purpose the same are made and issued; they shall be issued in sums of not exceeding one thousand dollars each, and bear interest not exceeding four and one-half per centum per annum; they shall run for and be made due and payable at such time or times, not exceeding thirty years from the date of issue, as the said board shall by resolution determine at the time of ordering the issue thereof, and a provision for meeting or redeeming the same as they become due and payable shall be made at such times; every year so long as said bonds are outstanding provision shall be made by appropriation of money to meet and pay a portion thereof; they shall be payable, principal as well as interest, at the office of such county collector; such bonds shall be sold at not less than par value, upon bids duly advertised for or otherwise; same may be either registered or coupon bonds, or both, and coupon bonds may be exchanged for registered bonds and vice versa, at the request of the holder; *provided*, such board shall first consent to such exchange.

Bonds may be issued therefor.

Proviso.

97. SEC. 3. That the work of the construction or reconstruction of such bridge, so as aforesaid provided for, shall be done by contract or contracts to be awarded therefor to the lowest bidder, upon bids or proposals to be

Proviso.
Contracts.

Plans and specifications.

Security on contract.

Board may impose other requirements.

Rules and regulations.

Proviso.

Repealer.

invited by advertisements published in not less than two newspapers circulating in such county, for not less than two weeks previous to the time fixed for the receipt of such bids; the plans and specifications for such bridge shall be on exhibition at the office of such board for a like period of time; any bid or part of a bid may be rejected if deemed for the best interest of the county to do so; security by bond or like obligation shall be required for the faithful performance of such contracts in a sum of not less than fifty per centum of the same, and in no instance shall less than two sufficient sureties be required, who shall be freeholders owning lands and real estate in such county, and affidavit thereof shall be attached to such bonds; said board may impose such other requirements by exaction from the bidders for the work of a deposit of money or a certified check, or otherwise, to secure faithful performance of such contracts and proper protection of the interests of the county in matters relating thereto as may be deemed prudent.

98. SEC. 4. That such board may adopt such rules and regulations for the operation or working of such bridge and the persons employed thereat, as shall be reasonable and proper; *provided*, the same shall not abridge the right to navigate such rivers or streams as the same now exists, but it is hereby expressly provided that in the reconstruction and construction aforesaid, whenever it shall be necessary to close the bridge and stop travel over the same, that may be done, and the county shall not be liable for any damages, injury, loss or expense which may be claimed therefor or by reason thereof.

99. SEC. 5. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

An act authorizing bridge companies authorized under the laws of this state or of any other state or of any other lawful authority to build and maintain a bridge or bridges over, in, upon or across any part of any of the navigable waters separating this state from any other state, to enter into a union or joint contract or agreement for the purpose of building, maintaining and operating such bridge or bridges, together with the necessary or proper connections and appurtenances and approaches thereto and stations, as one single consolidated work, whenever the whole or a portion of the respective lines of said bridge or bridges may or do embrace the same location or their locations may or can connect or become tributary to each other.

P. L. 1892, p. 391.

Bridge companies may jointly agree concerning the building of bridges, &c.

Approved April 5, 1892.

100. SEC. 1. That whenever two or more bridge companies authorized by the laws of this state, or of any other state, or of this and any other state, or of any other lawful authority, to build and maintain a bridge or bridges over, in, upon or across any part of any of the navigable waters separating this state from any other state, for the whole or a portion of the respective lines of said bridge or bridges, may or can or do embrace the same location or line, or whenever their locations or lines may or can or do connect or become tributary to each other, it shall and may be lawful for any such companies to heretofore or hereafter enter into a union or joint contract or agreement for the purpose of jointly or severally building, maintaining and operating any such bridge or bridges, together with all necessary or proper connections and appurtenances and approaches thereto and stations, as one single consolidated work, and providing for the joint or several building, maintaining or operating of the whole or any parts of said bridge or bridges common to both, together with all necessary or proper connections and appurtenances and approaches thereto and stations, and one consolidated whole.

