

for the time being to make demand thereof; [and] if within six days after such demand they, or any of them so charged as aforesaid shall not pay the sum to them charged for said repairs so done, it shall and may be lawful for the treasurer for the time being to recover the same in the manner that other fines, forfeitures or charges of repairs are recoverable by this act, any law, custom or usage to the contrary in any wise notwithstanding.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the Acts of Assembly passed February 15, 1762, Chapter 523; March 4, 1797, Chapter 1922; February 26, 1800, Chapter 2108; March 2, 1854, P. L. 139.

CHAPTER CCCCLXIII.

AN ACT FOR THE PRESERVATION OF FISH IN THE RIVERS DELAWARE, SUSQUAHANNA AND THE LEHIGH, COMMONLY CALLED THE WESTERN BRANCH OF DELAWARE.

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 weirs, racks, baskets, dams, pounds and other like engines and devices formed and erected in the rivers Delaware, Susquahanna and the Lehigh, commonly called the Western Branch of Delaware, for taking of larger 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 I.] Be it enacted by the Honorable James Hamilton, 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 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 wier, rack, baskets, fishing-dams, pound or other device whatsoever for the taking of fish within the said rivers or any or either of them, or that shall fix or fasten any net or nets across or in any of the said rivers, or any part thereof, by which the fish may be obstructed from going up 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 weir, rack, baskets, fishing-dams, pound 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 own confession, shall forfeit and pay the sum of twenty 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, 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 province; if otherwise, where he shall be apprehended.

[Section II.] And be it 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 Susquahanna shall be laid to be committed within the said rivers respectively in the county which shall lie next to or adjoin 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 whereas part of the said river Susquahanna divides the

counties of Lancaster, York and Cumberland, and some doubts may arise in which of the said counties the offenses committed within the said river against this act ought to be tried; for removing whereof:

[Section III.] Be it enacted by the authority aforesaid, That all and every such offense and offenses which shall be committed within the said river Susquehanna shall be laid to be committed in any or either of the said counties joining on that part of the said river where such offense shall be committed, and heard, tried and determined in the court of quarter sessions of the same county in manner aforesaid.

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

[Section IV.] 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 of the said rivers or 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 weir, 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 weir, 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 weir, 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 re-

quired 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 their said court of quarter sessions shall, for every such offense, forfeit and pay to the overseers of the poor of the township where such offender or offenders shall reside the sum of ten pounds for the use of the poor of the said township; 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, 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 and direct, he shall forfeit and pay the sum of ten shillings for every such offense to the overseers of the poor of the township whose inhabitants are so summoned for the use of the poor, 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 V.] 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 weir or weirs, 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 in pulling down, breaking, removing or destroying any of the aforesaid devices in any 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 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 VI.] 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 any or 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; 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 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.

[Section VII.] Provided always, nevertheless, and be it further declared and enacted, That so much of this act as relates to the weirs, racks, baskets, fishing-dams, pounds and other devices aforesaid already erected or hereafter to be erected in the river Delaware shall be and shall be deemed, held, construed and taken to be of no force, validity or virtue until a bill for remedying the same mischiefs and inconveniences hereby intended to be remedied in the said river shall be passed and enacted into a law by the legislature of the province of New Jersey and be in full force and virtue, and that so much of this act as relates to the weirs, racks, baskets, fishing-dams, pounds and other devices aforesaid already erected or hereafter to be erected in the river Susquehanna shall be and shall be deemed, held, construed and taken to be of no force, validity or virtue until a bill for remedying the same mischiefs and inconveniences thereby intended to be remedied in the said river shall be passed

and enacted into a law by the legislature of the province of Maryland and be in full force and virtue, anything herein contained to the contrary thereof in any wise notwithstanding.

Passed March 14, 1761. Referred for consideration by the King in Council, February 15, 1762, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and (the two acts of Assembly) passed March 9, 1771, Chapters 627, 638; March 14, 1777, Chapter 747; March 30, 1784, Chapter 1092; March 31, 1785, Chapter 1155; April 7, 1786, Chapter 1222; March 19, 1794, Chapter 1722; March 17, 1796, Chapter 1882; April 8, 1799, Chapter 2063; February 8, 1804, P. L. 75; March 16, 1807, P. L. 74; February 23, 1809, P. L. 14; March 19, 1810, P. L. 117; (the two acts of) March 1, 1815, P. L. 57, 59; March 24, 1817, P. L. 179; March 23, 1819, P. L. 161; March 27, 1819, P. L. 188; January 29, 1823, P. L. 16; February 9, 1824, P. L. 242; April 11, 1825, P. L. 235; April 16, 1827, P. L. 446; April 23, 1829, P. L. 285; March 30, 1832, P. L. 233; March 4, 1835, P. L. 51; April 3, 1837, P. L. 198; April 5, 1842, P. L. 230; February 26, 1844, P. L. 55; March 2, 1844, P. L. 66; April 4, 1844, P. L. 186; March 28, 1845, P. L. 238; March 19, 1846, P. L. 143; April 15, 1852, P. L. 353; April 2, 1858, P. L. 200; April 16, 1858, P. L. 305; March 30, 1866, P. L. 370; April 9, 1868, P. L. 77; March 27, 1869, P. L. 557; April 8, 1869, P. L. 19; May 24, 1871, P. L. 275; April 28, 1873, P. L. 82, 886; June 3, 1878, P. L. 160; (the two acts of) June 11, 1879, P. L. 154, 163; June 10, 1881, P. L. 92; June 27, 1883, P. L. 163; May 23, 1887, P. L. 165; (the three acts of) May 22, 1889, P. L. 261, 264, 267; April 15, 1891, P. L. 19; May 12, 1891, P. L. 52; June 24, 1895, P. L. 241; (the four acts of) June 25, 1895, P. L. 286, 295, 299, 305.

CHAPTER CCCCLXIV.

AN ACT FOR RAISING, PAYING AND CLOTHING THREE HUNDRED MEN PROPERLY OFFICERED, FOR RELIEVING THE SEVERAL FORTS AND POSTS WITHIN THE COMMUNICATION TO PITTSBURG AND FOR CONTINUING AN ACT FOR REGULATING THE OFFICERS AND SOLDIERS IN THE PAY OF THIS PROVINCE.

Whereas in pursuance of an act of general assembly of this province passed in the thirty-third year of His late Majesty's reign, entitled "An act for granting to His Majesty the sum of one hundred thousand pounds and for striking the same in bills of credit in the manner hereinafter directed and for providing a fund for sinking the said bills of credit by a tax on all