

1771. aforesaid, at any place within this province, carry about, or have in his possession at the same time, any oysters, together with clams or other articles, offering such clams or other articles for sale, every such person or persons so offending shall forfeit such clams or other articles, together with such oysters; and the Clerk of the market, or any Overseer of the poor or Constable of the city of Philadelphia, or any Overseer of the poor or Constable of the borough, district or township respectively, in which such clams or other articles shall be so offered to sale, shall immediately seize the same, together with such oysters, for the use of the poor of such city, borough, district or township.

person, having oysters in his possession at the same time, to be forfeited.

Persons aggrieved may appeal, &c.

III. *Provided always, and be it further enacted*, That if any person or persons shall think him, her or themselves, aggrieved by such seizure as aforesaid, he, she or they may appeal to any Justice of the Peace in and for the city, borough or county, where such seizure shall be made, who is hereby empowered to hear and finally determine the same; and if thereupon it shall be adjudged by such Justice, that the seizure was legally made, the person or persons so appealing, shall further forfeit ten shillings, for the use of the poor of the city, borough, district or township respectively, in which such seizure shall be made.

IV. *And be it further enacted*, That the act entitled *An Act to prevent the destruction of small rock-fish, and taking of oysters, and bringing them into this province out of season*, passed in the sixth year of his present Majesty's reign, be, and the same is hereby, repealed and made void.

Passed 9th March, 1771.—Recorded A. vol. V. page 403. (h)

(h) By an act passed January 26th, 1802, (chap. 2214,) so much of the act in the text, as relates to the offering for sale any rock-fish under a certain described size therein mentioned, is repealed.

CHAPTER DCXXI.

An ACT to regulate the fishery in the river Schuylkill.

WHEREAS it hath become a common practice to fish in the lower parts of the river Schuylkill with divers seines or nets in the same pool or fishing-place, so that shad and other fish are, in a great measure, prevented from running up the same to the places where they usually spawn, whereby their numbers are too much diminished, and the inhabitants of this province, dwelling near the upper parts of the said river, are deprived of a reasonable proportion of such fish: For remedy whereof, *Be it enacted*, 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 river, 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 river, or shall be aiding or

Penalty on persons using more than one seine or net in twenty-four hours in one pool or fishing-place, &c.

assisting therein, within the term 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 authorised 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 Overseers of the poor of the township where such offender shall reside, to the use of the poor thereof.

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II. And in order to ascertain what shall be deemed and held to be a pool or fishing-place, within the meaning of this act, *Be it enacted*, That so much of the said river as extends from one side or bank to the other side or bank thereof, and from the place where seines or nets have been usually 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.

What to be deemed a pool or fishing-place.

III. *And be it further enacted*, That where two or more persons residing opposite to each other near the said river, on different sides thereof, may have suitable landing-places on their respective shores, or on an island opposite thereto, for taking seines or nets out of a 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, the person or persons possessing such landing-place as aforesaid, who shall reside near one side of the said 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 landing-place, as aforesaid, who shall reside near the other side of the said 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 for the season.

Persons residing opposite to each other, having suitable landings for drawing seines, &c. to fish alternately, &c.

IV. *Provided always nevertheless*, That any person or persons may fish with hoop-nets in the said river, as if this act had never been made.

Hoop-nets not prohibited.

V. *Provided always, and be it further enacted*, That if any person or persons shall cast, draw or make use of, any seine or net for catching fish in the said river, or shall be aiding or assisting therein, between the sun's setting on a Saturday, and the sun's rising on the Monday next following, every such person, being thereof convicted in manner aforesaid, shall forfeit the sum of five pounds, to be paid to the Overseers of the poor of the city, borough, district or township, where such offender shall reside.

Penalty on persons drawing a seine between sunset on Saturday and sunrise on Monday.

VI. *And be it further enacted*, That this act shall continue in force for five years, and from thence to the end of the next sitting of Assembly, and no longer. (i)

Limitation of this act.

Passed 9th March, 1771.—Recorded A. vol. V. page 420.

(i) This act having expired by its own limitation, was revived, chap. 736; and its operation extended as low down the Delaware as Province-Island. It

is to be remarked, however, that by a preceding act of the 6th of April, 1776, (chap. 718,) the act in the text had been continued under the authority of the

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provincial government, for the term of seven years; and a penalty imposed for catching shad in the Schuykill subsequent to the 20th of May.

For general reference to the acts respecting the river Schuykill, see ante. chap. 465, pa. 235. (*Note to former edition.*)

CHAPTER DCXXIII.

An ACT for regulating the fishery in the rivers Codorus and Conewaga, in York county. (k)

WHEREAS it hath been represented to the Assembly by petition from a number of the freeholders of the county of York, that live on or near the rivers Codorus and Conewaga, that their ancestors, themselves, and the poor adjacent inhabitants, have formerly enjoyed great advantages from the fishery in the same rivers; 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 rivers, to the almost total obstruction of the fish running up the same: **Wherefore**, for remedying the mischiefs aforesaid, *Be it enacted*, 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 Codorus, below the forks thereof, or Conewaga, below the mouth of Bermudian creek, shall make, open and leave the space of five feet in breadth, near the middle of said dam, at least fourteen inches lower 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 four feet down the stream, and of the breadth aforesaid, to form a slope for the waters 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 offence, or suffer twelve months imprisonment, without bail or main-prize; 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.

II. *And be it further enacted*, That if any person or persons whatsoever, from and after this act shall be in force, shall erect,

(k) So much of this act, as prevented the erecting platforms to certain dams, was suspended till the 5th of

March, 1793, (chap. 1478.) (*Note to former edition.*)

Manner of erecting mill-dams below the forks of Codorus, or on Conewaga, below the mouth of Bermudian creek, &c.