

and France shall be ratified and concluded, as either of them shall first happen, and the moneys so to be paid for the purposes aforesaid shall be drawn for by the commissioners, with the consent of the governor, by orders on the trustees in the same manner as in the act hereinbefore mentioned is directed and provided; and the orders so drawn on the trustees of the general loan office and by them paid shall be produced to the committee of assembly for the time being, and by the said committee shall be allowed in discharge of so much of the money remaining in the trustees' hands by virtue of the act for granting to His Majesty the sum of one hundred thousand pounds, [&c.,] herein first above mentioned, in as full and ample manner as if this act and every article, clause and thing herein contained had been inserted in the body of the said act, anything in this act or the above-mentioned act to the contrary notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That the act, entitled "An act for regulating the officers and soldiers in the pay of this province,"¹ passed in the thirty-third year of His late Majesty's reign, and every article, clause and thing therein contained, shall be and continue in full force and virtue till the twenty-fifth day of March, one thousand seven hundred and sixty-two, and no longer.

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, Sections II and V, and the note to the Act of Assembly passed April 21, 1760, Chapter 457; and the Act of Assembly passed July 8, 1763, Chapter 501.

CHAPTER CCCCLXV.

AN ACT FOR MAKING THE RIVER SCHUYLKIL NAVIGABLE AND FOR THE PRESERVATION OF THE FISH IN THE SAID RIVER.

Whereas the river Schuylkil is navigable for rafts, boats and other small craft in times of high freshets only, occasioned by

¹ Passed April 21, 1760, Chapter 457.

the obstruction of rocks and bars of sand and gravel in divers parts of the same; and whereas the improving the navigation of the said river so as to make it passable at all times will be very advantageous to the poor, greatly conducive to the promotion of industry and beneficial to the inhabitants residing on or near said river, by enabling them to bring the produce of the country to the market of the city of Philadelphia and thereby increase the trade and commerce of the province. And whereas divers of the inhabitants of this province, desirous to promote the welfare of the public, have subscribed large sums of money for the purposes aforesaid and by petition to the assembly have requested that commissioners may be appointed by law to take, receive and collect the said subscriptions and such others as shall hereafter be given or subscribed, and to apply and appropriate the same for and towards the clearing, scouring and rendering the said river navigable as aforesaid:

[Section I.] Be it therefore 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 Joseph Fox, John Hughes, Samuel Rhoads, John Potts, William Palmer, David Davis, Mordecai Moore, Henry Pawling, James Coultas, Jonathan Coates, Joseph Millard, William Bird, Francis Parvin, Benjamin Lightfoot and Isaac Levan, or a majority of them, shall be and are hereby constituted and appointed commissioners for clearing, scouring and making the said river Schuylkil navigable, who, or a majority of them, as aforesaid shall have full power and authority by virtue hereof to take, collect, recover and receive of and from any person or persons whatsoever any sum or sums of money which are or shall hereafter be given, granted or subscribed for and towards making the said river Schuylkill navigable, and the moneys so collected, recovered and received by them to lay out, appropriate and employ for and towards making the said river navigable and passable for boats, flats, rafts, canoes and other

small vessels from the ridge of mountains [commonly called the Blue Mountains] to the river Delaware.

[Section II.] And be it further enacted by the authority aforesaid, That the said commissioners, or the major part of them, shall have full power and authority by themselves, their agents, servants, hirelings and workmen to clear, scour, open, enlarge, straighten or deepen the said river in any part, place or places thereof, which shall appear to them most convenient for opening, making anew or improving the channel and also to cut, blow up, remove or take away all trees, rocks, beds of gravel, sand or mud, weirs, fishing-dams, baskets, pounds, stone or any other impediment or obstruction whatsoever which may or can in any manner hinder, impede or obstruct the navigation of the said river, and to form, make, erect and set up in the said river any dams, pens for water-locks or any other works whatsoever which they shall think most fit and convenient to answer the purposes aforesaid, and to alter, repair or amend the same, as often as it shall be necessary or convenient and also to appoint, set out and make towing-paths or ways for towing, hauling or drawing of boats, vessels or other small craft and rafts of any kind whatsoever in, upon or through the said river, which said paths shall be free and open to all persons whatsoever having occasion to use the same; and from time to time and at all times hereafter to do, execute and perform all and every other matter and thing in the said river necessary or convenient for making, maintaining, supporting and continuing the navigation thereof.

[Section III.] And be it 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 wier, rack, basket, fishing-dam, pound or other device or obstruction whatsoever within the said river, 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 said river; 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, dam, basket, pound

or other device aforesaid, every such person so offending, being thereof legally convicted 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 mainprize, 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.

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

[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 part of the said river 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 of the said justices of the peace out of sessions 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, basket, pound or other device or obstruction aforesaid so 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 or obstruction 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 or obstruction aforesaid so erected, built or set up; 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 confes-

sion 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 or obstruction 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 said 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 the default of any of the said justices, overseers of the highways or persons so summoned:

[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 such weir or weirs, fishing-dams, racks, baskets, pounds or other device or obstruction whatsoever, built, erected, set up, or to be built, erected or set up, within the aforesaid river, 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 or obstructions in any part of the river 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 aforesaid devices or obstructions, to be recovered by a warrant from any of the said justice 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 adjoined to any part of the said river 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 river as shall be adjoining to 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.

