

the costs as upon the debt or damages, or the Balance thereof, due and recoverable, and Judgment in such action shall be rendered accordingly. — Any Law or Custom to the contrary hereof notwithstanding.

*And be it further Enacted*, that this act shall take effect and be in force on and after the first day of July next, and that all acts passed before the first day of November one thousand seven hundred and eighty the subject matter whereof is included in this Act, as also a clause of an Act authorizing an Action of Debt on the Judgment of a Justice of the Peace in another state, be and the same shall be repealed on and after the said first day of July next as to all actions to be brought after that Day.

When the Act takes effect.

Acts repealed.

*Approved February 26, 1796.*

### 1795. — Chapter 62.

[January Session, ch. 38.]

AN ACT FOR APPOINTING COMMISSIONERS OF SEWERS AND MAKING PROVISION FOR THE BETTER IMPROVEMENT OF LOW LANDS IN CERTAIN CASES.

*Whereas many tracts of meadow, low, or swamp lands belonging to several proprietors in several Towns in this Commonwealth, are often damaged or spoiled by being flowed, & stagnant waters remaining thereon; to remove which, and the better to improve such lands, it is found necessary to remove obstructions in rivers, brooks & streams leading therefrom, as also at certain seasons of the year, to erect dams to flow the same:*

Preamble.

SECT. 1. *Be it Enacted by the Senate & House of Representatives in General Court assembled & by the authority of the same*, That when the major part, in interest, of the proprietors of any such lands shall find it necessary to flow or drain the same, they may apply to the Court of Common pleas of the County wherein such lands, dams & obstructions may be; and when such lands, rivers, brooks & streams shall be situated in different Counties, then to the Supreme Judicial Court to be holden in either; and on such application, the said Court shall notify the proprietors concerned in the said Lands, to appear at the same Court at the same or the next term thereof, in such manner & form as the said Court shall judge proper: and if on hearing the said proprietors, it shall be deemed for their general benefit, by the said

To what courts proprietors shall apply, and the course to be pursued.

Court, to have such dams erected, or such obstructions removed; the said Court shall appoint & Commission not less than three, nor more than seven discreet Freeholders, Commissioners to view the premises, to notify & hear all concerned therein; which Commissioners shall be sworn to a faithful discharge of their duties, & shall have power from time to time to meet & determine when, where & in what manner such dams shall be erected, or such obstructions shall be removed; and to employ workmen to effect the same, for such reasonable wages as the said Commissioners shall agree to give; Unless the said proprietors themselves shall do the same in such time and manner as the said Commissioners shall direct.

Commissioners' powers.

— to assess proprietors, &c.

SECT. 2. *And be it further Enacted*, that the said Commissioners, from time to time, shall have power to Assess the several proprietors of such lands, their respective proportions of the charges of erecting & continuing such dams, and of removing such obstructions, having regard to the quality, situation & quantity of each proprietor's part of such lands, & the benefit he or she will receive; & also to appoint & swear a Collector or Collectors, for collecting the said Taxes of the said proprietors, and to pay the same to such person as the said Commissioners shall appoint to receive them. And the said Collector or Collectors shall receive from the said Commissioners a list or lists of the said assessments, with their warrant or warrants for collecting the same; and thereon such Collector or Collectors shall have the same powers to collect the said Taxes, & to destrain therefor, as Collectors have by law, in the collection of Town taxes.

— to appoint and swear collectors, and commit lists to them.

Collectors' powers.

Commissioners to call collectors to an account.

And the said Commissioners shall have power to call before them the said Collector or Collectors, to render an account of the monies he or they shall collect as aforesaid; and on his or their neglect to render such account for the space of twenty days, he or they shall be liable to pay the whole amount of his or their list, to be recovered by the said Commissioners in an action of debt, in any Court proper to try the same.

Compensation for services.

SECT. 3. *And be it further Enacted*, that the said Commissioners shall be allowed out of the said assessments, for their services, so much as the Court appointing them, shall think reasonable; to which Court the said Commissioners shall be liable to render an account of all monies so assessed, & collected, whenever thereto re-

quired; and the said Collector or Collectors shall have such a commission on the monies he or they shall so collect and pay over, as the said Commissioners shall allow.

