

## CHAPTER CXL.

*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.*

Section 1. **B**E 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 all and every person or persons owning lands, adjoining any navigable stream of water, declared by law a public highway, except the rivers Delaware, Lehi and Schuylkill, be, and they or either of them are hereby authorised to erect a dam or dams, for a mill or mills or other water-works upon any such stream of water, adjoining their own lands, and to keep the same in good repair, and also to lead off, thereby on his or their own land, so much of the water of such 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, or keeping them in repair, shall not obstruct or impede the navigation of such stream, or prevent the fish from passing up the same: *And provided also*, That the person or persons so erecting said dam or dams shall not infringe on or injure the rights and privileges of the owner or possessor of any private property on such stream.

Persons owning lands adjoining navigable streams of water, declared public highways, authorised to erect mill dams thereon adjoining their own lands, &c.

Conditions annexed to the privilege.

Proceedings where the navigation is obstructed or passage of fish impeded by such dams.

Sec. 2. *And be it further enacted by the authority aforesaid,* That on complaint made to the judges of the court of quarter sessions of any county in this commonwealth, that any such dam obstructs the navigation or impedes the passage of fish, they shall appoint three commissioners, who shall view such dam and compare it with the provisions of this act, and report to them at their next sessions, the state thereof, and if it shall appear to the said court, that an offence has been committed against this act, the court shall direct a bill of indictment, to be sent to the grand jury, and upon prosecution to conviction of such offence, the person or persons so convicted, shall be liable to pay a fine not exceeding one hundred dollars, one moiety thereof, to the prosecutor, and the other to be applied to the repairing of the roads or highways in the adjoining township or townships, and shall also pay such damages to the person or persons complaining as shall be found by the jury under the direction of the court, and the court shall direct the supervisors of the highway of the adjoining township, forthwith to remove every such artificial obstruction in such manner as to bring the same within the limitations and provisions of this act at the cost of the person so convicted.

Where the owner of any boat &c. suffers damage or is delayed by any dam &c. how the loss is to be estimated, where it does not exceed \$50.

Sec. 3. *And be it further enacted by the authority aforesaid,* That if the owner or owners of any raft, boat or other vessel or other person having the charge thereof, shall be obstructed or suffer damage, or shall be delayed in his or their passage on any stream within the jurisdiction of this commonwealth, that now is or hereafter may be declared a public highway, by any dam or dams as aforesaid,

or fish dam or any other device whatsoever, made or erected in any stream, which was declared by law to be a public stream or highway, within the jurisdiction of this commonwealth, before the time the damage or obstruction actually happened, it shall be the duty of any justice of the peace of the county in which such dam or dams as aforesaid, or fish dam or other device is or are erected, on application of the owner or owners of the raft, boat or other vessel, or of the person having the charge thereof, to cause the owner of such dam or dams or other device, forthwith to appear before him the said justice, and if on the appearance of the said owner, the parties cannot agree in respect to the damage alledged to be done, or in the choice of referees to determine the same, it shall be the duty of the said justice, forthwith to appoint three disinterested persons, whose duty it shall be to view the injury so sustained, and inquire into the loss occasioned by delay, and make an estimate thereof on oath or affirmation, if such oath or affirmation is required; by either of the parties, and it shall be the duty of such justice of the peace, forthwith to award judgment and issue execution in a summary manner, for the amount, with costs of suit: *Provided, however,* That the said damages so to be recovered, do not in the whole exceed the sum of fifty dollars; but if damages shall be alledged to a greater amount than fifty dollars, the same may be sued for and recovered in the court of common pleas, of the county wherein the said damages shall have been sustained: *And provided also,* That appeals shall be allowed from the judgment of the justice of the peace, given for damages as aforesaid,

And how the amount to be recovered, where it exceeds that sum.

to the court of common pleas as in other cases.

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

ROBERT WHITEHILL, *Speaker*  
of the Senate.

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I DO hereby certify, that the bill, 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,” which has been disapproved  
by the Governor, and returned with his ob-  
jections to the senate, in which it originated,  
has been approved of by two thirds of the  
senate, agreeably to the directions of the con-  
stitution in such case made and provided, and  
that the foregoing is the act so approved by  
the senate.

ROBERT WHITEHILL, *Speaker*  
of the Senate.

*Attest.*

GEORGE BRYAN, *C. S.*

I DO hereby certify, that the bill, 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,” which has been disapproved  
by the Governor, and returned with his ob-  
jections to the senate, in which it originated,  
has

has been approved of by two thirds of the House of Representatives, agreeably to the directions of the constitution in such case made and provided; and that the foregoing is the act so approved by the house of representatives.

SIMON SNYDER, *Speaker*

*of the House of Representatives.*

*Attest,*

MATTHEW HUSTON, *C. H. R.*

## CHAPTER CXLI.

*An ACT for establishing and confirming the places for holding the courts of justice, and for erecting the public buildings for the county of Mercer.*

WHEREAS in pursuance of an act passed the sixth of April, one thousand eight hundred and two, entitled "An act to establish the places for holding the courts of justice in the counties of Armstrong, Butler and Mercer," it appears that the Governor did appoint Isaac Weaver, John Hamilton, Thomas Morton, James Brady and Presly Carr Lane, esquires, commissioners to perform the duties enjoined and required by said act: And whereas, by the report of said commissioners deposited by them, in the office of the Secretary of the commonwealth, and before the general assembly, it appears that the said commissioners have performed the duties enjoined and required by the said act, in order therefore to complete and secure to the people of said county of Mercer, the benefits intended in and by the act aforesaid.