

Passed March 26, 1785. Recorded L. B. No. 2, p. 482, etc. See the Acts of Assembly passed March 11, 1800, Chapter 2129; March 12, 1800, Chapter 2132.

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CHAPTER MCXLVI.

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AN ACT TO REGULATE THE FISHERY IN THE RIVER SCHUYLKILL.

(Section I, P. L.) Whereas divers laws have heretofore been enacted for regulating the fisheries in the river Schuylkill and for the preservation of the fish in the said river, whereby many useful and necessary regulations and provisions were made conducting to the general advantage of a great number of the inhabitants of this commonwealth residing near the said river, yet for want of some further regulations the inhabitants dwelling near the upper parts thereof have not reaped such advantages from the said laws which the good intentions of the several assemblies seem to point out:

[Section II, P. L.] And whereas some of the justices of the peace of this commonwealth have refused to act under the said laws (from an apprehension that they had expired by their own limitation) whereby the advantages aforesaid are no longer to be expected:

(Section III, P. L.) And whereas it hath been a common practice with the inhabitants residing near the lower parts of the said river to fish with divers seines or nets in the same pool or fishing place, by which means, shad and other fish are, in a great measure, prevented from running up to the places, where they usually spawn, which is well known to be far up the river, whereby (for want of a sufficient number of mother fish) the different species are of late extremely diminished, from all which it is evident, that a more full and perfect law is become necessary:

[Section I.] (Section IV, 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 net or seine shall be cast, drawn or any way made use of in any pool or fishing place by any person or persons whatsoever in the said river in any one term of twenty-four hours, to begin at twelve of the clock at noon, and to continue until the same hour of the day next following; and if any person or persons shall draw or make use of any seine or net in any pool or fishing place in the said river or shall be aiding or assisting therein, within the time aforesaid after any other seine or net hath been within that time taken or drawn out of the same every such person or persons so offending and being thereof convicted before any justice of the peace of 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 offence, to be paid to the informer or prosecutor or suffer two months' imprisonment without bail or mainprise. And the better to ascertain what shall be deemed and understood to be a pool or fishing place within the meaning of this act.

[Section II.] (Section V, P. L.) Be it therefore enacted by the authority aforesaid, That so much of the said river as extends from one side or bank to the other side or bank thereof, and from place where seines or nets have usually been thrown in [to] the place where they have been usually taken out, 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 VI, P. L.) Provided always and be it further enacted by the authority aforesaid, That where two or more persons hold or occupy any lands, on the same side of the river, adjoining to any pool or fishing place, nothing herein contained shall in anywise be construed to prevent or deprive any such person from enjoying the privilege of fishing in that part of the river directly opposite their own land, respectively, as a separate pool or fishing place, the partition of which pool to be by continuing the course of division line or lines of the lands of the persons next adjacent, and every such division to be subject to the same rules and regulations, as other pools and

fishing places are by this act made subject; anything in this act contained to the contrary notwithstanding.

[Section IV.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That where two or more persons residing opposite to each other near the said river on different sides thereof may have suitable wharves or landing places on their respective shores or on an island opposite thereto for taking or drawing seines or nets out of any pool or fishing place it shall and may be lawful for such persons, respectively to fish with their seines or nets alternately and not otherwise; that is to say, such person or persons, possessing such conveniences as above described, who shall reside near on one side of the river, shall or may fish in such pool or fishing place, with one seine or net only, for and during the time of twenty-four hours, to be computed as aforesaid, and the person or persons possessing such wharf or landing place as above described who shall reside near the other side of the river shall or may fish in such pool or fishing place with one seine or net only for and during the time of twenty-four hours to be computed as aforesaid, next following, and so alternately, during the shad fishing season.

[Section V.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall cast, draw or otherwise make use of any seine or net for catching or taking fish in the said river, or shall be aiding or assisting therein, between the sun's setting on Friday and the sun's rising on Monday, next following, every such person, being thereof convicted in manner aforesaid shall forfeit and pay the sum of five pounds to the use of the informer or prosecutor or suffer two months' imprisonment, without bail or mainprise.

