

a free passage for the redundant water, in such manner as shall remedy the evil aforesaid effectually.

[Section V.] (Section VII, P. L.) Provided always, That the moneys raised or to be raised for the purposes aforesaid shall not exceed the sum of five thousand pounds.

Passed March 30, 1784. Recorded L. B. No. 2, p. 298, etc. See the Act of Assembly passed September 1, 1784, Chapter 1106.

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## CHAPTER MXCII.

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### AN ACT TO REGULATE THE FISHERIES IN THE RIVERS DELAWARE AND LEHIGH, AND FOR THE PRESERVATION OF THE FISH IN THE SAID RIVERS.

(Section I, P. L.) Whereas it is represented to this house by petition from a number of the inhabitants of Northampton county, that it hath become a common practice to fish in the rivers Delaware and Lehigh with divers seines or nets in the same pool or fishing place, so that the shad and other fish are in a great measure prevented from running up the said rivers to the places where they usually spawn; whereby their numbers are too much diminished and the inhabitants of this state dwelling near the upper parts of the said rivers, are deprived of a reasonable proportion of such fish:

For remedy whereof:

[Section I.] (Section II, P. L.) Be it therefore enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That from and after the publication of this act, no more than one seine or net shall be cast, drawn or made use of, by any person or persons whatsoever in any one pool or fishing place in the said rivers or either of them or any part thereof within the jurisdiction of this commonwealth, within any one term of twenty-four hours, to begin from twelve of the clock at noon, and to continue until the same

hour the next day; and that if any person or persons shall cast, draw or make use of any seine or net in any pool or fishing place in the said rivers or either of them, or shall be aiding or assisting therein within the jurisdiction aforesaid, and within the time aforesaid, after any other seine or net has been within that time drawn out of the same, every [such] person or persons so offending being thereof convicted before any justice of the peace in and for the county where he or they shall be apprehended (which justice is hereby authorized and empowered to hear, try and determine the same) shall forfeit the sum of five pounds for every such offense, one moiety thereof to be paid to the prosecutor and the other moiety to be paid to the overseers of the poor of the city, borough, district or township, where such offender shall reside, if resident within this state, if otherwise where he shall be apprehended for the use of the poor thereof.

And in order to ascertain what shall be deemed and held to be a pool or fishing place within the meaning of this act:

[Section II.] (Section III, P. L.) Be it enacted by the authority aforesaid, That within so much of the said river Delaware as extends from the station point or northwest corner of New Jersey to the place upon the said river where the circular boundary of the state of Delaware touches upon the same, and within all the islands annexed to this state, from the place or places where seines or nets have been usually thrown in, to the place or places where they have been usually taken out or from the place or places where they may hereafter be thrown in, to the place or places they may be taken out in the said river, and so much of the river Lehigh as extends from one side or bank to the other side or bank thereof, and from the place or places where seines or nets have been usually thrown in to the place or places where they have been usually taken out or from the place or places where they may hereafter be thrown in to the place or places they may be taken out, in the aforesaid river shall be deemed and held, and is hereby declared to be a pool or fishing place within the meaning of this act.

[Section III.] (Section IV, P. L.) Provided always, and be it further enacted by the authority aforesaid, That if any person or persons shall cast, draw or make use of any seine or net for

catching fish in the said rivers, or either of them or in any of the pools or fishing places aforesaid or shall be aiding or assisting therein between the sun's setting on Saturday and sun's rising on Monday next following, every such person or persons being thereof convicted in manner aforesaid shall forfeit the sum of five pounds to be paid in the manner aforesaid.

[Section IV.] (Section V, P. L.) And be it enacted by the authority aforesaid, That if any person or persons shall be found making use of any seine or net contrary to the true intent and meaning of this act, every such person or persons, so offending shall in addition to the penalty aforesaid, forfeit the seines or net so made use of; which said seine or net shall by order of the justice before whom such person or persons shall be convicted, be exposed to public sale, after giving five day's notice thereof by advertisements, and the money arising therefrom to be paid in the manner aforesaid, and for the use aforesaid the cost of such prosecution and sale being first deducted.

[Section V.] (Section VI, P. L.) Provided always, and be it enacted by the authority aforesaid, That if any person or persons shall cast, draw or make use of any seine or net for the purpose of catching shad within the limits of this state, in that part of the river Delaware between the place where the same touches upon the circular boundary of the state of Delaware and the falls of Trenton, after the tenth day of May, or between the said falls of Trenton and the mouth of the river Lehigh, after the fifteenth day of said month, or in any other part of the said river Delaware between the mouth of Lehigh and the station point or northwest corner of the state of New Jersey or in any part of the said river Lehigh after the twentieth day of May aforesaid in every year, every such person or persons so offending and being thereof convicted before any two justices of the peace in and for the county where he or they shall be apprehended (which justices are hereby authorized, empowered and required to hear, try and determine the same), shall forfeit and pay the sum of twenty pounds to be applied to the use aforesaid, and likewise pay the costs of prosecution.

