

Public Office

ACTS

OF THE

General Assembly

OF THE

1825-26

COMMONWEALTH

OF

PENNSYLVANIA,

PASSED AT A SESSION WHICH WAS BEGUN AND HELD

AT THE

Borough of Harrisburg

ON

TUESDAY, THE SIXTH DAY OF DECEMBER,

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND TWENTY-FIVE

AND OF THE

INDEPENDENCE

OF THE

UNITED STATES OF AMERICA

THE FIFTIETH.

PUBLISHED BY AUTHORITY.

HARRISBURG:

PRINTED BY CAMERON & KRAUSE

1826.



NOV 25 1825

CHAPTER CXX.

AN ACT

Authorising the erection of certain dams in navigable streams, for erecting a bridge over Swatara creek, declaring certain creeks public highways, respecting a public well in Burgetts town, and for other purposes.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,*

That Henry H. Burr, of Mifflin county, his heirs and assigns, be, and they are hereby authorised to erect and keep up a dam opposite to Mifflintown, not exceeding three feet in height across that part of the Juniata river which flows between the island commonly called Bell's Island and the Fermanaugh township shore in Mifflin county: *Provided,* The said Henry H. Burr shall obtain the consent of the owners of the land to which said dam shall adjoin, and upon which said dam shall swell the water, and that if said dam shall be found to be prejudicial to the navigation of said river, or if the said Henry H. Burr, or those claiming under him, should attempt to put any obstructions in the said river near the head of the said island, or on the south side thereof, the legislature reserve the right to repeal this act and the authority hereby granted, at any time that the public interest may require it: *Provided further,* That if the said Henry H. Burr, his heirs and assigns, shall not within three years from the passing of this act, have erected said dam, and also a mill to be propelled by water to be taken for said dam, fit for grinding wheat and manufacturing superfine wheat flour, the privileges hereby granted shall cease and determine.

Henry H. Burr authorised to erect a dam in the Juniata.

Proviso.

2d proviso.

SECT. 2. *And be it further enacted by the authority aforesaid,*

That from and after the passing of this act, Sandy Lick or Red Bank creek, from the eastern boundary of Jefferson county to its mouth, is hereby declared to be a public highway only for the passage of boats, rafts, &c. descending, and it shall and may be lawful for all and every person or persons owning lands adjoining said stream, to erect a dam or dams for a mill or mills or other water works in or upon said creek adjoining their own lands, and to keep the same in good repair, and also to lead off on his or their own lands so much of the water of said stream as may be necessary for his or their mill or mills, or other water works: *Provided,* That the said person or persons, his or their heirs and assigns, in erecting the said dam or dams, shall make a slope from the top thereof, descending fifteen feet for every foot the dam is in height, and not less than forty feet in breadth, and shall at all times keep the same in repair, so as to afford a good navigation: *Provided also,* That the person or persons so erecting said dam or

Sandy Lick or Red Bank creek declared a public highway.

Dams may be erected thereon.

Proviso.

2d proviso.

dams, shall not infringe or injure the rights and privileges of the owner or possessor of any private property on said stream.

Certain part of Panther creek declared a public highway.

SECT. 3. *And be it further enacted by the authority aforesaid,* That from and after the passing of this act, Panther creek from its junction with the Little Schuylkill or Tomaqua to Martin Yoder's saw mill on said creek, shall be, and the same is hereby declared to be a public highway under the limitation and restrictions hereinafter specified, and it shall and may be lawful for any person desirous of improving or using the navigation of said Panther creek, to remove thereout all obstructions except mill dams already built, at which dams the persons aforesaid shall have full power to make slopes thereon, and keep the same in repair forever for the passage of rafts.

Navigation thereof may be improved.

Persons having authority may erect dams.

