

CHAPTER DCLXXIV.

AN ACT FOR PRESERVING THE NAVIGATION IN SHEARMAN'S CREEK
IN THE COUNTY OF CUMBERLAND AND TO PREVENT THE DESTRUCTION
OF FISH IN THE SAME.

Whereas it hath been represented to the Assembly by petition from a number of freeholders of the county of Cumberland living near or adjoining to Shearman's Creek in said county that the navigation of the said creek has been obstructed by a saw mill dam erected across the said creek near the mouth by a certain James Patton:

Therefore for preserving the navigation in the said creek:

[Section I.] Be it enacted by the Honorable Richard Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and John Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, 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 James Patton and all and every person or persons claiming under him and all and every person or persons whatsoever having already erected any mill dam or other obstruction across the said creek where the same has been or can be made navigable for rafts, boats or canoes, shall make, open and leave the space of twenty feet in breadth near the middle of the said dam at least two feet lower than any other part thereof, and for every foot the dam is or shall be raised perpendicular from the bottom of the said creek there shall be laid a platform either of stone or timber or both, with proper walls on each side, to confine the waters, which shall extend at least six feet down the stream and of the breadth aforesaid, to form a slope for the water's gradual descent, for the easy and safe passage of boats, rafts and canoes through the same. And that all and every person who shall refuse or neglect to make or alter his,

her or their dams in the manner directed as aforesaid within the term of eight months next after the passing [of] this act, every person so offending, contrary to the true intent and meaning of this act, being thereof legally convicted in the court of quarter sessions of the county aforesaid by the oath or affirmation of one or more witnesses or by his or her own confession shall forfeit and pay the sum of fifty pounds lawful money of this government for every such offense or suffer six months imprisonment without bail or mainprise, one moiety of which forfeiture shall be paid to the informer or prosecutor and the other moiety to the overseers of the poor of the township where such offender shall reside for the use of the poor of the said township.

[Section II.] 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, fishing-dam, pond or other device or obstruction whatsoever within the said creek for the taking of fish, 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 same, or that shall take, destroy or spoil any spawn, fry or brood of fish of any kind whatsoever in any such weir, rack, basket, pound or other device aforesaid, every such person so offending, being thereof legally convicted in manner aforesaid, shall forfeit and pay the sum of ten pounds lawful money of this government for every such offense or suffer one month's imprisonment without bail or mainprise, one moiety of which forfeiture shall be paid to the informer or person prosecuting for the same, the other moiety to the use of the poor of the township where such offender shall reside.

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

[Section III.] Be it enacted by the authority aforesaid, That the constables of each respective township which shall be bounded by or adjoining to any part of said creek shall and they are hereby enjoined and required under the penalty of twenty shillings, to be recovered as debts not exceeding five pounds are di-

rected by law to be recovered and to be applied in the manner last aforesaid, carefully and diligently to inspect and view once at least in every month after the publication of this act such parts of the said creek as shall be adjoining to his respective township, and having any knowledge of any offense against this act shall forthwith give information to the next justice of the peace, who shall call such offender before him by warrant or summons, and if on hearing he shall appear to be guilty of any offense against this act, the said justice shall take his recognizance with one sufficient surety for his appearance at the next court of general quarter sessions of the peace to be held for the said county.

[Section IV.] And be it further enacted by the authority aforesaid, That after the said dams shall be altered or built agreeable to the true intent and meaning of this act, no person or persons whatsoever shall cast or draw any net or seine in the said creek at or within the said opening or within twenty perches above or below the same under the penalty of five pounds, to be recovered and applied in manner first aforesaid.

Provided always nevertheless, That nothing in this act contained shall be construed or understood to deprive or hinder any person from drawing a seine or net for the taking of fish in any part of the creek except in the places last aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That the said creek so far up as the same has been or can be made navigable for rafts, boats or canoes shall be and is hereby declared to be a public highway.

[Section VI.] Provided always, That nothing herein contained shall be deemed or taken to prevent the said James Patton and all persons claiming under him from erecting and maintaining the aforesaid dam in the manner hereinbefore directed.

Passed February 26, 1773. Referred for consideration by the King in Council, February 2, 1774, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXXI, and the Acts of Assembly passed September 15, 1784, Chapter 1110; February 14, 1797, Chapter 1916.