101. SEC. 2. That it shall and may be lawful for such union or joint contract or agreement for the joint or several building, maintaining or operating of the said bridge, together with all necessary or proper connec-

Conditions, provisions and powers under such union or joint agreement.

tions and appurtenances and approaches thereto and stations, to be heretofore or hereafter made under the authority, conditions and provisions and with the powers hereinafter mentioned and contained, that is to say:

I. The directors of the companies proposing to enter into such union contract for the purpose of building, maintaining and operating such bridge may heretofore agree or may hereafter agree upon the terms of such joint agreement, and in that behalf it shall and may be lawful in such union or joint contract or agreement for the joint or several building, maintaining and operating of the said bridge, to heretofore or hereafter prescribe the terms and conditions thereof and the mode of carrying the same into effect, and it shall and may be lawful for the parties to such union agreement to heretofore or hereafter contract and pledge to and with each other for the due performance of the same all the present and future-acquired property and franchises of said corporations, and to heretofore or hereafter prescribe such provisions as to the issue of obligations by either or both companies, and the securing of the same by guarantee or mortgage of either or both companies covering the franchises and property of either or both companies present or future acquired, and such other provisions and details as the ownership, possession, control, maintenance and operation of the whole or any part of said bridge, together with its connections and appurtenances and approaches thereto and stations, by the respective companies or by the respective stockholders, directors, committees, officers, or agents of said companies or by any board of managers or arbitrators created or appointed under such agreement as may heretofore or hereafter be proper or necessary to carry into effect the objects of such union or joint contract or agreement for the joint or several building, maintenance and operation of the said bridge;

Directors of companies to agree upon terms.

II. Said agreement shall have been heretofore submitted or may hereafter be submitted to the stockholders of each of the said companies or corporations at a meeting thereof heretofore or hereafter called specially for the purpose of taking the same into consideration, and in that behalf the following proceedings shall have been heretofore or may hereafter be had: due notice of the time and place of holding said meeting shall have been heretofore or may hereafter be given by each company to its stockholders by written or printed notices heretofore or hereafter addressed to each of the persons in whose name the capital stock of such company stands on the books thereof, and heretofore or hereafter delivered to such persons respectively or heretofore or hereafter sent to them by mail, when their post-office address is known to the company, at least thirty days before the time of holding such meeting, and also by a general notice heretofore or hereafter published daily for at least four weeks in some newspaper printed in the city, town or county where such company has its principal office or place of business, and at the said meeting of stockholders, the agreement of the said directors shall have been heretofore or may hereafter be considered and a vote by ballot heretofore or hereafter taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and said ballot shall be cast in person or by proxy, and if two-thirds of all the votes of all the stockholders of said respective companies shall have heretofore been or may hereafter be for the adoption of said agreement then that fact may be certified thereon by the secretaries of the respective companies under the seal thereof or after this act takes effect, and the agreement so heretofore or hereafter adopted or a certified copy thereof may be filed in the office of the secretary of state upon the payment to the secretary of the state, for the use of the state, of the sum of twenty dollars, and shall from thence be deemed and taken to be the agreement and union contract of the said companies for the joint or several building, maintaining and operating of said bridge, together with its connections and appurtenances and approaches thereto and stations, and a copy of the said union or joint contract or agreement, duly certified by the secretary of state under his official seal, shall be evidence in all courts and places of the existence of the said union or joint contract or agreement and that the

Agreement submitted to stockholders.

Notice of meeting to consider agreement.

Fee for filing.

BRIDGES.

foregoing provisions of this act have been fully observed and complied with.

Repealer.

102. SEC. 3. That all acts and parts of acts, whether general, special, local or otherwise, in any manner inconsistent with or repugnant to the provisions of this act, be and the same hereby are repealed.

An act to authorize the construction and maintenance of bridges and the approaches thereto over navigable waters which mark the dividing line between counties in this state.

P. L. 1894, p. 465.

When chosen freeholders may jointly construct and maintain bridge between two counties over navigable waters.

Approved May 22, 1894.

103. SEC. 1. That where navigable waters mark the dividing line between two counties of this state, and the respective boards of chosen freeholders of such counties have resolved, or may hereafter resolve, that a bridge or bridges across such waters at any point or points, or between any points, is a public necessity, it shall and may be lawful for such boards jointly to construct and maintain such bridge or bridges, for uses exclusively public, and the expense thereof shall be borne by the said counties equally; *provided, however*, that before any such bridge shall be built, or contract made, or moneys expended in respect thereto, the action of such boards of chosen freeholders shall have been approved by a majority of the legal voters of their respective counties, the approval or disapproval of such voters to be expressed at the first general fall election held next after the passage of such resolution by such boards of chosen freeholders, or either of them, and to be indicated by those who favor the building of such bridge by adding to their ticket the words "for bridge between _____ county and _____ county," as the case may be; and by those opposed to the building of such bridge by the words "against bridge between _____ county and _____ county;" *provided further*, that notice that an election for the above purpose will be held shall have been given by the clerks of the respective boards of chosen freeholders of said counties in the newspapers in said counties authorized to publish the laws for the preceding year, for at least four weeks immediately preceding the time of holding such election.

Proviso.

Bridge shall conform to wharf lines and piers.

