

1785.

CHAPTER MCXXXV.

An ACT to regulate the fishery in the river Schuylkill.

[See vol. 1.
cha p. 465, pa.
236, and the
notes thereto
subjoined.]

SECT. I. 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, conducing 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:

SECT. II. 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:

SECT. III. 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:

SECT. IV. *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 mainprize: And the better to ascertain what shall be deemed and understood to be a pool or fishing place, within the meaning of this act: (p)

Times for
fishing limit-
ed.

Penalty for
disobedi-
ence.

(p) The penalties recovered under this act were made double the sum in every case, and appropriated, one half to the informer, and the other half to the commissioners for clearing the

river, by the act of the 9th of March, 1786, which allows an appeal from the decision of the Justice to the Court of Quarter Sessions. (Note to former edition.)

SECT. v. *Be it therefore enacted by the authority aforesaid, 1785.* 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 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.

What shall be deemed a pool or fishing place.

SECT. vi. *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 any wise be construed to prevent or deprive any such persons 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, any thing in this act contained to the contrary notwithstanding.

Proviso in favour of owners of lands adjoining to any pool or fishing place.

SECT. vii. *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 conveniencies 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.

Owners of wharves on opposite sides of the river may fish alternately.

The manner and time of doing so.

SECT. viii. *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 mainprize. (g)

Penalty on fishing at certain prohibited times.

SECT. ix. *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

Seines and nets of offenders, who shall abscond, forfeited.

(g) The period of hauling seines extended to the time between the sun's setting on Saturday evening. See the act of the 9th of March, 1786. (Note to former edition.)

1785. **Proceedings thereon.** 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.

Hearing and appeal allowed to the party.

SECT. X. *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.

See Chap. 1837.]

SECT. XI. 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,

Proceedings against offenders in the night.

SECT. XII. *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,

Periods of fishing prescribed at different places.

SECT. XIII. *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 Read-

ing, 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. (r)

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SECT. XIV. *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 Schulykill navigable, and for the preservation of the fish in the said river," shall be, and the same is hereby repealed. (s)

Repeal of
part of a
former law.

Passed 28th March, 1785.—Recorded in Law Book No. II. page 484.

(r) The seines are not to be drawn, between the mouth of the river and the lower Falls, five miles from the city of Philadelphia, after the 20th of May; nor between the said Falls and the Black Rock, near the mouth of French creek, after the 1st of June in every year; nor in any part of the river, from the 1st

of June to the 1st of July annually.— See the act of the 9th of March, 1786. (Note to former edition.)

(s) The act here referred to was passed on the 24th of March, 1781, chap. 919, vol. 1, page 516. (Note to former edition.)

CHAPTER MCXXXVI.

An ACT for vesting in the American Philosophical Society, held at Philadelphia, for the promoting useful knowledge, a certain lot of ground, being part of the State-house square. (t)

[See vol. 1,
page 502.
The Society
incorporated.]

Passed 28th March, 1785.—Private Act.—Recorded in Law Book No. II. page 484.

(t) By this act a lot of ground, being a part of the state-house square, was vested in the American Philosophical Society, with a proviso, that it should be applied to no other use, but that of erecting buildings for the accommodation of the society; but they were vest-

ed with power to lease the premises, under some qualifications, by an act of the 17th of March, 1786.—See ante, chap. 968, where the estate of the Silk Company is transferred to this society. (Note to former edition.)

CHAPTER MCXLIV.

An ACT to authorize the appointment of new commissioners, to execute the act of Assembly, entitled "An act declaring the river Susquehanna, and other streams therein named, public highways, for improving the navigation of the said river and streams, and for preserving the fish in the same," and to extend the powers of the said commissioners to all parts of the same river within this state.

SECT. I. WHEREAS divers of the commissioners named in the act of Assembly, entitled "An act declaring the river Susque-

[See vol. 1,
chap. 465,
page 231, and