

CHAPTER CVI.

AN ACT

To authorise James Hopkins, his heirs and assigns, to create and continue a Slack Water Navigation in the river Conestoga.

Slack water
navigation in
Conestoga.

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 it shall be lawful for James Hopkins, his heirs and assigns, to create and continue a complete slack water navigation in, upon and near to the river Conestoga, in the county of Lancaster, from its confluence with the Susquehanna to the Philadelphia and Lancaster turnpike road, for the passage up and down the same of every kind of vessels and craft capable of navigating the same, and continuing the said navigation on the terms and conditions contained in this act.

Powers given
to Jas. Hop-
kins, his heirs
and assigns.

SECT. 2. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said James Hopkins, his heirs and assigns, his or their agents, superintendants, surveyors, engineers, artists and workmen, to enter upon the said river, to open, enlarge, contract, deepen and change the same in any part or place thereof which shall appear to him or them most convenient and best adapted to complete the said navigation, and also to cut, break, remove and take away all trees, rocks, stones, earth, gravel and sand or other materials, or any obstruction or impediment whatsoever within the said river, and to use all such timber, rocks, stones, gravel, sand and earth or other materials, in the prosecution of his or their works; and to form, make and erect and set up all such dams, locks, sluices and devices whatsoever, which he or they shall deem most fit, proper and convenient to make a complete slack water navigation from one end thereof to the other, as far as the same may be practicable, so as to admit a safe and easy passage for loaded boats, arks and every other kind of vessels and craft, up as well as down the same river, and to make and use all such means by collateral sluices, locks and devices as he or they may deem eligible and convenient to said navigation.

Further pow-
ers granted
to J. Hopkins

SECT. 3. *And be it further enacted by the authority aforesaid,* That the said James Hopkins, his heirs and assigns, shall have full power and authority, by him or themselves, their agents, superintendants, engineers, artists and workmen, to enter in and upon any lands necessary and useful or convenient for creating and continuing of this navigation, and appropriate the same to that purpose, and to open, dig, make and use such locks, sluices and canals or other devices deemed by him or them to be convenient and useful to the said navigation, satisfying the owner or owners thereof for the same;

but if the parties cannot agree upon the compensation to be made to such owner or owners, they may appoint six suitable and judicious persons, who shall be under oath or affirmation, or if they cannot agree in the appointment, then either of the parties may apply to the Court of Common Pleas of Lancaster county for a venire facias, which shall thereupon be issued, directed to the sheriff, to summon a jury of disinterested men, to ascertain and report to the said court whether any, and if any, what damages have been or may be sustained by the owner or owners of the said ground from appropriating the same for the use of the said James Hopkins, his heirs or assigns. they the said six men so appointed or the jury so summoned, taking into consideration and fairly estimating the advantages derived to and resulting from the said navigation to the owner or owners of the said land; which report, being confirmed by the said court, and judgment rendered thereon, execution may issue, with reasonable costs to be assessed by the court, to give full effect to the same, saving the right of either party to appeal to the court within twenty days from the day of filing the said report in the prothonotary's office, and have the matter there tried by a jury of the county in the usual way, or by arbitration.

Mode of ascertaining damages when parties cannot agree.

Either party may appeal.

SECT. 4. *And be it further enacted by the authority aforesaid,* That the said James Hopkins, his heirs or assigns, with their superintendants, engineers, artists, workmen and laborers, with their tools, instruments, carts, waggons and other carriages and beasts of draft or burthen, upon giving notice to the owner or occupier, may enter upon the lands adjoining, contiguous to, or near the said river. and thence take and carry away any stones, sand, gravel and earth, doing as little damage thereto as possible, repairing any breaches made in the enclosures, and making amends for any damages done thereon and paying for the materials taken away, according to the agreement of the parties, or the award of three freeholders of the neighborhood chosen by the parties, or if they cannot agree, to be appointed by a disinterested justice of the peace, at the instance of either party, who are to act under oath or affirmation.

J. Hopkins may enter upon lands to procure materials.

Damages, how settled.

SECT. 5. *And be it further enacted by the authority aforesaid,* That if any person or persons shall be injured by means of any dam or dams being erected, or the land of any person inundated by swelling the water, or any mill or other water works injured by the swelling the water, or any other injury whatsoever be done in consequence of the making, keeping up or continuing said slack water navigation, and the said James Hopkins, his heirs or assigns, cannot agree with the owner or owners thereof on the compensation to be paid for such injury, the same proceedings shall be had as is provided in the third section of this act: *Provided,* That the said James Hopkins, his heirs or assigns, shall in case the party requires it, before he enters upon the lands adjoining, give good and

Damages by swelling the water, how settled.