104. SEC. 2. That whenever pier or wharf lines shall be or have been established by any act of the legislature, or by any person or persons, commissioner or commissioners, or person or corporations, authorized by an act of the legislature to fix and establish such lines, then in every case the structure to be erected by said boards of chosen freeholders shall extend from such pier line to pier line, and so much further only as may be necessary for the construction of proper foundations or abutments; and if in any case it shall be found necessary in building such bridge to place the abutments on either side of such waters upon a public highway, it shall be lawful so to do.

May abut upon a public highway.

When draw shall be provided.

105. SEC. 3. That in case such bridge when constructed, will interfere with the navigation of such waters, then the same, when constructed, shall be provided with a suitable draw to be determined by the said board of chosen freeholders, any law, public or special, to the contrary notwithstanding, and to be placed as nearly as practicable at right angles with the channel of such waters, and of sufficient width to allow vessels used thereon to pass through the same freely, and the expense of operating such draw and caring for such bridge shall be borne by such counties equally.

Boards shall regulate use of bridge.

106. SEC. 4. That boards of chosen freeholders of said counties, or the joint committees having charge of said bridge, may make such regulations not inconsistent with the provisions of this act, as they shall deem necessary for the protection of said bridge and the accommodation of passengers crossing the same, and may place the said bridge in the special care or charge of such suitable persons as they may appoint for that purpose, and may thereupon apply to the governor of this state to commission such person or persons to act as policemen in respect to the said bridge, and

May appoint persons to enforce regulations.

the enforcement of the provisions of this act, and of such regulations as shall be made as aforesaid.

107. SEC. 5. That if in any case it shall be found necessary to construct approaches to such bridge in order to connect the same with the public roads or streets at either end thereof, or to make such roads conform to the grade of the bridge so constructed, then in every such case it shall be the duty of the common council, board of aldermen, township committee, or other governing body of the town, township or municipality through which such approach or approaches shall lie, to construct and maintain the same at the expense of the county in which such approach shall be constructed and maintained.

Governing body of municipality shall construct and maintain approaches at expense of county.

108. SEC. 6. That for the purpose of furnishing the moneys necessary for building, rebuilding, repairing and maintaining any such bridge and for making and maintaining such approach or approaches and acquiring lands therefor, it shall and may be lawful for said boards of chosen freeholders to use any moneys of their respective counties not otherwise appropriated, and to raise money from time to time by taxation, and for the purpose of building and rebuilding such bridge the counties to be connected by such bridge or bridges may issue, in addition to the bonds heretofore issued for such purposes by such county or counties, or either of them, the bonds of their respective counties for any sum not exceeding one hundred and fifty thousand dollars for each county, and may negotiate and sell the same at any price not less than par; such bonds, if issued, shall be made payable in not more than twenty years from the date of their issue, and shall bear interest at a rate not greater than five per centum per annum.

Money for construction, how raised.

109. SEC. 7. That in case it shall be necessary to acquire land for the approach or approaches mentioned in the fifth section of this act, and the boards of chosen freeholders of the counties in which such lands lie, and the owner or owners thereof cannot agree upon the price to be paid therefor, it shall and may be lawful for any justice of the supreme court, and the said justice is hereby directed, upon application by said boards of chosen freeholders of the county in which such approach or approaches shall lie, upon two weeks' previous notice, served in person or by leaving a copy thereof at the dwelling-house or usual place of abode of the owner or owners of said lands and the tenants, if any there be, or in case of the absence from the state or legal disability of the owner or owners or tenants, then the said notice shall be published in a newspaper published in the county where said lands are situate, for two weeks prior to the time fixed for such application, to appoint three disinterested persons commissioners, which said commissioners shall be residents of the county where said lands are situate, to condemn and assess and ascertain the value of the lands necessary for such approach or approaches, which commissioners shall appoint a time and place at which they shall meet and execute the duties of this appointment, and shall cause two weeks' notice thereof to be given to the owner or owners and tenant or tenants thereof, either by personal service or by leaving a copy thereof at the dwelling-house or usual place of abode of said owner or owners and tenant or tenants, or in case of the absence from the state or legal disability of said owner or owners or tenant or tenants, then said notice shall be published in a newspaper published in the county where said lands are situate, for two weeks prior to the time of such meeting; at which time and place the said commissioners, or any two of them, shall meet and view the premises and lands, and hear all the parties interested, and take evidence, if any shall be offered, and for that purpose shall have power to administer oaths and affirmations, and to adjourn from time to time; and the said board of chosen freeholders shall make and exhibit to the said commissioners, at their meeting aforesaid, a description of said lands required for such approach or approaches as aforesaid, either in writing or by maps or drawings or both; and the said commissioners or any two of them, shall thereupon ascertain and assess the value of said lands and shall execute under their hands and seals, or the hands and seals of any two of them, and

Lands for approaches may be condemned.