And whereas part of the said river Schuylkill divides the counties of Philadelphia and Chester, some doubts have arisen in which of the said counties the offenses committed within the said river shall be tried; for removing of which doubts:

[Section VII.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the person or persons informing, prosecuting or complaining of any of the aforesaid offenses committed within the said river to lay the same to be committed within the said river in the county of Philadelphia or Chester, and the same shall be heard, tried and determined in either of the said counties joining on that part of the river where the offense is committed at his election.

Provided always, nevertheless, That nothing herein contained shall be held, deemed, taken or construed to prevent, prohibit or obstruct the said commissioners from making, erecting or setting up any dams, pens for water-locks or other works or devices in the said river which they shall think necessary to aid, assist or improve the navigation of the same; or by any means whatsoever to lessen, diminish or destroy the powers and

authorities hereinbefore given and invested in them, or to compel or oblige, authorize or empower, any justice or justices, either in or out of their sessions as aforesaid, or any overseer or overseers of the highways or any other person whatsoever, to pull down, destroy or remove such parts of the said dams or other devices aforesaid as shall be deemed and adjudged by the said commissioners necessary and convenient to promote or improve the navigation aforesaid, but all and every such part of the said dams and other devices aforesaid the said overseers and all other persons whatsoever are hereby enjoined and required to suffer the same to remain unmoved, anything hereinbefore to the contrary in any wise notwithstanding.

[Section VIII.] And be it enacted by the authority aforesaid, That the said commissioners shall, once in every year, make report of their transactions in clearing, scouring and rendering navigable the said river to the assembly of this province for the time being, and shall lay before them a faithful and just account of all and every sum and sums of money by them had and received for the clearing the said river and in what manner the same shall be expended and laid out, that the same may be adjusted, settled and allowed.

[Section IX.] And be it enacted by the authority aforesaid, That an act passed in the third year of the reign of King George the Second, entitled "An act to prevent the erecting weirs, dams, &c., within the river Schuylkil,"¹ and the act passed in the eighth year of the same reign, entitled "An act the more effectually to prevent the erecting of weirs, dams, &c., within the river Schuylkil,"² and all and every article, clause and thing in the said acts contained, shall be and is hereby declared to be repealed, null and void to all intents and purposes whatsoever.

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 September 26, 1761, Chapter 470; February 21, 1767, Chapter 553; March 9, 1771, Chapter 621; February 26, 1773, Chapter 680; April 6, 1776, Chapter 720; March 14, 1777, Chapter 747; March 24, 1781, Chapter 930; (the two acts of) March 15, 1784, Chapters 1075, 1078; March 28, 1785, Chapter

¹ Passed August 15, 1730, Chapter 318.

² Passed August 17, 1734, Chapter 335.

1146; February 27, 1786, Chapter 1200; March 9, 1786, Chapter 1211; March 3, 1788, Chapter 1334; September 28, 1789, Chapter 1446; April 13, 1791, Chapter 1569; April 11, 1793, Chapter 1692; April 8, 1799, Chapter 2063; March 1, 1800, Chapter 2113; March 25, 1805, P. L. 160; April 11, 1807, P. L. 276; April 1, 1823, P. L. 262; April 8, 1864, P. L. 350; May 24, 1871, P. L. 275; April 2, 1872, P. L. 729; April 28, 1873, P. L. 82, 886; June 3, 1878, P. L. 160; June 11, 1879, P. L. 163; May 23, 1887, P. L. 165; May 22, 1889, P. L. 267; April 15, 1891, P. L. 19; May 12, 1891, P. L. 52; June 24, 1895, P. L. 241; (the three acts of) June 25, 1895, P. L. 286, 295, 299.

CHAPTER CCCCLXVI.

AN ACT TO ENABLE CERTAIN TRUSTEES TO SELL LANDS IN THE COUNTY OF PHILADELPHIA SETTLED IN TRUST FOR THE USE OF THE MINISTER OF OXFORD CHURCH, AND TO RECEIVE THE VOLUNTARY DONATIONS OF THE INHABITANTS AND WITH THE MONEY ARISING THEREFROM TO PURCHASE OTHER LANDS TO BE SETTLED TO THE SAME USE.

Whereas Solomon Hall, of the county of Philadelphia, tailor, being seized in fee or possessed of a certain tract or parcel of land situate in the township of Oxford in the same county, containing sixty-three acres, did, by his indenture bearing date the fifteenth day of June, in the year of our Lord one thousand seven hundred and twenty-four, for the consideration therein mentioned, grant and convey the same tract of land with its appurtenances unto Josiah Harper and Toby Leech, the younger, and their heirs forever, in trust and for the use and benefit of the minister of the established church at Oxford forever. And whereas the said Josiah Harper and Toby Leech, being seized or possessed as aforesaid, did, by their indenture bearing even date with the deed above recited, covenant, grant and agree to and with the Reverend Robert Weyman, minister of the said church, and his successors therein forever that they, the said Josiah Harper and Toby Leech and the survivor of them and the heirs and assigns of such survivor should and would stand and be seized of and in all the said tract of land, with its appurtenances, to and for the use of the said Robert Weyman during