

27, 1798, Chapter 1973; March 23, 1803, P. L. 389; February 8, 1804, P. L. 75; February 1, 1808, P. L. 18; March 22, 1814, P. L. 181; March 26, 1814, P. L. 200; (the Resolution of) February 21, 1815, P. L. 187; (the Resolution of) March 13, 1815, P. L. 190; March 13, 1817, P. L. 106; March 20, 1818, P. L. 197; March 23, 1818, P. L. 227; March 29, 1819, P. L. 261; March 6, 1820, P. L. 49; March 26, 1821, P. L. 101; February 13, 1822, P. L. 21; March 13, 1823, P. L. 74; April 1, 1825, P. L. 141; February 9, 1826, P. L. 25; April 5, 1826, P. L. 204; April 23, 1829, P. L. 312; (the Resolution of) February 6, 1830, P. L. 406; (the Resolution of) April 10, 1832, P. L. 638; April 6, 1833, P. L. 210; March 29, 1836, P. L. 212; June 21, 1839, P. L. 370; March 14, 1840, P. L. 134; April 12, 1851, P. L. 424; April 30, 1852, P. L. 535; April 8, 1853, P. L. 347; April 7, 1858, P. L. 222; March 12, 1859, P. L. 128; April 4, 1866, P. L. 436; April 12, 1866, P. L. 868; March 7, 1872, P. L. 259; June 5, 1885, P. L. 76.

CHAPTER DCXXVII.

AN ACT DECLARING THE RIVER SUSQUEHANNA AND OTHER STREAMS THEREIN MENTIONED PUBLIC HIGHWAYS, FOR IMPROVING THE NAVIGATION OF THE SAID RIVER AND STREAMS, AND PRESERVING THE FISH IN THE SAME.

Whereas it is of importance to the trade and commerce of this province that such rivers and other streams as are or may be made navigable be at all times preserved and kept from all manner of obstructions:

And whereas the improving the navigation of the rivers Susquehanna, Juniata and the streams Conestogoe, Bald Eagle, Machanoy, Penn's creek and Suatara, Connedaguet and Kiskiminetas, will greatly conduce to the benefit of the inhabitants residing on and near the said rivers and the province in general by increasing the trade of the said province:

And whereas it has been represented to the assembly that many of the inhabitants residing on or near the said rivers and streams, being desirous to promote the public welfare, are willing to contribute considerable sums of money for the purposes aforesaid if commissioners were appointed by law to take, collect and receive the contributions and to apply and appropriate

the same for and towards clearing and making the said rivers and streams more navigable:

Therefore:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said river Susquehanna, as far down as Wright's Ferry; the river Juniata, up to Bedford and Frank's Town, and the several streams known by the names of Bald Eagle as far up as Spring creek; Penn's creek twenty miles up on the several courses thereof; Suatara as far up as Peter Kettle's mill-dam; Conestogoe as far up as Matthias Slough's mill-dam; Connedaguinet as far up as the Cove Fording, which leads to the Forty Shilling Gap; Machanoy and Kiskiminetas; shall be and they are hereby declared to be public streams and highways for the purposes of navigation up and down the same, and that all obstructions and impediments to the passage of His Majesty's liege subjects up and down the same erected or hereafter to be erected shall be deemed, held and adjudged common nuisances.

[Section II.] And be it further enacted by the authority aforesaid, That James Wright, George Ross, Thomas Minshall, John Loudon, Alexander Lowrey, William McClay, Samuel Hunter, the younger, William Patterson, Robert Callender, Charles Stewart, Reuben Haines, Thomas Holt and William Richardson, gentlemen, be and they are hereby constituted and appointed commissioners for clearing and making the said rivers Susquehanna, Juniata, Bald Eagle, Penn's creek, Conestogoe, Connedaguinet, Machanoy, Kiskiminetas and Suatara navigable, and that each and every of the said commissioners shall have full power and authority to take, collect, recover and receive of and from any person and persons whatsoever any sum or sums of money which shall be hereafter given, granted or subscribed for and towards making any of the said respective rivers and streams navigable, and the moneys so collected, recovered and

received to lay out, appropriate and employ for and towards making such of the said rivers and streams navigable as shall be mentioned or directed by the person or persons giving and granting the same.