Proviso.

sufficient security, to the satisfaction of the party interested, that he will well and truly pay the amount of compensation to be awarded according to the third section of this act.

Proceedings where a ford or bridge may be necessary.

SECT. 6. *And be it further enacted by the authority aforesaid,* That whenever any sluice or canal shall cross any public or private road or highway, or shall divide the grounds of any person or persons into two parts, so as to require a ford or bridge to cross the same, the jury who shall enquire into the damages to be sustained in manner directed by the third section of this act, shall find and ascertain whether a passage across the same shall be admitted or maintained by a ford or bridge, and on such finding the said James Hopkins, his heirs or assigns, shall cause a ford to be rendered practicable, or a bridge fit for the passage of carts or waggons to be built, and forever thereafter maintain and keep in repair at all and every place so ascertained by the said jury, at the costs and charges of the said James Hopkins, his heirs or assigns; and nothing herein contained shall prevent any person from erecting and keeping in repair any ford or bridge across any sluice or canal at his own expense, when the same shall pass through his ground: *Provided,* That any such ford or bridge so to be erected shall not interfere with the free use and advantages enjoyed by the said James Hopkins, his heirs or assigns, of any such sluice or canal, or of said slack water navigation.

Proviso.

When five miles are completed to be viewed.

SECT. 7. *And be it further enacted by the authority aforesaid,* That upon every five miles or more of the said navigation being completed, the said James Hopkins, his heirs and assigns, may apply to the Governor to appoint three respectable persons to view and report to him thereon, and if it appear from the said report that the same is completed in a workmanlike manner, the Governor shall grant him or them a licence under the lesser seal of this commonwealth, to receive toll thereon according to the terms of this act, and the said five miles or more of said river navigation so licenced shall be vested thenceforth in the said James Hopkins, his heirs and assigns.

Licence to receive toll.

15 per cent. on whole expense may be collected.

SECT. 8. *And be it further enacted by the authority aforesaid,* That James Hopkins, his heirs and assigns, be, and they are hereby authorised and empowered to collect and receive by toll upon the said navigation, fifteen per centum per ann. upon the amount of the payments, expenditures, charges and disbursements made, incurred and growing out of the making and completion of the said navigation, and in the support and improvement and continuance of the same from time to time, and for that purpose he or they shall have full power and authority to regulate and fix from time to time, as he or they may think proper, the rate of toll to be paid to him or them by all persons (except those in his or their own employ) upon all vessels, boats, arks, rafts and every other kind of craft and thing using the said navigation, sufficient to assure the

Power to fix tolls.

payment of the said fifteen per centum per annum to him or them, his or their heirs and assigns; and to that end the said James Hopkins, his heirs and assigns, shall triennially lay before the Legislature an abstract of his and their said payments, expenditures, charges and disbursements, and of the nett amount of all tolls received by him or them, on oath or affirmation, and when and as often as it shall appear from the said abstract, that the nett amount of tolls exceed the said fifteen per centum per annum, the tolls shall thereupon be reduced by him or them so as to make them conformable thereto.

J. Hopkins shall make a triennial statement.

SECT. 9. *And be it further enacted by the authority aforesaid,* That in case of any disagreement between the collectors and owners and supercargoes, respecting the size of any vessel, craft or other thing liable to toll, it shall be lawful for each of them to choose one skilful person, resident within two miles, to measure and ascertain the size thereof, and if a vessel, the tonnage she is able to carry, and to mark it on her bow and stern in colors mixed with oil, in figures, which shall entitle her to pass at that rate throughout the navigation, but if the owner or supercargo refuse to join in such appointment, then the amount shall be fixed by the person appointed by the owner of the navigation or the collector of the tolls, which tolls shall be paid before any such craft or thing shall be suffered to pass the lock or place where such toll is demanded.

Proceedings in case of disagreement as to the size of vessels liable to toll.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the locks shall be in the clear at least eighteen feet wide and eighty feet long; and the master or commander of any vessel or craft navigating the said river, when within one-fourth of a mile of any lock or sluice shall blow a trumpet or horn, under a penalty of two dollars for neglecting the same, whereupon the keeper of such gate shall pass the boat safe by and without unnecessary delay; and if the vessel or craft shall be prevented more than thirty minutes by reason of the lock or sluice not being raised, the owner of the navigation thereof shall forfeit and pay to the person so injured a like penalty; and the commander of any vessel or craft not intending to pass through the gate or sluice, who shall obstruct or impede the passage to or from the lock or sluice, shall be liable to the like penalty, to be recovered in like manner by the owner of the navigation, for every fifteen minutes of such obstruction and impediment.

Locks shall be 18 feet wide.