[Section VI.] (Section IX, P. L.) And be it further 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, and who, to avoid being known, or prosecuted according to this act shall secrete themselves or abscond from the place and leave their said seine or net in or near the said river, that then, and in such case, on due proof being thereof made before any two justices of the peace the said

seine or net shall be forfeited and the said justices shall direct and order that the said net shall be exposed to public sale after giving five days' notice thereof by advertisement, and the money arising therefrom to be paid, the one half thereof to the informer or prosecutor and the other moiety to the overseers of the poor of the township where the informer or prosecutor resides for the use of the poor of the said township, city or district, the cost of such prosecution and sale being first deducted.

(Section X, P. L.) Provided always in case the parties or owner of such seine or net shall appear at any time within the said five days, that then, and in such case, the said two justices shall hear the parties, and determine the same according to the true intent and meaning of this act, saving to the defendant or defendants the right of appeal from the judgment of the said justices to the next court of general quarter sessions of the proper county, and if the defendant see cause of trial by jury, upon condition that he or they give security to prosecute the same to effect.

(Section XI, P. L.) And whereas it is represented to this house that sundry persons residing near the lower part of the said river (in defiance of the laws heretofore made for regulating the fisheries therein) have, in a daring manner, continued fishing every night through the season when practicable, depending on the difficulty or impossibility of detection as they generally fish without light.

For remedy whereof,

[Section VII.] (Section XII, P. L.) It is hereby further enacted by the authority aforesaid, That upon any information or complaint made to any justice of the peace of the county where any such offence may be committed or of the county adjoining said river opposite to where such transgressions are made, the said justice is hereby authorized and required to send his warrant, directed to any constable, to apprehend all such persons as shall be found aiding, or in anywise assisting in the breach of this act, which persons, when apprehended as aforesaid, he shall take before the said justice or before the nearest justice to the place of such apprehending; and every such person, so offending, and being thereof convicted, by the oath or affirmation of

said constable, and one or more credible witnesses or by his or their own confession, shall forfeit and pay the fine aforesaid or suffer the imprisonment aforesaid and moreover shall pay the cost of such prosecution. And in order to do justice to the inhabitants of this commonwealth, who reside far up the said river.

[Section VIII.] (Section XIII, P. L.) Be it therefore further enacted by the authority aforesaid, That no person or persons shall draw or use any seine or net, for the purpose of catching shad or such as are suitable for that purpose in the said river, nor be aiding or assisting therein, between the mouth thereof, at the lower part of the island, heretofore known by the name of Province Island, and the lower falls, five miles from Philadelphia, after the twentieth day of May, nor between the falls and the mouth of Perkiomen creek, after the twenty-fifth day of said month, nor between the mouth of said creek, and the mouth of Manatawny creek, after the thirtieth day of said month, or between the mouth of said creek, and the ford at the town of Reading, after the fifth day of June, nor in any part thereof, above the said ford, after the tenth day of June, in every or any year, nor draw any seine or net whatever, for at least thirty-five days next after the expiration of the shad fishing season, nor draw any brush or brush nets at any time, after the passing of this act, in any of the said divisions respectively, according to the time above limited for cessation, under the penalty of ten pounds, to be recovered and applied in the manner and [for the] uses in the last recited act directed and expressed.

[Section IX.] (Section XIV, P. L.) And be it further enacted, That the fifth section of an act of assembly, entitled "A further supplement to the act, entitled 'An act for making the river Schuylkill navigable and for the preservation of the fish in the said river,'" <sup>1</sup> shall be and the same is hereby repealed. <sup>1</sup>

Passed March 28, 1785. Recorded L. B. No. 2, p. 484, etc. See the notes to the Acts of Assembly passed March 14, 1761, Chapter 465; March 9, 1771, Chapter 621; March 24, 1781, Chapter 930, and the Acts of Assembly passed March 9, 1786, Chapter 1211; April 13, 1791, Chapter 1569; April 11, 1793, Chapter 1692; April 8, 1799, Chapter 2163.

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<sup>1</sup> Passed March 24, 1781, Chapter 930.