[Section III.] And be it further enacted by the authority aforesaid, That the said commissioners, or the major part of them or of the survivors of them, shall have full power and authority and they are hereby enjoined and required by themselves, their agents, servants, hirelings and workmen to remove all obstructions whatsoever now erected or hereafter to be erected in and also to scour, enlarge, straighten or deepen the said respective rivers and streams so as aforesaid committed to their respective care in any part, place or places thereof which shall appear to them most convenient for opening, making anew or improving the channels, and also to cut, blow up, remove or take away all trees, rocks or beds of gravel, sand or mud, weirs, dams, baskets, pounds, stones or any other impediment or obstruction whatsoever, and to form, make, erect and set up any dams, pens for water locks or any other works whatsoever which they shall think fit and convenient to answer the purposes aforesaid, and to alter, repair or amend the same as often as it shall be necessary or convenient, and also to appoint, set out and make tow paths or ways for towing, hauling or drawing of boats, vessels or other small craft and rafts of any kind whatsoever in, upon or through the said rivers and streams, which said paths shall be free and open to all persons whatsoever having occasion to use the same, and from time to time and at all times hereafter to do, execute and perform all and every other matter or thing in the said rivers and streams necessary or convenient for making, supporting and continuing the navigation in the same.

[Section IV.] And be it further enacted by the authority aforesaid, That if any person or persons whatsoever from and after the publication of this act shall erect, build, set up, repair or maintain, or shall be aiding, assisting or abetting in erecting, building, setting up, repairing or maintaining any weir, rack, basket, dam, pound or other device or obstruction whatsoever within the said rivers or streams or any of them, or that shall fix or fasten any net or nets across the same, or any part thereof

whereby the fish may be obstructed from going up the said rivers or streams, or that shall take, destroy or spoil any spawn, fry or brood of fish or any kind of fish whatsoever in any such weir, rack, dam, basket, pound or other device aforesaid, every such person so offending, being thereof convicted by the oath or affirmation of one or more credible witnesses or by his own confession before any justice of the peace of the county where such offense shall be committed (which justice is hereby authorized and empowered to hear, try and determine the same), shall forfeit and pay the sum of five pounds lawful money of this government for every such offense, or suffer three month's imprisonment without bail or mainprise, one moiety of which forfeiture shall be paid to the informer or prosecutor, and the other moiety to the commissioners for the respective rivers or streams in which such offense shall be committed, to be applied towards clearing the said respective rivers and streams.

And for the more speedy removal of such weirs, racks, baskets, dams, pounds and other devices and obstructions aforesaid as are already or hereafter shall be made in any part of the said rivers and streams:

[Section V.] Be it enacted by the authority aforesaid, That the justices of the county court of quarter sessions of the several counties within this province bounded on and adjoining to any part of the said rivers and streams at their next court of quarter sessions after the publication of this act and as often after as there shall be occasion, and that any of the said justices of the peace out of sessions shall and they are hereby enjoined and required to issue their warrants to the supervisors of the highways of each and every township next adjacent to the weir, rack, dam, basket, pound or other device or obstruction aforesaid so erected, enjoining and requiring them, the said supervisors respectively, forthwith to remove or cause to be removed every such weir, rack, basket, dam, pound or other device or obstruction aforesaid, and for that purpose to summon the inhabitants of their respective townships, giving them three days notice to repair to, throw down, remove and destroy such weir, rack, basket, dam, pound or other device or obstruction aforesaid, so erected, built or set up, and to make return of such their

