

CHAPTER DCXCIV.

AN ACT FOR REGULATING THE FISHERY IN THE RIVER CONESTOGOE
IN THE COUNTY OF LANCASTER.

Whereas it hath been represented to the assembly by petition from a number of the freeholders of the county of Lancaster that live on or near the river Conestogoe that their ancestors, themselves and the adjacent inhabitants have formerly enjoyed great advantages from the fishery in the same river, but that the petitioners and others have for some time past been in great measure deprived of this benefit from divers persons having erected dams across the said river, to the almost total obstruction of the fish running up the same:

Wherefore, for remedying the mischiefs aforesaid:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Governor and Commander in Chief 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 all and every person and persons whatsoever having already erected or that shall hereafter erect any mill-dam or other obstruction across the said river below the mouth of Muddy Creek shall make, open and leave the space of ten feet in breadth near the end of the said dam at least fourteen inches lower than any other part thereof as far up the said river as the mouth of Cocallico Creek and above that to the mouth of Muddy Creek at least five feet in breadth and fourteen inches lower near the end of said dam than any other part thereof, so that there be at least twelve inches depth of water during the months of March, April and May in every year constantly running through the same; and for every foot that the dam is or shall be raised perpendicular from the bottom of the said river there shall be laid a platform either of stone or timber or of both, with proper walls on each side, to confine the waters, which shall extend at least five

feet down the stream and of the breadth aforesaid, to form a slope for the water's gradual descent, and that all and every person and persons who shall refuse or neglect to make or alter his, her or their dams in the manner directed as aforesaid within the term of one year next after this act shall be in force, every such person so offending contrary to the true intent and meaning of this act, being legally convicted thereof by the oath or affirmation of one or more witnesses or by his or her own confession, shall forfeit and pay the sum of one hundred pounds lawful money of this government for every such offense or suffer twelve 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 this act shall be in force 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, pound or other device or obstruction whatsoever within the said river below the places aforesaid 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 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 person who shall prosecute 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 bound-

ed by or adjoining to any part of the said river shall and they are hereby enjoined and required, under the penalty of five pounds, to be recovered as debts not exceeding five pounds are directed 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 this act shall be in force such parts of the said river as shall be adjoining to his respective township; and having any knowledge of any offense against this act, he 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 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 river at or within the said opening or within twenty perches above or below the same under the penalty of fifty pounds, to be recovered and applied in manner first aforesaid.

[Section V.] 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 said river except in the places last aforesaid.

Passed February 22, 1774. Referred for consideration by the King in Council, August 12, 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 October 4, 1788, Chapter 1377; April 4, 1796, Chapter 1906; April 8, 1799, Chapter 2063; March 21, 1803, P. L. 389; April 1, 1805, P. L. 209; March 16, 1807, P. L. 74; March 7, 1810, P. L. 51; February 21, 1814, P. L. 57; March 1, 1815, P. L. 57; March 24, 1817, P. L. 179; April 11, 1825, P. L. 235; April 16, 1827, P. L. 447; February 28, 1861, P. L. 77; April 21, 1869, P. L. 84; April 2, 1870, P. L. 821; April 28, 1871, P. L. 243; May 12, 1871, P. L. 799; May 24, 1871, P. L. 275; April 28, 1873, P. L. 82, 886; May 1, 1873, P. L. 89; May 5, 1876, P. L. 104; June 3, 1878, P. L. 160; June 10, 1881, P. L. 92; June 11, 1885, P. L. 109; May 23, 1887, P. L. 165; May 22, 1889, P. L. 267; April 15, 1891, P. L. 19; May 12, 1891, P. L. 52; (the two Acts of Assembly passed) June 25, 1895, P. L. 286, 299; May 29, 1901, P. L. 302.