

CHAPTER DCXXVI.

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 LECHAWAXIN AS FAR UP AS THE FALLS THEREOF, COMMON HIGHWAYS, AND FOR IMPROVING THE NAVIGATION IN THE SAID RIVERS.

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:

[Section I.] Be it therefore enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, 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 Lechawaxin, 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.

[Section II.] And be it further enacted by the authority aforesaid, 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 Kechline, Henry Kooken, 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 moneys 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.

[Section III.] And be it further enacted by the authority aforesaid, 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.

[Section IV.] And be it further enacted by the authority aforesaid, 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.

[Section V.] And be it further enacted by the authority aforesaid, 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 offense, or shall suffer imprisonment for twelve months, without bail or mainprize, 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.

And whereas doubts may arise in what counties offenses com-

mitted in the said river Delaware against this act ought to be tried:

For removing thereof:

[Section VI.] Be it enacted by the authority aforesaid, That every offense 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 within this province opposite to or joining on that part of the said river in which such offense shall be committed.

[Section VII.] Provided always, and be it further enacted by the authority aforesaid, 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 manner to alter a mill-dam erected by Adam Hoops, Esquire, 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.

[Section VIII.] And be it further enacted by the authority aforesaid, 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 March 9, 1771. Referred for consideration by the King in Council, October 9, 1771, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIX, and the note to the Act of Assembly passed March 14, 1761, Chapter 463; and the Acts of Assembly passed September 20, 1783, Chapter 1035; March 19, 1794, Chapter 1722; February

27, 1798, Chapter 1973; March 23, 1803, P. L. 389; February 8, 1804, P. L. 75; February 1, 1808, P. L. 18; March 22, 1814, P. L. 181; March 26, 1814, P. L. 200; (the Resolution of) February 21, 1815, P. L. 187; (the Resolution of) March 13, 1815, P. L. 190; March 13, 1817, P. L. 106; March 20, 1818, P. L. 197; March 23, 1818, P. L. 227; March 29, 1819, P. L. 261; March 6, 1820, P. L. 49; March 26, 1821, P. L. 101; February 13, 1822, P. L. 21; March 13, 1823, P. L. 74; April 1, 1825, P. L. 141; February 9, 1826, P. L. 25; April 5, 1826, P. L. 204; April 23, 1829, P. L. 312; (the Resolution of) February 6, 1830, P. L. 406; (the Resolution of) April 10, 1832, P. L. 638; April 6, 1833, P. L. 210; March 29, 1836, P. L. 212; June 21, 1839, P. L. 370; March 14, 1840, P. L. 134; April 12, 1851, P. L. 424; April 30, 1852, P. L. 535; April 8, 1853, P. L. 347; April 7, 1858, P. L. 222; March 12, 1859, P. L. 128; April 4, 1866, P. L. 436; April 12, 1866, P. L. 868; March 7, 1872, P. L. 259; June 5, 1885, P. L. 76.

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.

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 Conestogoe, Bald Eagle, Machanoy, Penn's creek and Suatara, Connedaguet 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 were appointed by law to take, collect and receive the contributions and to apply and appropriate