proceedings to the said justices at their next court of quarter sessions by whom such warrants shall be respectively issued; and if any such supervisor or supervisors of the highways to whom such warrant shall be directed shall refuse or neglect to discharge and perform the duty thereby enjoined and required of him or them, he or they so offending and being thereof legally convicted by a jury of the country or by his or their own confession before the said justices in the said court of quarter sessions shall, for every such offense, forfeit and pay to the commissioners respectively of the rivers or streams in which any such device or obstruction shall be erected the sum of ten pounds, to be applied towards clearing said rivers and streams respectively; and if any inhabitant so summoned shall refuse or neglect to attend in person or to send another able person in his room to assist in throwing down, removing and destroying such weir, rack, dam, basket, pound or other device or obstruction aforesaid so erected, built or set up in such manner as the aforesaid supervisor or supervisors shall order and direct, he shall forfeit and pay the sum of ten shillings for every such offense to the said commissioners respectively to be applied towards clearing the said rivers and streams respectively, to be recovered and levied as debts under forty shillings are by law directed to be recovered and levied.

And to prevent any delay that may happen through the default of any of the said justices, supervisors of the highways or persons so summoned:

[Section VI.] Be it enacted by the authority aforesaid, That it shall and may be lawful to and for any person or persons whatsoever to break, throw down, remove and destroy all or any such weir or weirs, dams, racks, baskets, pounds or other device or obstruction whatsoever, built, erected or set up, or to be built, erected or set up, within the aforesaid rivers and streams (except such devices as shall be erected, built and set up by the commissioners aforesaid), and that every person or persons who shall assault, hinder or obstruct any person in pulling down, breaking, removing or destroying any of the aforesaid devices or obstructions in any part of the rivers or streams aforesaid, or any of them, and being thereof legally convicted before any

one of the said justices of the said courts, shall forfeit and pay for every such offense to the said respective commissioners five pounds, lawful money as aforesaid, one moiety thereof for and towards clearing the respective rivers and streams as aforesaid, and the other moiety to the person or persons assaulted or obstructed in removing or destroying any of the aforesaid devices or obstructions, to be recovered by a warrant from any of the said justices as debts of five pounds or under are recoverable by the laws of this province.

And for the more effectual detecting and punishing offenders against this act:

[Section VII.] Be it enacted by the authority aforesaid, That the constable of each respective township which shall be bounded by or adjoin to any part of the said rivers and streams shall and he is hereby enjoined and required, under the penalty of five pounds, to be recovered and applied in manner last aforesaid, at some time within two weeks before each county court carefully and diligently to inspect and view such parts of the said rivers and streams as shall be adjoining to his respective township, and having any knowledge of any offenses against this act he shall forthwith give information to some justice of the peace, who shall immediately issue his warrant to the supervisors of the highways aforesaid for the purposes aforesaid, and the said constable shall also present on oath or affirmation every such offense to the justices of the court of quarter sessions of their respective counties, together with the name and names of such offender or offenders, that he or they may be tried according to the directions of this act, which oath or affirmation the said justices are hereby required duly and carefully to administer.

And whereas some doubts may arise in which of the said counties the offenses committed within the said rivers against this act ought to be tried:

For removing whereof:

[Section VIII.] Be it enacted by the authority aforesaid, That all and every such offense and offenses which shall be committed within the said rivers or streams, or either of them, shall be laid to be committed in any or either of the said counties join-

ing on that part of the said rivers where such offense shall be committed.

Provided always nevertheless, That nothing herein contained shall be held, deemed, taken or construed to prevent, prohibit or obstruct the said commissioners from making, erecting or setting up any dams, pens for water locks or other works or devices in the said rivers or streams which they shall think necessary to aid, assist or improve the navigation of the same, or by any means whatsoever to lessen, diminish or destroy the powers and authorities hereinbefore given and invested in them, or to compel or oblige, authorize or empower, any justice or justices, either in or out of their sessions as aforesaid, or any supervisor or supervisors of the highways or any other person whatsoever, to pull down, destroy or remove such dams and other devices as the said commissioners shall erect or set up in pursuance of this act; but all and every such dams and other devices aforesaid the said supervisors and all other persons whatsoever are hereby enjoined and required to suffer the same to remain unmoved, anything hereinbefore to the contrary in any wise notwithstanding.