Craft not to be stopped more than 30 minutes.

Commander of vessel not to impede the passage.

SECT. 11. *And be it further enacted by the authority aforesaid,* That if the said James Hopkins, his heirs or assigns, either neglect or refuse to keep in good order and repair any dam, lock or sluice, or shall neglect to remove any obstacle which may occur to prevent or impede the free navigation of the said river, he or they shall, for every such offence, forfeit

Penalty on neglecting to keep locks in repair.

and pay the sum of twenty dollars, to be recovered by law before a justice of the peace of the county, the one half to the use of the informer, the other half to the poor of the county of Lancaster.

Punishment for injuring the works.

SECT. 12. *And be it further enacted by the authority aforesaid,* That if any person shall wilfully and knowingly do any act or thing whatsoever whereby the said navigation shall be impeded, or any locks, sluice, dam, gate, engine or other device whatsoever injured or damaged, he, she or they so offending shall forfeit and pay to the owner of the said navigation fourfold damages and expenses by him or them sustained by such wilful act, to be recovered by action of debt in any court of competent jurisdiction, or be liable to prosecution in the Court of Quarter Sessions of the said county for the same, as a misdemeanor, and upon conviction thereof, to fine or imprisonment, at the discretion of the said court.

J. Hopkins allowed two years to commence & six years to complete.

SECT. 13. *And be it further enacted by the authority aforesaid,* That if the said James Hopkins, his heirs or assigns, do not commence the said work within two years from the first day of June next, and complete the same within six years from the said first day of June, to Abraham Hosteter's mill, or to the Philadelphia and Lancaster turnpike road, at his election, then and in either of those cases it shall and may be lawful for the Legislature to resume all and singular the rights, liberties and privileges hereby granted, so far as the same are not completed: *Provided,* That if the said James Hopkins, his heirs or assigns, shall at any time hereafter misuse or abuse any of the privileges granted by this act, then, and in either of those cases, the Legislature may resume all and singular the rights, liberties and privileges hereby granted.

Proviso.

After 50 years State may purchase. J. Hopkins to keep regular accounts after 40 years

SECT. 14. *And be it further enacted by the authority aforesaid,* That at any time after the expiration of fifty years from the date of this act, the Legislature shall have the privilege of purchasing every right and title to the said slack water navigation: and the said James Hopkins, his heirs or assigns, shall, after the expiration of forty years, keep a regular account of all monies received by him or them for toll, and shall annually, before the first day of February, under oath or affirmation, make report thereof to the Legislature, on failure whereof it shall be lawful for the Legislature to resume the privileges hereby granted; and in such case, in order to ascertain the purchase money, the one-tenth of the nett amount of toll received in the ten years next preceding such purchase, shall be considered as equal to the interest of said purchase money, at six per cent. per annum: and in case of such purchase, or resumption by reason of forfeiture, the Legislature shall be bound to fulfil all and every obligation.

Rates of purchase in certain cases.

Legislative obligations to be fulfilled.

enjoined by this act on the said James Hopkins, his heirs or assigns.

JOSEPH LAWRENCE, *Speaker*
of the *House of Representatives*.

WILLIAM MARKS, Junior,
Speaker of the Senate.

APPROVED—the twenty-eighth day of March, one thousand eight hundred and twenty.

WILLIAM FINDLAY.

CHAPTER CVII.

A SUPPLEMENT

To the act, entitled “A supplement to the act, entitled An act for the relief of Insolvent Debtors,” passed the twenty-ninth January, one thousand eight hundred and twenty.

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 if any debtor shall hereafter be arrested, or held in execution, on a bail piece in a civil suit, and who shall have resided six months in this Commonwealth previously thereto, he may apply, when arrested in execution, to the president or any associate judge of the Court of Common Pleas of the county in which he is so arrested, or when held on a bail piece, may apply to the president or associate judge of the said court in the county in which the suit was instituted, and give bond to the plaintiff or plaintiffs at whose suit he is so arrested or held, with such security as shall be required and approved of by the said judge; the condition of which bond shall be, that the said debtor shall be and appear at the next Court of Common Pleas for said county, then and there to take the benefit of the insolvent laws of this Commonwealth, and to surrender himself to the jail of said county, if he fail to comply with all things required by law to entitle him to be discharged, and generally to abide all orders of said court; whereupon the said judge shall give an order to the sheriff, constable or other person having such debtor in custody, to forthwith discharge him upon his paying the jail fees if any be due: and upon said debtor being so discharged from custody, and on his making application for the benefit of the insolvent laws, the same proceedings shall be had as though the application had been made under the first section

Proceedings when a debtor is arrested.

Debtor shall give bond to appear next court.

Debtor may be discharged.