

unto Adam Lenker, esquire, and John Bingman, and their successors, in trust and for the sole use and benefit of the congregation of Mahonoy township, composed of Presbyterians and Lutherans.

SIMON SNYDER, *Speaker*
of the House of Representatives.

P. C. LANE, *Speaker of the Senate.*

APPROVED—the seventh day of April, in the year one thousand eight hundred and seven.

THOMAS M'KEAN.

CHAPTER CIX.

An ACT to enable David Mahon, John Simpson and others, to restore a stream of water, in the neighbourhood of Shippensburgh in the county of Cumberland to its ancient course, and for other purposes therein mentioned.

WHEREAS it has been represented by David Mahon, John Simpson and others, inhabitants of Shippensburgh and its vicinity of Cumberland county, that they labour under great inconvenience from the want of water in their wells, and through their farms, occasioned as they conceive from a sudden termination of an ancient stream, by the waters wholly sinking into the ground, on the plantation of a certain Adam Myer, in the same neighbourhood, and passing off through a subterraneous channel without making its appearance again: *And whereas*, it is manifest, that unless the said stream can be restored to its former course, the real property in the village of Shippensburgh and the farms adjacent, will daily diminish in their value, and thereby occasion a loss to the public, as well as to the said inhabitants: *And whereas*, no contract can be entered into with the said Adam Myer to restore said stream of water to its ancient course, that will effectually secure the right thereof to said inhabitants, by reason of the said Adam Myer having long since mortgaged his said plantation: *And whereas*, there are certain cases, in which the property of an individual with just compensation therefor, must yield to the public good, and the present in the opinion of the legislature being one: Therefore,

SECTION I. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That* David Mahon, John Simpson, George M'Candless, Robert Porter, John Duncan, and their associates or agents of the county aforesaid, or either of them, shall have full power and authority, to enter into and upon a certain tract of land now in the tenure and possession of a certain Adam Myer, situated in the

David Mahon and others authorized to enter on the lands, now in the tenure of Adam Myer, situate in Cumberland county for the purpose of restoring a stream of water to its ancient course.

township of Southampton in the county aforesaid, bounded as follows; to wit, adjoining lands of the heirs of John M^cLean on the south, lands of the heirs of Thomas Nichols on the east, lands late of the heirs of John M^cKnight, now John Wallace on the north, and lands of the heirs of Robert Coffy on the west, and taking such assistance as may be necessary, and to restore a stream of water which formerly ran through said tract of land to its ancient course, or to conduct the same water by digging a different course across said land, doing at the same time as little damage to the premises as may be, that may best accommodate the inhabitants of the village of Shippensburgh and its vicinity: *Provided always*, that previous to the said David Mahon, John Simpson, George M^cCandless, Robert Porter, John Duncan their associates or agents, or either of them entering into, and upon said land for the purposes aforesaid, notice shall be given to the owner or owners thereof, if he, she or they be living within this state, and due diligence used to obtain by purchase or otherwise from him, her or them, the right so to do.

Doing as little damage to the premises as may be;

But first to give notice to the owner and endeavour to purchase of him the right of entering, &c.

Proceedings to ascertain the damage done the owner by restoring said water course, in case he refuse to sell the right.

SECT. II. *And be it further enacted by the authority aforesaid*, That after notice as aforesaid to the owner or owners of said tract of land, by the said David Mahon, John Simpson, George M^cCandless, Robert Porter, John Duncan, their associates or agents, or either of them, shall have been given, and the said owner or owners shall refuse to agree with the aforesaid persons, their associates or agents or either of them, for permission to restore or to conduct the water across the said land as by the foregoing section of this act is mentioned, or if the owner or owners of said tract of land shall not be resident within this state, then in either of which cases it shall be lawful for the aforesaid persons, their associates or agents, or either of them, to apply to the judges of the court of common pleas of said Cumberland county, stating the facts and the name or names of said owner or owners, together with a description of said land, who upon such application are hereby empowered and enjoined to frame and issue one or more writ or writs, in the nature of a writ of *ad quod damnum*, naming the said owner or owners, and describing said tract of land, directed to the sheriff of their county, commanding him that he by oaths and affirmations of twelve good and lawful men of his bailiwick, enquire whether any and what damage will ensue to the said owner or owners, from restoring said water to its ancient course, or carrying it across the said land in some other direction for the purpose aforesaid, and return the same writ with the finding of such jury in the premises, to them the said judges at their next term, and upon the said writ being delivered to the said sheriff, if the owner or owners of said land therein named shall reside in his bailiwick, he shall serve him, her or them with a written notice of the time and place at least

ten days before the executing of the same writ ; and if the said owner or owners should not reside within his said bailiwick, the said sheriff shall give notice by at least setting up four advertisements in four of the most public places in his county, and inserting it in one of the newspapers printed in the borough of Carlisle, at least four weeks before the executing of the said writ, and the said sheriff on the day, and at the time by him thus named and appointed, shall cause to go upon the said tract of land, twelve good and lawful men as jurors selected by him, to whom he shall administer an oath or affirmation, that they will diligently enquire concerning the matters and things in the said writ specified, according to the best of their skill and judgment, and thereupon the said sheriff and inquest, shall proceed to view and assess the damages which will accrue to the owner or owners of said land, from restoring the said stream of water to its ancient course, or taking it in some other direction, in which latter case the course in the said inquisition shall be laid down and particularly described, together with the amount of the damages if any so found, duly expressed under the hands and seals of the said jurors; and the inquisition so taken together with the writ aforesaid, the said sheriff shall return to the said judges of the court of common pleas aforesaid, and if the said judges shall approve the same, then in that case, the said judges shall render judgment that the aforesaid persons, their associates or agents, or either of them, paying the money to the owner or owners, which may have been assessed by the jurors aforesaid, or paying the same into the hands of the prothonotary of said county, for the use of said owner or owners of said tract of land; the said David Mahon, John Simpson, George McCandless, Robert Porter and John Duncan, their associates or agents, shall have full power and authority to enter into and upon the said premises, and to restore the said stream of water to its ancient course, or to conduct it in some other course, as in said inquisition shall have been described, and at all times thereafter, as occasion may require, making amends therefor, if any damages they shall do, to keep the same water-course in repair.

On payment of which damage the said D. Mahon and others, authorized to enter on the premises, &c.

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