

CHAPTER DCXXVI.

1771.

An ACT declaring the rivers Delaware and Lehigh, and parts of Neshaminy creek, as far up as Barnsley's ford, and of the stream called Lecharwaxin, as far up as the falls thereof, common highways, and for improving the navigation in the said rivers. (o)

WHEREAS the improving the navigation in rivers is of great importance to trade and commerce: And whereas the rivers Delaware and Lehigh may be rendered much more navigable than they now are: And whereas many persons, desirous to promote the public welfare, have subscribed large sums of money for the purposes aforesaid, and it is represented to the Assembly of this province, that more considerable sums would be contributed for the same purposes, if Commissioners were appointed by law to receive such subscriptions, and duly to apply them: *Be it therefore enacted*, That the rivers Delaware and Lehigh, and parts of Neshaminy creek, as far up as Barnsley's ford, and no further, and the stream called Lecharwaxin, as far up as the falls thereof, be, and they are hereby declared to be, common highways, for the purposes of navigation up and down the same.

Bounds of the rivers, &c. declared to be common highways.

Commissioners appointed for improving the navigation, &c.

II. *And be it further enacted*, That Joseph Galloway, Joseph Fox, Michael Hillegas, Abel James, Samuel Rhoads, James Allen, Peter Knight, Esquires; Daniel Williams, Henry Drinker, Clement Biddle, Jeremiah Warder, the younger, Jacob Bright, John Baldwin, Richard Wells, gentlemen; Thomas Yardley, Adam Hoops, Jacob Orndt, Peter Keckline, Henry Kookon, Esquires; William Ledley, Nicholas Depui, son of Samuel, Jacob Stroud, and John Arbo, gentlemen, be, and they are hereby appointed and constituted Commissioners, for improving the navigation in the said rivers Delaware and Lehigh; who, or a majority of whom, the survivors, or a majority of such survivors, shall have full power and authority, by virtue hereof, to collect, recover and receive, from any person or persons whatsoever, all such sums of money, which have been or shall be given or subscribed for rendering the said rivers more navigable; and so much of the said monies as may be necessary for that purpose to lay out and apply, for and towards improving the navigation in the said river Delaware, from the lower part of the falls near Trenton, to the forks thereof at Easton; and the residue thereof to lay out and apply, for and towards improving the navigation in that part of the said river, called the Eastern or Main Branch; and in the said river Lehigh, in proportion respectively to the sums subscribed by the inhabitants of Pennsylvania and New-Jersey, residing near the said Eastern-Branch, and by the inhabitants of this province, residing near the said river Lehigh: *Provided always*, That such sums of money as have been or shall be given or subscribed, for the improving the navigation in either of the said rivers, above the forks aforesaid, separately, shall be laid out and applied for and towards that purpose and no other.

(o) For all the laws respecting the Delaware, &c. see the proper title in the index to this edition, and chap. 46^o, ante. pa. 231.

The jurisdiction of the islands in the

Delaware, is regulated, chap. 1024, 1034.

The river Delaware is within admiralty jurisdiction. 1 Dallas; 49. (*Not to former edition.*)

III. *And be it further enacted,* That the said Commissioners, or a majority of them, their survivors, or a majority of such survivors, shall have full power and authority, by themselves, their agents, servants and workmen, to clear, scour, open, enlarge, straighten or deepen the said rivers, wherever it shall to them appear useful for improving the channels; and also to remove any obstructions whatsoever, either natural or artificial, which may or can in any manner hinder or impede the navigation in the said rivers, or either of them, and to make and set up in the said rivers, or either of them, any dams, pens for water-locks, or any other works whatsoever, and the same to alter or repair, as they shall think fit; and also to appoint, set out and make, near each or either of the said rivers, paths or ways, which shall be free and open for all persons having occasion to use the same, for towing, hauling or drawing any vessels, boats, small craft, and rafts of any kind whatsoever, and from time to time to do and execute every other matter or thing, necessary or convenient for improving the navigation in the said rivers, or either of them. *Provided always,* That no dam, pen, lock or other work, made or set up by the said Commissioners, shall be appropriated to the private use or benefit of any person or persons whatsoever.

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Commissioners to have full power to enlarge, straighten or deepen said rivers, &c.