Proceedings therefor.

award to said boards of chosen freeholders, stating therein the compensation therefor by them assessed, in favor of said owner or owners, tenant or tenants, if any there be, and a description of the said lands, which said award shall be acknowledged by the commissioners making the same and filed in the register's office of the county where said lands are situate, and recorded by the said register in the same manner and in the same books that deeds for real estate are now recorded.

Awards, to whom paid.

110. SEC. 8. That when the said commissioners, or any two of them, shall make their award and assess the value of the lands aforesaid, then it shall be the duty of the said board of chosen freeholders to pay to the owner or owners of said lands and to the tenant or tenants, if any there be, the amount so assessed by the said commissioners, and in case the said owner or owners, tenant or tenants, refuse to receive the same, or reside out of this state, or are legally disqualified, or cannot be found, then the said board of chosen freeholders shall pay the said amount so assessed to the clerk of the circuit court of the county where said lands are situate.

On payment of award, title to vest.

111. SEC. 9. That the award of the commissioners aforesaid, or any two of them, and the payment of the money so assessed as aforesaid by the board of chosen freeholders, shall vest them in the lands and premises described in said award, the same estate as would have vested in them had the owner or owners thereof conveyed the same to the said board of chosen freeholders, under their hands and seals, in fee-simple.

Either side may appeal from award.

112. SEC. 10. That if the said board of chosen freeholders or the owner or owners, or the tenant or tenants, of said lands are not satisfied with the assessment of the said commissioners of the amount to be paid to the owner or owners, tenant or tenants of said lands, then and in that case either party may appeal to the next or second term thereafter of the circuit court of the county where said lands are situate, by filing a petition with the clerk of said circuit court and serving a notice of such appeal upon the opposite party three weeks prior to such term, or by publication in a newspaper printed in the county where said lands are situate, for four weeks prior to such term; which petition, when filed, and the notice served or published as aforesaid, shall vest in said court full power to hear and determine said appeal.

Proceedings therefor.

May have jury trial.

113. SEC. 11. That in all cases of appeal from the assessment of the commissioners, it shall and may be lawful for either party to demand and have a trial by jury, and the assessment of the court or jury shall be final.

Repealer.

114. SEC. 12. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

An act concerning corporations authorized to bridge navigable streams bounding this state.

P. L. 1895, p. 501.

Approved March 22, 1895.

Time for completion of bridge over navigable waters between this and some other state, extended.

115. SEC. 1. That whenever proceedings have been taken heretofore for the organization of any corporation or corporations under any general, special, public, private or local act authorizing the incorporation of a company for the purpose of building a bridge over or in any part of the navigable waters separating this state from other states where the tide ebbs and flows, the said corporation or corporations so organized shall have an extension of the time limited for the commencement and completion of any such bridge, and such time shall be and the same is hereby extended for the further period of ten years from the passage of this act; *provided, however,* that this act shall not apply unless money has actually been expended in surveys or location of route, or in acquisition of right of way or in construction, since January first, one thousand eight hundred and eighty-six; *provided further,* that this act shall not apply to any corporation unless such corporation shall first, and as the condition precedent to the exercise of any power granted by this act, file in the office of the secretary of state an agreement to be approved by the governor and attorney-general, waiving all right of exemption from taxation, and from privileges and advantages arising from any law or contract, if any there be, establishing

Proviso.

Proviso.

any special mode of taxation of any such corporation, and the further agreement to be bound by any general law of this state now in existence or that may be hereafter passed, taxing such corporations as are now authorized to be taxed by the legislature of this state under any general law, and further agreeing that the exercise of any power granted by this act shall not in any way affect the right of this state, if any there exist, to take the property of such corporations under any existing law of this state, and agreeing, further, that all laws affecting such corporations shall be subject to alteration or repeal by the legislature.

Building and Loan Associations.

