

CHAPTER CCCXXXV.

AN ACT THE MORE EFFECTUALLY TO PREVENT THE ERECTING OF WEIRS, DAMS, &c., WITHIN THE RIVER SCHUYLKILL.

Whereas by an act of general assembly of this province made in the year one thousand seven hundred and thirty for remedying the inconveniencies which the inhabitants of the counties of Philadelphia and Chester living near the upper parts of the river Schuylkill labored under in the carriage of their corn and other commodities down the said river, by reason of erecting weirs, fishing dams and other devices (for taking of fish) within the said river or creek, it was provided by the said act that all weirs, fishing dams and other devices or obstructions whatsoever built, laid or erected within the river Schuylkill, so as the trade of the said creek or river might be hindered or obstructed thereby, should be removed within the time in the said act limited; and that if any such obstruction should after the publication of the said act be built, erected or set up within the river or creek aforesaid whereby the trade or passage of the same might be impeded or hindered, all such obstructions should upon complaint made to two of the next justices of the peace, &c., be viewed, judged of and removed in the manner in the said act directed. But forasmuch as great difficulties have arisen among the people living near the said river Schuylkill and others about the meaning of these words, "Whereby the trade or passage of the said river may be impeded or hindered," and upon experience the said law being found to be in a great measure impracticable by reason of the remoteness of the magistrates from the places where such nuisances are commonly erected:

For remedy whereof:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Penn-

sylvania, by and with the advice and consent of the freemen of the Province aforesaid in General Assembly met, and by the authority of the same, That all and every person and persons who shall erect, build, set up, lay or maintain, or shall be aiding or assisting in erecting, building, setting up, laying or maintaining any weir, racks, fishing dam or other device or obstruction whatsoever within the river Schuylkill, shall upon complaint made to any justice of the peace in the county of Philadelphia, Chester or Lancaster be bound to his or her good behavior in the sum of twenty pounds, and to appear at the next court of general quarter-sessions of the peace of the county where complaint is made; and every such person and persons, being thereof legally convict upon indictment or information, shall for every offense forfeit and pay the sum of forty shillings, one moiety to the use of the workhouse of that county where such conviction shall be had, and the other moiety to the person or persons who will inform or prosecute for the same.

[Section II.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for any person or persons whatsoever to pull down, break or remove all or any weir or weirs, fishing dams, racks or other device or obstructions whatsoever built, erected, set up or laid, or to be built, erected, set up or laid, within the said river Schuylkill; and that every person or persons who shall assault, hinder or obstruct any person in pulling down, breaking or removing the said weirs, racks, fishing dams, devices or other obstructions within the river Schuylkill aforesaid and being thereof legally convict shall forfeit for every offense any sum not under forty shillings nor exceeding ten pounds, one moiety thereof to the use of the workhouse of the county where such conviction is had, and the other moiety to the person or persons assaulted or obstructed in pulling down, breaking or removing any such obstructions as aforesaid.

And whereas part of the creek or river Schuylkill divides the counties of Philadelphia, Chester and Lancaster, some doubts have arisen in which of the said counties the offenses committed within the said river shall be tried:

For removing of which doubts:

[Section III.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the person or persons informing, prosecuting or complaining of any of the aforesaid offenses committed within the said river Schuylkill to lay the same to be committed within the said river in the county of Philadelphia, Chester or Lancaster, and the same shall be heard and tried in either of the same counties joining on that part of the river where the offense is committed at his election.

And for the more speedy removing such obstructions as are already made or hereafter shall be made, it shall and may be lawful for any justice of the peace within the counties of Philadelphia, Chester or Lancaster respectively, and they are hereby enjoined and required, to issue forth their warrant to the surveyors of the highways of the townships next adjacent to the obstruction so erected (or to such person or persons as such justice shall think fit) requiring them to summon the inhabitants of the respective townships or the nearest inhabitants to the dam or device so erected or laid by giving them six days' notice to repair to and remove the said obstruction; and any person or persons refusing or neglecting to appear and assist in removing such obstruction at the time appointed shall for every such offense forfeit the sum of five shillings to the use of the poor of the township where the offense is committed, to be levied as debts under forty shillings.

[Section IV.] And be it hereby further enacted, That an act of general assembly of this province, entitled "An act to prevent the erecting of weirs, dams, &c., within the river Schuylkill,"¹ shall be and is hereby repealed to all intents and purposes whatsoever.

Passed August 17, 1734. Never submitted to the consideration of the Crown. Repealed by the Act of Assembly passed March 14, 1761, Chapter 465.

¹ See the former act here repealed, passed August 15, 1730, Chapter 318.