(Section VII, P. L.) And whereas it is found by experience that large quantities of the fry and brood of fish, as well as

young fish unfit for use, have been for many years past, killed and destroyed by wears, racks, baskets, dams, pounds and other like engines and devices, formed and erected in the rivers aforesaid, for taking of large fish whereby the great quantities of fish, which were formerly to be found and taken in the said rivers, are much diminished to the great damage and injury of the public:

For remedy whereof:

[Section VI.] (Section VIII, P. L.) Be it enacted by the authority aforesaid, That if any person or persons whatsoever shall erect, build, set up, repair or maintain or shall be aiding, assisting or abetting in erecting, building, setting up, repairing or maintaining any wear, rack, baskets, fishing dams, pound or other device whatsoever for the taking of fish within the said rivers or either of them, or [that] shall fix or fasten any net or nets or any other device across or in any of the said rivers; or [that] shall take, destroy or spoil any spawn, fry or brood of fish, or any kind of fish whatsoever, in any such wear, rack, baskets, fishing dams, pounds or other device aforesaid, every such person or persons 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 credible witnesses, or by his or their own confession, shall forfeit and pay the sum of fifty pounds lawful money of this commonwealth for every such offense, or suffer nine 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, city or borough, where such offender shall reside, for the use of the poor of the said township, city or borough if resident within this commonwealth, if otherwise where he shall be apprehended.

[Section VII.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That all and every of the offenses which shall be hereafter committed against the true intent and meaning of this act within either of the said rivers Delaware or Lehigh shall be laid to be committed within the said rivers respectively, in the county which shall lie next to or adjoining that part of the said rivers respectively where the offense is

committed; and the justices of the county court of quarter sessions of the said county, which shall so adjoin the part of the said river where the offense is committed, are hereby authorized, empowered and required, to hear, try and determine the same by a jury of the county, in the same manner as other criminal offenses, committed within their respective counties, are usually heard, tried and determined, before them.

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

[Section VIII.] (Section X, P. L.) Be it enacted by the authority aforesaid, That the justices of the county court of quarter sessions of the several counties within this state, bounded on and adjoining to any of the said rivers, in which the same are included, 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 justice or justices of the peace out of term time, shall and they are hereby enjoined and required, to issue forth their warrants to the overseers of the highways of each and every township, next adjacent to the wear, rack, fishing dam, pound or other device aforesaid, so erected, or in which they or any of them, shall be erected, enjoining and requiring them the said overseers respectively forthwith to remove or cause to be removed every such wear, rack, basket, fishing dam, pound or other device 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 wear, rack, basket, fishing dam, pound or other device aforesaid, so erected, built or set up in manner aforesaid, 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 overseer or overseers 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 county, 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 overseers of the poor of the township, city, borough or district where such offender or offenders shall reside, the sum of twenty pounds for the use of the poor of the said township, city, borough or district; 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 wear, rack, fishing dam, basket, pound or other device aforesaid, so erected, built or set up, in such manner as the said overseer or overseers shall order or direct, he shall forfeit and pay the sum of twenty shillings for every such offense, to the overseers of the poor of the township, city, borough or district whose inhabitants are so summoned for the use of the poor of the same; 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 default of any of the said justices, the said overseers of the highways, or of any other person or persons whatsoever:

[Section IX.] (Section XI, P. L.) 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 wear or wears, fishing dams, racks, baskets, pounds or other devices whatsoever, built, set up or laid, or to be built, set up or laid within any of the aforesaid rivers, for catching of fish as aforesaid; and that every person or persons, who shall, assault, hinder or obstruct any person or persons in pulling down, breaking, removing or destroying any of the aforesaid devices in either of the rivers aforesaid, and being thereof legally convicted before any one of the said justices of the said courts, shall forfeit and pay for every such offense five pounds lawful money as aforesaid; one moiety thereof to the use of the poor as aforesaid and the other moiety to the person or persons assaulted or obstructed in removing or destroying any of the said devices to be recovered by warrant from any of the said justices as debts of five pounds, or under, are recoverable by the laws of this state.

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

[Section X.] (Section XII, P. L.) Be it enacted by the authority aforesaid, That the constable of each respective township, city, borough or district which shall be bounded by or adjoin to any part of either of the said rivers, shall and he is hereby enjoined and required under the penalty of five pounds to be recovered and applied in manner last aforesaid carefully and diligently to inspect and view once at least in every fourteen days from the first day of August to the first day of December in every year, such parts of the said rivers as shall be adjoining his respective township, borough or district; and having any knowledge of any offenses against this act, he shall forthwith give information thereof to some justice of the peace who shall immediately issue his warrant to the overseers 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 or 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.

Passed March 30, 1784. Recorded L. B. No. 2, p. 300, etc. See the Act of Assembly passed April 7, 1786, Chapter 1222..

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## CHAPTER MXCIII

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AN ACT TO REMEDY THE DEFECTS OF THE SEVERAL ACTS OF ASSEMBLY HERETOFORE MADE FOR REGULATING THE ELECTIONS OF THE JUSTICES OF THE PEACE THROUGHOUT THIS STATE, AND TO ESTABLISH A PERMANENT MODE OF HOLDING SUCH ELECTIONS; AND TO AUTHORIZE THE JUSTICES OF THE PEACE OF THE CITY OF PHILADELPHIA TO HOLD THE COURTS OF RECORD OF THE SAID CITY.

(Section I, P. L.) Whereas in and by the act of assembly of this commonwealth which was passed on the fifth day of February, in the year of our Lord one thousand seven hundred, sev-