Provided always, That no dam, water lock or other device so made, constructed or erected by the said commissioners shall at any time or times be appropriated to the private use or benefit of any person or persons whatsoever.

[Section IX.] And be it further enacted by the authority aforesaid, That no person or persons whatsoever shall presume to divert, lead or draw out at any time or times, by any race or other device whatsoever, any water or any part of the said rivers or streams, or any of them, from their natural course or channel for any use or purpose whatsoever.

[Section X.] Provided also, That nothing in this act contained shall be deemed or construed to enable the said commissioners to clear the said river Susquehanna of and from the natural obstructions in the same to the southward of Wright's Ferry.

[Section XI.] And be it enacted by the authority aforesaid, That the said commissioners shall, once in every year, make report of their transactions in clearing, scouring and rendering

navigable the said rivers and streams to the assembly of this province for the time being, and shall lay before them a faithful and just account of all and every sum and sums of money by them had and received for the clearing the said rivers and streams and in what manner the same shall be expended and laid out, that the same may be adjusted, settled and allowed.

[Section XII.] And be it enacted, That so much of the act of assembly passed in the first year of His present Majesty's reign, entitled "An act for the preservation of the fish in the rivers Delaware, Susquehanna and Lehigh, commonly called the Western Branch of Delaware,"¹ as relates to the obstructions in the river Susquehanna above Wright's Ferry, shall be and is hereby repealed and made void.

Passed March 9, 1771. Referred for consideration by the King in Council, October 9, 1771, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIX, and the note to the Act of Assembly passed March 14, 1761, Chapter 463; and the Acts of Assembly passed March 9, 1771, Chapter 638; January 22, 1774, Chapter 694; March 21, 1783, Chapter 1025; March 31, 1785, Chapter 1155; October 4, 1788, Chapter 1377; September 11, 1789, Chapter 1432; (the two Acts of Assembly passed) April 5, 1793, Chapters 1670, 1672; April 8, 1793, Chapter 1678; April 10, 1793, Chapter 1681; February 5, 1794, Chapter 1710; April 8, 1794, Chapter 1730; September 22, 1794, Chapter 1786; February 21, 1795, Chapter 1801; February 25, 1795, Chapter 1798; March 13, 1795, Chapter 1809; April 11, 1795, Chapter 1829; February 13, 1796, Chapter 1871; March 17, 1796, Chapter 1882; April 4, 1796, Chapter 1906; February 7, 1797, Chapter 1914; April 8, 1799, Chapter 2063; April 11, 1799, Chapter 2089; March 12, 1800, Chapter 2126; January 2, 1801, Chapter 2156; February 19, 1801, Chapter 2136; March 29, 1802, P. L. 122; January 22, 1803, P. L. 298; (the two Acts of Assembly passed) February 11, 1803, P. L. 343, 345; March 23, 1803, P. L. 389; March 5, 1804, P. L. 197; April 1, 1805, P. L. 209; March 17, 1806, P. L. 463; March 4, 1807, P. L. 42; March 16, 1807, P. L. 74; March 7, 1810, P. L. 51; April 2, 1811, P. L. 259; March 29, 1813, P. L. 237; (the two Acts of Assembly passed) March 26, 1814, P. L. 200, 210; (the two Acts of Assembly passed) March 1, 1815, P. L. 57, 59; March 13, 1817, P. L. 107; March 24, 1817, P. L. 179; March 23, 1818, P. L. 227; March 27, 1819, P. L. 188; (the three Acts of Assembly passed) March 28, 1820, P. L. 144, 150, 174; March 26, 1821, P. L. 101; April 1, 1822, P. L. 117; (the three Acts of Assembly passed) April 2, 1822, P. L. 126, 188, 292; March 31, 1823, P. L. 246; February 9, 1824, P. L. 242; March 25, 1825, P. L. 112; April 11, 1825, P. L. 235; (the Resolution of) April 7, 1826, P. L. 415; (the two Acts of Assembly passed) April 10, 1826, P. L. 339, 351; March 2, 1827, P. L. 57; April 9, 1827, P. L. 189; April 16, 1827, P. L. 446;