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| <ol style="list-style-type: none"> 1. Incorporation of association authorized. 2. Certificate of organization to be signed. Its contents. 3. Clerk to file and record the same. Fee of clerk. 4. Parents and guardians may hold shares. 5. Right of membership. 6. Funds shall be invested in lands and improvements, loans, &c. 7. Married women and minors may hold shares. 8. Amended by section 16 9. Annual statement to be made if required. 10. Lands may be sold to non-members. 11. Who deemed members of association. 12. Deeds with restrictive clauses against nuisances, valid. 13. By-laws may be made. 14. Power of repeal, &c., reserved. 15. Partition by lot authorized. 16. Company may adopt constitution. Investments, how made. 17. Re-organization of associations authorized. 18. Certain premiums not deemed usurious. 19. Associations may issue stock in different series. 20. Such stock heretofore issued, valid. 21. Constitution and by-laws, how amended. | <ol style="list-style-type: none"> 22. Repealer. 23. Name of association may be changed. 24. Certificate of change to be filed. Deeds in former name valid. 25. Shares heretofore issued validated. 26. Associations may issue new or series of shares. 27. Value of different series of shares to be kept distinct and reported annually. 28. Building companies may be incorporated. Powers. 29. Change of name, &c., how effected. 30. Real and personal estate subject to taxation. 31. Associations to encourage the purchase of homes may be incorporated. 32. What certificate of organization shall specify. 33. Association may lend money. 34. May undertake to cancel indebtedness of borrower. 35. Business to be conducted by board of directors. How elected. 36. Annual statements to be made. 37. Chief of labor bureau may make investigation. 38. Chief of labor bureau to make and publish annual report. 39. Repealer. |
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An act to encourage the establishment of mutual loan, homestead and building associations.

P. L. 1849, p. 227.
 " 1852, p. 83.
 " 1855, p. 423.
 " 1869, p. 40.

Revision—Approved April 9, 1875.

331-1
 39v-588
 *04-218 ✓

1. That any number of persons, not less than five, may associate and form an incorporated company for the purpose of assisting each other, and all who may afterwards become associated with them in acquiring real estate, making improvements thereon, and removing incumbrances therefrom, by the payment of periodical installments; and for the further purpose of accumulating a fund to be returned to its members who do not obtain advances, for purposes above mentioned, when the funds of such association shall amount to a certain sum per share, to be specified in the articles of association. (a)

Incorporation of association authorized.

331-1
 S99-357
 S00-162
 S01-102
 02-672

331-1
 Rev03-457

(a) If a shareholder, by the purchase of a loan at a discount, pays more than legal interest for the money he borrows, it is not usurious. *Franklin Building Association v. Marsh*, 5 *Dutch*. 225. *Hoboken Building Association v. Martin*, 2 *Beas*. 428. Where the penalty of the obligation was "to pay three dollars per month during the existence of the association, and all fines incurred during said time, and to comply with all covenants, promises and agreements entered into according to the articles of association," the payments were held to be on account of the principal of the bond. *Savings Association v. Vanderveere*, 3 *Stock*. 382. Nor can any deductions be made for any monthly installments paid on the stock, where the mortgagor was a shareholder, nor for the premium on the loan, nor for fines paid by him. *Mechanics' Building Association v. Conover*, 1 *McCart*. 219. Where the mortgagor also transferred to the association some of its shares as additional security, and afterwards executed a second mortgage on the same lot, such second mortgagee can require the amount realized from a sale of such shares to be applied to the payment of the first mortgage, nor can this equity be affected by subsequent judgment creditors. *Id.* See *S. C. on appeal*, 2 *C. E. Gr.* 497. It is no defense to such a mortgage that the other shareholders have failed to pay their dues. An agreement to wind up the association by paying the owners of the unredeemed shares the sums they had advanced, with interest, and that the owners of the redeemed shares who had given mortgages for the price of redemption, should be discharged upon paying the amount of their mort-

gages, with interest, is valid and will be enforced. *Hoboken Building Association v. Martin*, 2 *Beas*. 428. A building and loan association which has loaned money to one of its stockholders on a bond and mortgage, conditioned for the payment of a specified rate of interest, together with a monthly installment on each share of the stock owned by him, until the principal sum is paid, can recover, on foreclosure, the amount in arrear, without any deduction for the monthly installments paid by the stockholder. *People's Building and Loan Association v. Furey*, 2 *Dick*. 410. Fines imposed by a building and loan association upon its members for defaults in payment of dues and interest, cannot be collected by foreclosure of the mortgage given to secure payment of a sum borrowed or of dues and interest, unless the parties have agreed that the fines may be so collected. *Bowen v. Lincoln Building and Loan Association*, 6 *Dick*. 272. A court of equity will not, on a bill for specific performance, compel a building and loan association to lend money to one of its members who has bid off such loan at an auction thereof, where the title to the lands offered by such member as security therefor is pronounced by the association's solicitor to be defective, and the directors for that reason decline to make the loan. *Conklin v. People's Building Association*, 14 *Stev.* 20. As to taxation of building and loan associations, see *State, Workmen's Building and Loan Association v. Creveling*, 10 *Vr.* 465. *State, Workmen's Building and Loan Association v. Hornbaker*, 12 *Vr.* 519. *S. C.*, 13 *Vr.* 635.