IV. *And be it further enacted,* That no person or persons whatsoever shall presume to divert, lead or draw, at any time or times, by any race or other device, any water of the said rivers or either of them, out of or from the natural course or channel for the use of any mill or water-work.

Waters not to be drawn from their natural channels, &c.

V. *And be it further enacted,* That if any person or persons shall presume to oppose or hinder the said Commissioners, or any of them, their agents, servants and workmen, or any of them, from doing any act which they are hereby authorized and empowered to do; or shall make, erect, set up, repair or maintain, or shall be aiding, assisting or abetting, in making, erecting, setting up, repairing or maintaining any dam or obstruction, which may or can in any manner hinder or impede the navigation in the said rivers, or either of them; or shall remove, destroy, throw down, alter, injure or impair any dam, pen, lock or other work made or set up by the said Commissioners, or by order of them, or a majority of them, their survivors, or a majority of such survivors, every person so offending, being legally convicted thereof, by verdict of a jury, or by his own confession before the Justices of the Peace in their Court of General Quarter Sessions, shall forfeit and pay fifty pounds, lawful money of this province, for every such offence, or shall suffer imprisonment for twelve months, without bail or main-prize; one moiety of which forfeiture shall be paid to the informer, and the other moiety to the Commissioners herein appointed, or the survivors of them, as aforesaid, to be applied for and towards improving the navigation in the said rivers.

Penalty on persons erecting any dam to impede the navigation;

or destroying any works set up by the Commissioners, &c.

VI. And whereas doubts may arise in what counties offences committed in the said river Delaware against this act ought to be tried: For removing thereof, *Be it enacted,* That every offence committed in the said river against this act shall be laid to be committed, and may be tried and determined as aforesaid, in any of the counties

Manner of prosecuting offenders.

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Mill-dams erected in the river Delaware, before the passing this act, not to be thrown down or impaired, &c.

VII. *Provided always, and be it further enacted*, That nothing herein contained shall give any power or authority to the Commissioners herein appointed, or any of them, to remove, throw down, lower, impair, or in any matter to alter a mill-dam erected by Adam Hoops, Esq. in the said river Delaware, between his plantation and an island in the said river, nearly opposite to Trenton; or any mill-dam erected by any other person or persons in the said river, before the passing of this act, nor to obstruct, or in any manner to hinder the said Adam Hoops, or such other person or persons, his or their heirs and assigns, from maintaining, raising or repairing the said dams respectively, or from taking water out of the said river for the use of the said mills and water-works, erected as aforesaid, and none other.

Commissioners to keep minutes of their proceedings, and make report yearly to the Assembly.

VIII. *And be it further enacted*, That the said Commissioners shall keep minutes of their proceedings, in pursuance of the power hereby given to them, fairly entered in a book, and shall, once in every year, make report of their transactions in improving the navigation in the said rivers, to the Assembly of this province for the time being, and shall lay before them a just and faithful account of all sums of money by them received for the aforesaid purposes, and in what manner they shall be expended, that the same may be adjusted and settled.

Passed 9th March, 1771.—Recorded A. vol. V page 401.

CHAPTER DCXXVII.

An ACT declaring the river Susquehanna, and other streams therein mentioned, public highways, for improving the navigation of the said river and streams, and preserving the fish in the same. (p).

WHEREAS it is of importance to the trade and commerce of this province, that such rivers and other streams, as are or may be made navigable, be at all times preserved and kept from all manner of obstructions: And whereas the improving the navigation of the rivers Susquehanna, Juniata, and the streams of Conestogoe, Bald Eagle, Machanoy, Penn's creek, and Swatara, Connedoguinnet and Kiskiminetas, will greatly conduce to the benefit of the inhabitants residing on and near the said rivers, and the province in general, by increasing the trade of the said province: And whereas it has been represented to the Assembly, that many of the inhabitants residing on or near the said rivers and streams, being desirous to promote the public welfare, are willing to contribute considerable sums of money for the purposes aforesaid, if Commissioners are ap-

(p) New commissioners to be appointed to execute the act in the text, chap. 1144.

For the laws respecting the Susquehanna, &c. see the proper title in the

index to this edition, and chap. 469, ante. p. 231.

For the act directing the sale of certain islands in the Susquehanna, see chap. 1649. (*Note to former edition.*)