SECT. 4. *And be it further Enacted*, that every Tenant for years, in dower, by the curtesy, for life, Mortgagor or Mortgagee, in possession, shall be deemed a Proprietor to all the purposes of this act.

What constitutes a proprietor.

SECT. 5. *And be it further Enacted*, that when the said Commissioners in order to form a just view of such lands, shall think it expedient to open the flood-gates of any mill, or to make other needful passages thro' or round the dam thereof, or to erect any dam on the land of any person, the more expeditiously to remove such obstructions, they shall have power to do the same, and for such time as they shall find necessary to reduce or raise the said waters for the purpose of forming such view or for removing such obstructions: And if the owner or occupant of any such Mill, Mill-dam or land shall thereby sustain damages, he shall be reimbursed therefor by the said proprietors; and seasonably to make such reimbursement, the said Commissioners shall assess the said Proprietors their respective proportions thereof, in manner aforesaid to be collected, paid & accounted for, as aforesaid.

Commissioners may open passages, &c.

Proprietors to pay damages.

SECT. 6. *And be it further Enacted*, that if any such Proprietor or other person, shall find him or herself aggrieved by the doings of the said Commissioners, or any other persons in pursuance of this Act, he or she shall have a right to appeal to the Court which appointed the said Commissioners; and where any issue of fact shall be joined in either of the said Courts, it shall be tried by a Jury; and if any party shall be dissatisfied with the decision made by any such Court of Common Pleas, of any question of Law, the said party shall so state the facts on the record thereof, by a special plea, or otherwise, as to bring the same question of law into view; and shall thereon be entitled to a Writ of error out of the Supreme Judicial Court.

Persons aggrieved, may appeal.

SECT. 7. *And be it further Enacted*, that this Act shall take effect & be in force from and after the first day of July next; and an Act passed in the first year of the reign of Queen Ann, entitled "An Act for the appointing Commissioners of Sewers," and also an Act pass'd A. D. one thousand seven hundred & forty-four in addition thereto, shall on & after that day, be repealed; except so

Acts repealed.

far as they shall respect any Commission of Sewers issued or which shall be issued, before that time.

*Approved February 26, 1796.*

### 1795. — Chapter 63.

[January Session, ch. 36.]

AN ACT FOR INCORPORATING CERTAIN PERSONS FOR BUILDING A BRIDGE OVER ANDROSCOGGIN RIVER BETWEEN BRUNSWICK AND TOPSHAM, & FOR SUPPORTING THE SAME.

*Whereas the erecting a Bridge over the river between Brunswick and Topsham will be of public utility, & William King & others have petitioned this Court for an incorporation for that purpose.*

*Be it therefore Enacted by the Senate and House of Representatives in General Court assembled & by the authority of the same that William King, Benjamin J. Porter, John Dunlap, William Stanwood tert. Cutting Noyes, Amos Lunt, James Stone, John Merrill junr., James Wilson, Daniel Clark, Joseph Langdon, Ebenezer Emerson, Isaac Johnson, John Blanchard, John Merrill, Peletiah Haly, Acter Patten, Benjamin Hasey, William Owen & Theodore Symmes be, and they are hereby constituted a Corporation and Body Politick for the purpose of building and supporting a Bridge over Androscoggin river between Brunswick & Topsham, so long as they shall continue to be proprietors in the fund to be raised for that purpose, together with all those who are or shall hereafter become proprietors of the said fund under the name of The proprietors of Androscoggin Bridge, subject nevertheless to be accountable to the proprietors of the Mills called Thompson's Mills situated on the Island Rock for any injury that may be by them sustained in consequence of building said Bridge, and by that name may sue & prosecute, & be sued or prosecuted to final Judgment & execution & do and suffer all other matters and things which bodies politic may and ought to do & suffer; and that said Corporation shall & may have full power & authority to make have and use a common Seal, and the same to break and alter at pleasure.*

*And be it further Enacted that William King, Benjamin J. Porter, John Dunlap or any two of them may, by posting up advertisements in the towns of Brunswick and Topsham in some public places, call a meeting of the said*

Persons incorporated.

Subject to process in law.

Authorized to call meetings.