SECT. 4. *And be it further enacted by the authority aforesaid,* That nothing in this act contained shall be deemed, taken or understood to prevent any person or persons possessing lands on said Panther creek, who before the passing of this act had authority under the law of this commonwealth to erect a dam, from erecting any sum dam or dams that he, she or they may think proper: *Provided,* That every such dam or dams be so constructed with a proper slope or slopes erected in the most convenient parts thereof, so that rafts may not be obstructed in passing down the said creek, which slope shall be at least thirty feet wide, and be one foot lower than the other parts of the dam, the surface whereof shall be made of wood or other materials well compacted together, so that none of the water may be lost in passing down the same, and for every foot said slope shall be in height, it shall extend fifteen feet down the stream.

Proviso.

How bridge shall be built over Susquehanna where the northern turnpike crosses the same, &c.

SECT. 5. *And be it further enacted by the authority aforesaid,* That the company for erecting a bridge over the river Susquehanna where the northern turnpike crosses the same, be, and they are hereby permitted to build said bridge of such width and length, and in the manner they shall deem most expedient to its permanency and the facility of travelling, and the time for taking subscriptions and completing said bridge is extended to the year one thousand eight hundred and thirty, and that each stockholder shall be entitled to one vote for each share of stock by him or her held, and on which he has paid the several instalments called for by the company and not otherwise.

Additional commissioners to receive subscriptions to the stock of the said bridge company.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the following commissioners be appointed in addition to those already appointed in the law to which this is a supplement, viz. William Foster, Thomas Gallaher and Peter Ritner for the county of Perry; John Meghary, James Thompson, Christopher Marks, David Lusk and David W. Huting for the county of Mifflin; Evan Miles, Andrew Gregg and Thomas Barnside for the county of Centre; George Kremer, James K. Davies and Philip Harold for the county

of Union; Samuel Hepburn, Lemuel B. Stoughton and Daniel Scudder for the county of Northumberland; William Janson, John McConnel and Maxwell Kinkaid for the county of Huntingdon; Christian Gleim, Henry Buehler and Dr. Benjamin Kugler for the county of Dauphin; William Lehman, Charles Bird, Nathan Smith, John Goddard and John Sergeant for the city of Philadelphia; and William Wilkins and James S. Croft for the city of Pittsburg, to perform the several duties in said act mentioned: *Provided*, That the governor shall not incorporate the said company until one thousand shares have been actually subscribed to the stock of the same, and two dollars paid on each share, and on a certificate of the said shares being bona fide subscribed by twenty or more persons, and two dollars actually paid on each share, the commissioners aforesaid, or a majority of them, shall certify the same to the governor, who may thereupon incorporate the said company by the name, style and title of "The Susquehanna and Juniata Bridge company."

SECT. 7. *And be it further enacted by the authority aforesaid*, That the corporate name of said company shall be "The Susquehanna and Juniata Bridge Company," and that the corporate title in the act authorising the governor to incorporate a company to erect a bridge over the river Susquehanna in the county of Dauphin where the northern turnpike crosses the same is hereby changed: *Provided*, That so much of any law that is hereby altered or supplied, be, and the same is hereby repealed.

SECT. 8. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the citizens of the town of Rebersburg in Centre county, annually on the first Monday of September, to elect by ballot three reputable citizens of said town to be called "Water Commissioners," the said election to be held at the school house in said town by a judge and two clerks, to be chosen by a majority of the citizens present at the place of holding said election, between the hours of twelve and two o'clock of said day, at which time the same shall be duly opened, which said commissioners shall do and perform the several duties herein after enjoined on them.