¹ Passed March 14, 1761, Chapter 463.

April 9, 1828, P. L. 247; March 3, 1829, P. L. 53; April 23, 1829, P. L. 235; (the two Acts of Assembly passed) January 17, 1831, P. L. 21, 22; February 17, 1831, P. L. 72; (the Resolution of) April 4, 1831, P. L. 508; March 30, 1832, P. L. 233; May 3, 1832, P. L. 423; April 6, 1833, P. L. 160; April 1, 1834, P. L. 148; April 14, 1834, P. L. 438; March 4, 1835, P. L. 51; (the two Acts of Assembly passed) April 16, 1838, P. L. 614, 637; March 21, 1839, P. L. 123; March 17, 1840, P. L. 144; June 13, 1840, P. L. 679; March 29, 1841, P. L. 117; April 5, 1842, P. L. 230; April 4, 1844, P. L. 186; April 13, 1846, P. L. 297; March 24, 1848, P. L. 263; (the two Acts of Assembly passed) April 2, 1850, P. L. 316, 319; April 26, 1850, P. L. 539; April 23, 1852, P. L. 411; April 18, 1853, P. L. 721; May 5, 1855, P. L. 453; March 10, 1857, P. L. 73; April 24, 1857, P. L. 306; March 31, 1859, P. L. 335; March 23, 1865, P. L. 663; March 30, 1866, P. L. 370; April 12, 1866, P. L. 862; January 7, 1867, P. L. 1368; April 10, 1867, P. L. 1067; April 9, 1868, P. L. 77; March 27, 1869, P. L. 557; April 8, 1869, P. L. 19; April 2, 1870, P. L. 821; April 6, 1870, P. L. 17; March 3, 1871, P. L. (1872) 1255; March 28, 1871, P. L. 237; May 9, 1871, P. L. 642; May 12, 1871, P. L. 799; May 24, 1871, P. L. 275; April 5, 1872, P. L. 965; April 10, 1873, P. L. 621; April 28, 1873, P. L. 82, 386; June 5, 1874, P. L. 276; June 3, 1878, P. L. 160; June 11, 1879, P. L. 154; June 10, 1881, P. L. 92; June 27, 1883, P. L. 163; May 23, 1887, P. L. 165; May 22, 1889, P. L. 267; April 15, 1891, P. L. 19; May 12, 1891, P. L. 52; June 24, 1895, P. L. 241; (the three Acts of Assembly passed) June 25, 1895, P. L. 286, 295, 299; May 6, 1899, P. L. 17; May 29, 1901, P. L. 302.

CHAPTER DCXXVIII.

AN ACT FOR VACATING A PART OF A ROAD IN THE TOWNSHIP OF PASSYUNK AND FOR CONFIRMING A NEW ROAD LAID OUT AND MADE INSTEAD THEREOF.

Whereas in pursuance of an order of the county court of quarter sessions for the county of Philadelphia, a public road was laid out in the township of Passyunk, from the end of Joseph Sims's lane to the river Schuylkill:

And whereas a part of the said road running on the side of Sepicken creek, down the several courses thereof, from the place of beginning of the road hereinafter mentioned, to the river Schuylkill, and also a private road leading from the same over the dam across said creek, are found not only injurious to the