SECT. 9. *And be it further enacted by the authority aforesaid*, That it shall be the duty of the said commissioners to superintend the pipes and other works which now supply the said town with water, and to keep the same in complete repair, and for that purpose the said commissioners shall have full power and authority to assess and levy a tax on all the real property in said town, not exceeding one cent in the dollar on the real value of all such property, and in assessing and levying the said tax, the said commissioners shall be governed by the last triennial assessment of the county rates and levies of Miles township, and shall make a fair duplicate of the said real property, which shall be submitted to a justice of the peace residing in said town or in Miles township, for his

examination and approbation in writing endorsed on the said duplicate, and it shall be the duty of the said commissioners or either of them to collect the said tax, and in so doing to call at the usual residence of the inhabitants of said town, and if the same is not paid within ten days after demand of the same, then it shall and may be lawful for the said commissioners, or either of them, to levy upon sufficient of the goods and chattels of such delinquent to satisfy said tax, and after five days public notice to sell the same by public vendue, returning the overplus if any, to the person or persons refusing or neglecting to pay the said tax.

SECT. 10. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said commissioners, or either of them, to collect the tax by them so as aforesaid assessed and levied upon all the unseated real property in said town where the proprietors thereof are non-resident therein once in two years, and in the month of May in every second year, by giving forty days notice, by six written or printed advertisements, containing the property taxed, and notice in a newspaper published in the county of Centre, which notice shall contain the number of the lot, and the name of the supposed owner, that the said real property will be sold by public vendue, if the said tax is not paid within the forty days aforesaid, the said sale to be opened at one of the most public places of the said town, and the property to be sold for the highest and best price that can be gotten for it, and to the highest and best bidder, returning the overplus to the original owner, after payment of the costs accruing on the said sale.

Of taxes on unseated real property in said town.
Property authorized to be sold.

SECT. 11. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said commissioners, or a majority of them, to execute a deed or deeds, in fee simple, to the purchaser or purchasers of the said real estate, which shall be acknowledged by the grantors, before a justice of the peace of the county of Centre, for which deed they shall be entitled to receive one dollar from the said purchaser, and the said commissioners shall also be entitled to receive from the proceeds of any sale made by virtue and in pursuance of this act, the sum of one dollar and fifty cents, for advertising and selling any unseated lot advertised and sold as aforesaid, and the accounts of the said water commissioners shall be settled and adjusted by the auditors of Miles township.

Said commissioners authorized to execute deeds for the same.
Accounts how settled.

SECT. 12. *And be it further enacted by the authority aforesaid,* That from and after the passage of this act the Public Well, heretofore constructed or made by the inhabitants or Burgettstown, in the county of Washington, in the public square of said town, shall not be deemed, held or taken for a nuisance, but shall remain the public property of the inhabitants of Burgettstown aforesaid forever: *Provided nevertheless,* That upon a petition of a majority of the taxable inhabitants of said town to the judges of the court of general quarter

Public well in Burgettstown not to be deemed a nuisance.
Proviso.

sessions of the peace in and for the county of Washington, setting forth that the same has become a public nuisance, the judges of the said court may direct the supervisors of the said town, or of the proper township, to fill up and remove the same, should it be considered a nuisance in the street or highway.

SECT. 13. *And be it further enacted by the authority aforesaid,* That Chest creek, in the county of Clearfield, from its junction with the Susquehanna river, to the line of Clearfield and Cambria counties, be and the same is hereby declared a public highway, for the passage of rafts, boats or other craft, and it shall and may be lawful for the inhabitants desirous of using the navigation of said creek, to remove all natural and artificial obstructions from the bed or channel of said creek, except dams for mills or other water works, and also to erect such slopes at the mills, or other water works on said creek, as may be necessary for the passage of rafts, boats and other vessels: *Provided,* That any person or persons owning or possessing land on said creek, shall have liberty to construct any dam or dams across the same, agreeably to the provisions and subject to all the restrictions of an act of the general assembly of this commonwealth, passed the twenty-third March, eighteen hundred and three, entitled "An act to authorise any person or persons owning lands adjoining navigable streams of water declared public highways, to erect dams upon such streams for mills and other water works."

Chest creek, in Clearfield county declared a public highway.

Proviso.

SECT. 14. *And be it further enacted by the authority aforesaid,* That from and after the passing of this act, Towanda creek, in Bradford county, from the mouth thereof up to the mouth of Roger's creek, be and the same is hereby declared a public highway, for the passage of rafts, boats or other crafts; and it shall and may be lawful for the inhabitants desirous of using the navigation of said creek, to remove all natural and artificial obstructions from the bed or channel of said creek, except dams for mills, and other water works, and also to erect such slopes at the mills, or other dams in said creek, as may be necessary for the passage of rafts, boats or other vessels: *Provided* such slopes be so constructed as not to injure the works of such dams: *Provided,* That any person or persons owning or possessing lands on said creek, shall have liberty to construct any dam or dams across the same agreeably to the provisions and subject to all the restrictions of an act of the general assembly of this commonwealth, passed the twenty-third of March, one thousand eight hundred and three, entitled "An act to authorise any person or persons owning lands adjoining navigable streams of water declared public highways, to erect dams upon such streams for mills and other water works."

Towanda creek, in Bradford county declared a public highway.

Proviso.

2d proviso.

SECT. 15. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Phillipsburg and Susquehanna turnpike road company to take charge of the bridge over the Susquehanna river where their road crosses the said bridge,

Phillipsburg and Susquehanna turn-

pike compa-
ny to take
charge of
bridge over
the Susque-
hanna where
their road
crosses the
same, &c.

and the said bridge is hereby placed under the care, man-
agement and direction of the said company; and it shall be
the duty of the said company to enforce the act entitled "An
act for the preservation of wooden bridges within this com-
monwealth," against all person or persons offending against
the provisions thereof so far as respects the said bridge; and
the commissioners of Clearfield county shall pay to the said
company, on the first Monday of June next, and annually
thereafter, twenty dollars, to be expended by the said com-
pany in supporting and maintaining the said bridge.

David Heim-
bach authori-
sed to erect
a dam over
Poco Poco
or Big creek,
in Northamp-
ton county.

SECT. 16. *And be it further enacted by the authority aforesaid,*
That from and after the passage of this act, it shall and
may be lawful for David Heimbach, his heirs and assigns to
erect, construct, support and maintain a dam across Poco
Poco or Big creek, above or below where the road leading
from the Wilkesbarre turnpike to Orwigsburg crosses said
creek, in the county of Northampton, agreeably to and under
like privileges, restrictions and penalties given to and im-
posed on owners of lands above the falls of said creek, by an
act passed the sixth day of March, seventeen hundred and
ninety-three, entitled "A supplement to an act declaring
Little Lehigh and Poco Poco creeks, in Northampton coun-
ty, public highways."

Compensa-
tion to be
made if any
person be
injured by
the erection
of said dam.

SECT. 17. *And be it further enacted by the authority aforesaid,*
That if any person or persons shall be injured by reason of
said dam swelling the water on any lands, or injuring any
works erected near said dam, the said David Heimbach, his
heirs or assigns; shall satisfy the owner or owners of such
lands or works so injured; but if the parties cannot agree
upon the compensation to be made to such owner or owners,
it shall and may be lawful for the parties to appoint three
suitable and judicious persons within said county of North-
ampton, or if they cannot agree on such persons, then either
party may apply to the court of common pleas of said county,
and the said court shall appoint three disinterested men, who
shall, under oath or affirmation, ascertain and report to said
court what damages, if any, have been sustained by the
owner or owners of such ground or other works so injured,
which report being confirmed by the court, judgment shall
be entered thereon, and execution may issue in case of non-
payment for the sum awarded, with reasonable costs, to be
assessed by the court: *Provided,* That either party may ap-
peal to the court within thirty days after such report may
have been filed in the prothonotary's office, in the same man-
ner as appeals are allowed in other cases.

Proceedings
if parties
cannot
agree.

Proviso.

JOSEPH RITNER, *Speaker*
of the House of Representatives.
ALEXANDER MAHON,
Speaker of the Senate.

APPROVED—the tenth day of April, one thousand eight hun-
dred and twenty-six.

J. ANDW. SHULZE: