

TITLE XVI.
FISHERIES.

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CHAPTER 1.

RESPECTING NON-RESIDENTS.

1. Non-residents not permitted to fish, | 2. Penalty, and how recovered.
 " Unless owners or tenants.

An Act concerning fisheries.

HAR. 156.

Passed December 27, 1826.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall not be lawful for any person or persons, not resident citizens of this state, to draw or use any net or seine for the purpose of taking or catching fish in any of the bays, flats, rivers or waters within the jurisdiction of this state; and every person so offending shall forfeit and pay for every such offence the sum of thirty dollars, to be recovered by action of debt, with costs, by any person who shall prosecute for the same, in any court of record having cognizance thereof, the one moiety thereof to the use of the prosecutor, and the other moiety to be paid to the county collector, for the use of the county in which the offence was committed; *provided always nevertheless*, that nothing in this act shall be so construed as to affect the right or privilege of any owner or owners, tenant or tenants, not resident in this state, from fishing upon or opposite to his, her, or their own shore in this state, or to prevent any resident owner or tenant from employing what hands he may think necessary to carry on the business of his or their fisheries; *provided also*, that nothing in this act contained shall relate to, or in any wise affect the fisheries on the waters of the river Delaware.

None but resident citizens of New Jersey may fish in its waters.

Penalty.

Provisoes.

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 CHAR. 2.

Penalty, how
 recovered.

2. *And be it enacted*, That in any action for the recovery of the above penalty, the same may be commenced by warrant in the court for the trial of small causes, and proceeded in as in other cases when the same is commenced by warrant, any law, usage or custom to the contrary notwithstanding.

CHAPTER 2.

OF THE DELAWARE.

3. What deemed a pool.
5. Wears, racks, etc., prohibited.
6. Wing-dams unlawful.
8. Collector's duty.

9. Appeal to sessions.
10. Sweep of the seines.
11. Anchoring on fishing grounds prohibited.
12. When act to take effect.

REV. 541. An Act to regulate the fisheries in the river Delaware, and for other purposes.

Passed November 26, 1808.

CH. 3, § 16.

1, 2. Repealed November 28, 1822.

Pool or fishing place.

3. *Be it enacted*, That from the place or places where seines or nets are usually thrown in, to the place or places where they have been usually taken out, or from the place or places where they may hereafter be thrown into the water, to the place or places where they may be taken out, shall be deemed and held to be a pool or fishing place, within the meaning of this act.

CH. 3, § 16.

4. Repealed November 28, 1822.

Wears, racks, etc., unlawful.

5. *And be it enacted*, That if any person or persons whatsoever, shall erect, build, set up, repair or maintain, or shall be aiding, assisting or abetting in erecting, building, setting, repairing or maintaining any wear, rack, basket, fishing dam or pound, or shall make use of any swab or bush-net, or shall fix, fasten, set, or otherwise make use of any gilling-seine or drift-net, anchor any engine or make use of any device whatsoever, except fishing with sweeping seine, hooks and lines, darts, scoop-nets and eel-baskets, for taking fish in the river Delaware, within the limits aforesaid, every person or persons so offending, and being legally convicted thereof by the oath or affirmation of one or more credible witness, or by his or their own confession, before any court having competent jurisdiction where such offender may be apprehended, shall forfeit and pay the sum of one hundred dollars, together with costs of suit, to be recovered and applied as aforesaid.

Penalty.

Wing-dams unlawful.

6. *And be it enacted*, That if any person or persons whatsoever, shall erect, build, set up, repair or maintain, or shall be aiding or

assisting in erecting, building, setting up, repairing or maintaining any wing-dam, or placing any other obstruction injurious to the navigation of said river as aforesaid, except such mill-dams as have been, or hereafter may be put up in pursuance of any special act of the legislature, and being thereof legally convicted before the court of quarter sessions of the county where the offence has been committed, shall forfeit and pay the sum of one hundred dollars, to be paid to and applied for the use aforesaid; *provided always*, that wherever the land of any person along the said river, is situated so low as to make it difficult to keep a fence, in such case they shall be allowed the privilege of making a wall or rack sufficient to answer the purpose of preventing cattle from going round, with making and providing a sufficient passage near the shore, at least eleven feet wide, sufficiently deep for boats to pass through, until the water is so low as to go conveniently round the said wall.

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Penalty.

Proviso.

7. Repealed by act, 20th January, 1814.

REV. 569.

8. *And be it enacted*, That the collector of each respective county adjoining the river Delaware, within the limits aforesaid, shall every year, before they settle their accounts, inquire of the justices of the peace of the several townships adjoining the river Delaware, within their county, to know whether they have any money in their hands arising from such forfeitures as aforesaid; which money, if any there should be, they are hereby authorized to receive, with giving the magistrate a receipt and their respective counties credit for the same. And if either of the collectors, from his or their own knowledge, or the information of any other person, shall have knowledge of any transgressions against this act, which either of the aforesaid constables have either neglected or refused to prosecute agreeably to the directions of this act, he or they are hereby strictly enjoined and required, under the penalty of twenty-five dollars, immediately to give information to one of the justices of the peace of the respective township, borough or district, which said justice is hereby enjoined and required forthwith to proceed against any such delinquent, agreeably to the directions of this act.

Collector's
duty.

Penalty.

9. Repealed by act, 20th January, 1814.

REV. 569.

Provided always, That any person or persons who shall be convicted under this act, before any justice of the peace, he or they shall have a right to appeal to the court of quarter sessions, within ten days after such conviction.

10. *And be it enacted*, That if any person or persons whosoever, shall cast or lay out, or cause to be laid out, any seine or net into the river Delaware, within the jurisdiction of this state, beyond the right angle of the shore, and where his line strikes the river at low water mark a going out, or suffer it to swing beyond the right

Sweep of the
seines.

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CHAP. 2.

Penalty for
extending it.

angle of the shore of the river, and where his line strikes it at low-water mark a coming in, (except by unavoidable accident) every person or persons so offending, and being thereof legally convicted, shall forfeit and pay the sum of twenty-five dollars, for each and every such offence, with costs and damage, to be paid to the person against whose land such trespass shall be committed, if he shall sue for the same within six months after such trespass has been committed.

TITLE III.
CH. 5.

No vessels
or rafts to
anchor on
fishing
grounds.

Penalty.

And whereas it is provided by the agreement of the commissioners appointed by the legislature of this state and of the state of Pennsylvania, to divide the islands and settle the line of jurisdiction in the river Delaware, that the legislature of each of the states should have and exercise the right of regulating and guarding the fisheries on the said river annexed to their respective shores, in such manner that the said fisheries may not be unnecessarily interrupted during the season of catching shad, by vessels riding at anchor on the fishing ground, or by persons fishing under a claim of a common right to the said river—therefore,

11. *Be it enacted*, That if any ship, vessel or raft, shall, during the season of catching shad in the Delaware, come to anchor at the same, on any fishing ground where shad are usually taken, and shall not immediately be removed from the said fishing ground, if such removal can be done with safety, on application for that purpose by the owner or occupier of such fishery, to the captain, pilot, or person having the command of the said ship, vessel or raft; or if any ship, vessel or raft be wilfully run on shore on any such fishing ground, then such captain, pilot, or person having the command as aforesaid, shall forfeit and pay sixty dollars, to be recovered by action of debt, with costs, by the said owner or occupier.

And whereas the legislature of the commonwealth of Pennsylvania have enacted a law entitled, "An act to regulate the fisheries in the river Delaware, and for other purposes," dated the eighth day of February, in the year of our Lord one thousand eight hundred and four, a copy of which has been presented to the legislature of this state for mutual agreement—therefore,

This act not
in force till
ratified by
Pennsylvania.

12. *Be it enacted*, That his excellency the governor of this state, is hereby directed to transmit an attested copy of this law to the legislature of the commonwealth of Pennsylvania, and so soon as they shall comply with the amendments and additions herein contained, then this shall be and is hereby ratified and confirmed.

13. Repealer.

CHAPTER 3.

SUPPLEMENTAL ACT.

- | | |
|-------------------------------------|------------------------------|
| 1. Time for fishing. | 10. Punishment of offenders. |
| 4. Fishery to be entered, and bond. | 11. Duty of collectors. |
| 5. Penalty for fishing without. | 12. How suit brought. |
| 6. Who may use gilling-seine. | 13. Additional penalties. |
| 7. When, and of what kind. | 14. Penalty for resisting. |
| 8. Duty of constables. | 15. How penalties recovered. |
| 9. Penalty for neglect. | 16. When act to take effect. |

Adopted by Pennsylvania, (except proviso to sec. 1) January 29, 1822.

An Act further supplementary to an act entitled, "An act to regulate the fisheries in the river Delaware, and for other purposes," passed the twenty-sixth of November, one thousand eight hundred and eight.

Passed November 28, 1822.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That from and after the passing of this act, if any person or persons, whomsoever, shall cast, draw, or in any wise make use of any seine or net in the river Delaware, within the jurisdiction of this state, from sunset on Saturday until sunrise on Monday of each and every week, he, she, or they so offending shall forfeit and pay the sum of two hundred and fifty dollars, together with costs of suit, for each and every offence; *provided*, that nothing in this section contained, shall prevent the owners or occupiers of eddy fisheries above the tide water, from beginning to fish at twelve o'clock on Sunday night.

2. Repealed March 22, 1845.

CH. 5.

3. Supplied February 15, 1833.

CH. 4.

4. *And be it enacted*, That the owner or possessor of every fishery upon the river Delaware, within the jurisdiction of this state, his tenant or agent, shall, before he occupies the same as a fishery, give to the clerk of the court of common pleas of the county wherein such fishery or the greatest part thereof may be, a description in writing, of his, her, or their pool or fishing place, designating the beginning and ending point, and the extent thereof on the river shore, together with the name of the township and county in which it is situated, and the number of men generally employed in fishing the same, and shall also enter into bond, with one or more sufficient sureties, to the clerk of the said county, and his successors in office, in the penal sum of five hundred dollars, conditioned for the payment of all fines and penalties created or given by this act, or the act or acts to which this is a supplement, that shall and may be incurred and recovered for any infraction of, or

Possessor of fishery to give a description of the same to the county clerk in writing, and also a bond.

Time for fishing prescribed. See CH. 4, § 1.

Penalty. Proviso.

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Bond to be
filed in the
office of the
clerk.

offence against the said act or acts, committed at such fishery, by his, her, or their command or permission, during his, her, or their occupying the said fishery, personally or by tenant; which said description and bond, it shall be the duty of said clerk to file in his office, and give a certificate thereof to the person producing the same, on being paid fifty cents; which said bond shall be a security for all such penalties as may be recovered against the said owner or possessor, tenant or agent, during the time he, she, or they may occupy the same; and in case of a recovery against such owner or possessor, tenant or agent, for any penalty given by the said act or acts, and the nonpayment thereof, it shall be the duty of the said clerk to cause the said bond to be prosecuted to judgment, and apply the proceeds thereof to the payment or discharge of the said recovery; and if any person or persons shall fish in any fishery so entered as aforesaid, or draw, cast, or otherwise make use of any seine or net within the same, or in the said river, opposite the river shore, included within the bounds thereof, without permission, in writing, from him, her, or them so owning, possessing, and entering the same, first had and obtained, he or they so offending, shall forfeit and pay the sum of two hundred and fifty dollars, together with the costs of suit, for each and every offence, to be sued for and recovered by the person or persons so owning, possessing, and entering the said fishery, in any court of competent jurisdiction.

Penalty for
noncompliance.

Penalty for
violating the
provisions of
the preceding
section.

5. *And be it enacted*, That if any person or persons shall cast, draw, fish with, or otherwise make use of any seine or net in the river Delaware, within the jurisdiction of this state, and within the limits of the concurrent jurisdiction of this state and the state of Pennsylvania, between the first day of April and the tenth day of July, in each and every year, without having first entered his, her, or their fishery as aforesaid, or at any place in the said river Delaware, within the jurisdiction of this state, than at, in, or opposite the shore boundaries of a pool or fishing place, described and entered in the manner prescribed in the preceding section, he or they so offending, shall forfeit and pay the sum of two hundred and fifty dollars, together with the costs of suit, for each and every such offence.

Who may
use a gilling-
seine.

6. *And be it enacted*, That it shall and may be lawful for any owner or owners, possessor or possessors, of any shore on the river Delaware, within the jurisdiction of this state, below the Trenton bridge, having entered the same as a fishery, and given bond in the manner prescribed by the fourth section of this act, to fish the same in front and opposite the bounds thereof, with a sweeping or shore seine or net, or a gilling-seine or drift-net; *provided always*, that if

Proviso.

he, she, or they use a gilling or drift net, the mesh thereof shall not be larger than six inches and a half, and the said net shall not be more than sixty fathoms in length, and the boat or boats used at such gilling-seine or drift-net fishery shall have the name or names, and place or places of abode, of the person owning or entering the said fishery, painted in large legible capital letters, on the gunwale thereof.

7. *And be it enacted*, That if any person or persons shall be found making use of a gilling-seine or drift-net in the river Delaware, within the jurisdiction of this state, and within the limits of the concurrent jurisdiction of this state and the state of Pennsylvania, without having first entered his gilling-seine or drift-net fishery, and given bond, as aforesaid, or beyond the angles of the shore boundaries of the said fishery so entered, or with a mesh larger than six inches and a half, or with a net longer than sixty fathoms, between the first day of March, and the tenth day of July, of each and every year, he, she, or they so offending, shall forfeit and pay the sum of two hundred and fifty dollars, together with the costs of suit, for each and every such offence.

8. *And be it enacted*, That the township committee of each township adjoining the said river Delaware, within the jurisdiction of this state, may, every year, at their first meeting after their election, appoint one constable of their respective townships, whose duty it shall be, having taken an oath or affirmation before a justice of the peace of the township in which he resides, that he will, without fear, favour, or affection to any, endeavour to execute this act, and the act or acts to which this is a supplement, according to the true intent and meaning thereof, carefully and diligently to view and inspect the shores of the said river, and the fisheries thereon, in his township, once a week, at least, between the first day of April, and the tenth day of July, in each and every year, to put this act in force, and to cause all offences or transgressions against the same, or the act or acts to which this is a supplement, to be prosecuted agreeably to the directions thereof, for which service he shall be entitled to receive the sum of seventy-five cents per day, to be paid by the collector of the county in which he acts, on proving, by his own oath or affirmation, before some justice of the peace of the township, the number of days engaged in the said service.

9. *And be it enacted*, That if any constable of any township in this state, adjoining the river Delaware, shall neglect or refuse to do and perform the duty enjoined upon him by this act, or the act or acts to which this is a supplement, or to carry the same into effect against any offenders within his own view or knowledge, or

TITLE XVI.
CHAP. 3. upon the information of any credible witness, he shall forfeit and pay, for every such neglect, the sum of one hundred dollars, together with the costs of suit.

Offenders,
how punish-
ed.

10. *And be it enacted*, That if any person or persons shall, by threat, menace, or otherwise, attempt to deter or prevent any constable, collector, or any other person from enforcing or carrying into effect this act, or the act or acts to which this is a supplement, or any part thereof, he or they so offending, shall forfeit and pay the sum of one hundred dollars, with costs of suit, for each and every such offence.

Duty of col-
lectors.

11. *And be it enacted*, That it shall be the duty of the collectors of the several townships adjoining the river Delaware, within this state, to prosecute for any fines and penalties incurred within the limits of their respective townships, under this act, or the act to which this is a supplement, which come to their knowledge by their own view or the information of one or more credible witnesses.

How suit
may be bro't.

12. *And be it enacted*, That in all and every action or suit for any fine or penalty given or created by this act, or the act to which this is a supplement, the person prosecuting shall or may sue by warrant or summons, in case the same is commenced in the court for the trial of small causes, and by *capias ad respondendum* or summons, in case the action is commenced in any other court, any law, usage, or custom to the contrary notwithstanding.

Additional
penalties.

13. *And be it enacted*, That if any person or persons shall be found making use of any boat, seine, net, or other tackling in the river Delaware, within the jurisdiction of this state, contrary to the true intent and meaning of this act, or the act or acts to which this is a supplement, he or they so offending, shall, in addition to the fine and penalties aforesaid, forfeit the boat or boats, seine or seines, net or nets, or other tackling so made use of; and that it shall be the duty of all the sheriffs and constables, and may be lawful for any person or persons, to seize and secure any such boat, seine, net, or other tackling, as aforesaid, and immediately thereafter give information to two justices of the peace of the county where such seizure shall have been made, who are hereby required and empowered to meet at such time and place as they shall appoint for the trial thereof, and hear and determine the same in a summary manner; and, in case the same shall be condemned, it shall be sold by the order, and under the direction of the said justices, who, after deducting all legal costs and charges, shall pay one half of the proceeds of said sale to the collector of the county in which such offence shall have been committed, and the other half to the person who shall have seized and prosecuted the same.

14. *And be it enacted*, That if any person or persons on board any such boat, or in possession of such seine, net or tackling, shall resist any officer or another person or persons in the lawful seizure of the same, then every person so offending shall forfeit and pay the sum of one hundred dollars, together with the costs of suit, for each offence.

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Penalty for
resisting.

15. *And be it enacted*, That all and each of the penalties created, given, or contained in this act, or the act to which this is a supplement, or the other supplementary acts thereto, except such as are given to the party aggrieved, shall be sued for and recovered by action of debt, with costs of suit, in any court of competent jurisdiction, by any person or persons who will sue for the same, one half to the prosecutor or prosecutors, and the other half to the collector of the county, for the use of the county in which such offence shall be committed.

Penalties,
how reco-
vered and
disposed of.

16. Repealer.

And provided also, That no section, proviso, or part of this act shall be considered as valid or operative until the legislature of Pennsylvania shall approve of the same, by enacting a similar section, proviso or act, in whole or in part, and that from and after the passing of such law, such parts hereof as shall be so enacted and approved, shall immediately go into full force and effect.

Proviso.

CHAPTER 4.

FURTHER SUPPLEMENT.

- | | | |
|-----------------------------------|--|------------------------------------|
| 1. Penalty for fishing on Sunday. | | 4. Penalty for other violations. |
| 2. Size of meshes and seines. | | 5. Repealing section. |
| 3. Penalty for unlawful fishing. | | 6. Act to be sent to Pennsylvania. |

Adopted by Pennsylvania, April 3, 1837.

An Act further supplementary to an act entitled, "An act to regulate the fisheries in the river Delaware, and for other purposes," passed the twenty-sixth day of November, eighteen hundred and eight.

HAR. 447.

Passed February 15, 1833.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That from and after the passing of this act, if any person or persons, whosoever, shall cast or lay out any seine or net in the river Delaware, within the concurrent jurisdiction of this state and state of Pennsylvania, from sunset on Saturday until twelve o'clock on Sunday night, of each and every week, he, she, or they so offend-

Penalty for
fishing on
Sunday.

TITLE XVI. ing shall forfeit and pay the sum of one hundred dollars, together
 CHAP. 4. with costs of suit, for each and every offence.

Size of mesh-
 es in seines,
 and times of
 fishing pre-
 scribed.

2. *And be it enacted*, That if any person or persons shall cast, draw, or otherwise make use of any seine or net, of a larger mesh than three inches, for the purpose of catching fish in the river Delaware, within the jurisdiction of this state, below the head of Trenton Falls, between the fifth day of June and the tenth day of July, in any year, or above the head of Trenton falls, of any seine or net of a larger mesh than two inches, between the tenth day of June and the tenth day of July, in any year, he, she, or they so offending shall forfeit and pay the sum of one hundred dollars, together with costs of suit, for each and every offence.

Penalty for
 unlawful
 fishing with
 drift-nets, be-
 tween 1st of
 March and
 10th of July,
 below Trent-
 ton bridge.

3. *And be it enacted*, That if any person or persons shall, at any time hereafter, unlawfully make use of any gilling-seine or drift-net in the river Delaware, within the concurrent jurisdiction of this state and the state of Pennsylvania, below the Trenton bridge, without having first entered his gilling-seine or drift-net fisheries, as required by this act, or the act or acts to which this is a supplement, or beyond the right angles or the shore boundaries of the said fishery so entered, or with a mesh larger than six inches and a half, or with a net longer than sixty fathoms, between the first day of March and the tenth day of July, of each and every year, every person so offending shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding one hundred dollars, or by imprisonment in the county jail, not exceeding three months, or both, at the discretion of the court before which such offender or offenders shall be convicted.

Penalty for
 fishing with
 drift-net,
 within said
 times, in the
 Delaware.

4. *And be it enacted*, That if any person or persons shall unlawfully cast, draw, drift, anchor, stake, or otherwise make use of any gilling-seine or drift-net, for the purpose of catching fish, in the river Delaware, within the concurrent jurisdiction of this state and the state of Pennsylvania, between the first day of March and the tenth day of July, in each and every year, every person so offending shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, not exceeding one hundred dollars, or by imprisonment in the county jail, not exceeding six months, or both, at the discretion of the court before which such offender or offenders shall be convicted; *provided*, that this act shall not subject to conviction and punishment any person or persons who have been subjected to a prosecution for a penalty, as provided for in the seventh and eighth sections of the act to which this is a supplement.

Proviso.

Former acts
 repealed.

5. *And be it enacted*, That all the acts and parts of acts which come within the purview of this act, and are contrary to the pro-

visions of this act, be and the same are hereby repealed; *provided*, TITLE XVI.
CHAP. 3. that the said repeal shall in no wise affect any rights acquired under the act or acts so repealed, nor invalidate nor make void any proceedings legally had or done, or commenced under the same; but the same shall be prosecuted to judgment and execution, as though the said act or acts were not repealed; *and provided also*, that no section, proviso, or part of this act shall be considered as valid or operative until the legislature of Pennsylvania shall approve of the same, by enacting a similar section, proviso, or act, in whole or in part, and that from and after the passing of such law, such parts hereof as shall be so enacted and approved shall immediately go into full force and effect. Provisoos.

6. *And be it enacted*, That the governor of this state is hereby requested to transmit an attested copy of this act to the governor of the state of Pennsylvania, requesting him to submit it to the legislature of that state. Act to be sent to governor of Pennsylvania.

CHAPTER 5.

ADDITIONAL SUPPLEMENT.

1. Number of nets limited. | 2. Act, when to take effect.

Passed by Pennsylvania, March 19, 1846.

A further supplement to an act entitled, "An act to regulate the fisheries in the river Delaware, and for other purposes," passed November twenty-sixth, eighteen hundred and eight. 1845.
PAMPH. 153.

Approved March 22, 1845.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey, as follows:*

SEC. 1. If any person or persons, whomsoever, shall cast, draw, or otherwise use, for the purpose of catching fish, more than one seine or net in any pool or fishing place in the river Delaware, within the jurisdiction of this state, at any place opposite to or above the lower mouth of Rancocus creek, in the county of Burlington, in the state of New Jersey, and more than two seines or nets in any one pool or fishing place from thence as far down as the concurrent jurisdiction of this state and the state of Pennsylvania extends, within any one term of twenty-four hours, beginning at sunrise, and ending at sunrise the day following, or shall be aiding or assisting therein, contrary to the true intent and meaning of this act or the act entitled, "An act further supplementary to an Number of nets to be used within certain limits. CH. 3.

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CHAP. 6.

act entitled, an act to regulate fisheries in the river Delaware, and for other purposes," passed the twenty-eighth day of November, A. D. eighteen hundred and twenty-two, he, she, or they so offending shall forfeit and pay the sum of two hundred and fifty dollars, together with costs of suit, for each and every such offence; *provided always*, that it shall and may be lawful for any person or persons who, by accident or otherwise, may be deprived of the seine or net first used in any pool or fishing place, in any term of twenty-four hours, to withdraw the same, and substitute another seine or net in the place of the one so withdrawn.

SEC. 2. Repealer.

Act, when to take effect.

SEC. 3. This act shall go into operation on the fourth day of July next, and not before, or at any time thereafter whenever the legislature of the state of Pennsylvania shall approve of the same, by enacting a similar section, proviso, or act, in whole or in part; and the governor of this state is hereby requested to transmit an attested copy of this act to the governor of the state of Pennsylvania, requesting him to submit the same to the legislature of that state.

CHAPTER 6.

ISLANDS AND BARS.

Approved by Pennsylvania, March 27, 1820.

REV. 659. An Act to regulate fisheries on islands and bars in the river Delaware.

Passed February 15, 1819.

Preamble. WHEREAS disputes have arisen and may continue to arise between the owners and occupiers of certain fisheries on islands and bars in the river Delaware, and others occupying fisheries contiguous thereto, along the shores of said river, from the difficulty that exists in many cases of determining the proper limits of their respective fisheries, under the provisions of the act which defines the same—therefore,

Bounds of fishery.

BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That from and after the passing of this act, the right of fishery on all islands and bars in the river Delaware, within the jurisdiction of this state, shall be bounded by lines drawn from the extreme upper and lower points of said islands and bars, at right angles with their general course or bearing, which shall and may be determined by a

base line drawn through the extreme points of said islands and bars at low water mark, and if any person or persons shall cast or lay out, or suffer to drift or swing, any seine or net beyond the right angle range of either extreme point at low water mark of any island or bar in the river Delaware, within the jurisdiction of this state, as aforesaid, or beyond the right angle range of his or their front on said island or bar, without the permission or consent of him or them owning beyond said limits, except by unavoidable accident; any person or persons so offending, and being thereof legally convicted, shall forfeit and pay for each and every such offence, the sum of fifty dollars, to be sued for and recovered in any court having competent jurisdiction thereof, with costs of suit, to be recovered by the person against whose fishery or right of fishery such trespass shall have been committed; *provided always*, that nothing in this act contained shall be so construed as to prevent any owner or occupier of any fishery, on any island or bar in the river Delaware, casting or laying out any seine or net, or suffering the same to drift or swing, in landing or drawing in, beyond said limits, in all cases where no other fishery is or may be immediately adjoining thereto; *provided also*, that this act shall not be considered as valid or operative until the legislature of the commonwealth of Pennsylvania shall enact a law containing similar regulations.

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CHAP. 7.Penalty for
trespass.When to be
in force.

CHAPTER 7.

OF THE HUDSON.

1. Fishing regulated.

2. Under what penalty.

An Act relative to the fisheries in the waters of the Hudson river, within the limits and jurisdiction of the state of New Jersey.

MAR. 188.

Passed March 5, 1828.

1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for the citizens of this state, to place and set fishing poles in any of the waters of the Hudson river, between the northern boundary of this state and the mouth of Kill Van Kull, to the westward of the middle or midway of the said waters, at any time between the first day of March and the tenth day of June; *provided*, that the said fishing poles shall not interrupt or interfere with the ferries across the waters of the said river, and shall not materially impede the navigation of the same.

Fishing, etc.,
regulated.

Proviso.

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CHAP. 8.

Penalty for
violating this
act.

Liab. to in-
dictment.

2. *And be it enacted*, That it shall not be lawful for any person or persons to set or place any such fishing poles at an earlier period, or for any person or persons placing or setting such poles, pursuant to the first section of this act, to permit the said poles to remain placed or set in the waters of the said river at a later period of the year than is for that purpose specified in this act; and every person or persons offending against the provisions hereof, shall forfeit and pay, for every such offence, the sum of fifty dollars, to be recovered by action of debt, with costs of suit, by any person who will prosecute for the same: *and furthermore*, every person so offending shall be liable to indictment for a nuisance.

CHAPTER 8.

CLAMS AND OYSTERS.

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| <ul style="list-style-type: none"> 1. Beds, when not to be raked. 2. Penalty for using dredges. 3. Justices to issue warrants. 4. When oysters not to be sold. 5. Penalty for gathering. 6. Vessels not to carry dredges. 7. Nonresidents not to gather. 8. How actions commenced. 9. How offenders proceeded against. 10. Penalty for resisting officers. 11. Who may plant and protect, | <ul style="list-style-type: none"> 12. Penalty for breaking fences. 13. Oysters, how taken in Navesink. 14. Planting, in Atlantic. 15. Penalty for taking. 16. Planting, in Newark bay, etc. 17. Penalty for taking. 18. Where setting stakes may be omitted. 19. Time for taking, in certain counties. 20. Old shells not to be removed. 21. Penalty for selling small clams. |
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An Act for the preservation of clams and oysters.

REV. 757.
HAR. 46, 56,
124, 143, 159.

1845.
PAMPH. 85,
211, 225.
1846.
PAMPH. 179.

Beds not to
be raked at
certain times

Revision....Approved April 14, 1846.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That from and after the first day of May until the first day of September, yearly and every year, no person, under pretence of taking clams or shell-fish, or under any other pretence whatsoever, shall rake on any oyster bed in this state, or gather any oysters or shells on any banks or beds within the same; and in case any person shall so do, whether oysters be taken or not, he shall for every offence forfeit and pay ten dollars, to be recovered, with costs, by action of debt, by any person who shall prosecute for the same in any court of record in this state having cognizance of that sum, one moiety thereof to the use of the prosecutor, and the other moiety to the county collector, for the use of the county in which the offence was committed; *provided*, that nothing in this section shall be so construed as to prohibit any person or persons from taking oysters from beds planted out by him or them pursuant to this law.

2. *And be it enacted*, That in case any person residing in or without this state, shall at any time hereafter rake for or gather oysters in any of the rivers, bays, or waters of this state with a dredge, or instrument so called, or shall be on board of any canoe, boat, or vessel employed in raking with such implement, such person so offending shall forfeit and pay the sum of fifty dollars, to be recovered in the manner and for the use mentioned in the next preceding section; *provided*, that this and the sixth sections shall not extend, so far as regards persons residing in this state, to the Delaware bay.

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Penalty for using dredges.

Proviso.

3. *And be it enacted*, That it shall be the duty of every justice of the peace, upon his own view or the information of any person on oath or affirmation, to issue his warrant to one or more of the constables in his county, commanding him or them to require such and so many persons as he or they deem necessary to aid and assist him or them in apprehending every person offending against either of the preceding sections, in any of the bays, rivers, or waters of this state, and forthwith to bring such offender, when apprehended, before the said justice, or any other justice of the peace of said county, to be proceeded against in the manner herein before directed.

Justices of the peace to issue warrant, etc.

4. *And be it enacted*, That if any person shall hereafter sell, or offer for sale, oysters, in any part of this state, between the first day of May and the first day of September, such person shall, for every such offence, forfeit and pay five dollars, to be recovered and applied in manner directed in and by the first section of this act.

Penalty for offering oysters for sale at certain seasons.

5. *And be it enacted*, That if any person shall at any time hereafter rake or gather oysters in any of the rivers, bays, or waters of this state, for the purpose of burning or converting them into lime, or for the purpose of conveying them to any of the landings to be used in the manufacture of iron in any of the furnaces in this state, or shall land them on any bank or landing for either of the purposes aforesaid, every person so offending shall forfeit and pay fifty dollars for each and every offence, to be recovered and applied in manner directed by the first section of this act.

Penalty for gathering oysters for lime.

6. *And be it enacted*, That no canoe, scow, boat, or vessel, employed in navigating any of the waters, bays, or rivers of this state, shall have on board of the same any instrument called a dredge, for catching or raking oysters or shell-fish; and the master or owner or owners of every such canoe, scow, boat, or vessel, that shall have on board of the same any such instrument, shall forfeit the sum of fifty dollars, to be recovered in the manner and for the use mentioned in the first section of this act.

Vessels not to carry dredge.

7. *And be it enacted*, That it shall not be lawful for any person

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CHAP. 8.

Nonresidents not to gather oysters, clams, etc.

who is not at the time an actual inhabitant and resident of this state, and who has not been for six months next preceding an actual inhabitant or resident as aforesaid, to rake or gather clams, oysters, or shell-fish, either on his own account and benefit or on account and benefit of his employer, in any of the rivers, bays, or waters of this state, on board of any canoe, flat, scow, boat, or other vessel; and every person who shall offend herein shall forfeit and pay twenty dollars, to be recovered and applied in the manner directed by the first section of this act; and the said canoe, flat, scow, boat, or other vessel, used and employed in the commission of such offence, with all the clams, oysters, clam-rakes, tongs, tackle, furniture, and apparel, shall be forfeited, and the same seized, secured, and disposed of, in the manner prescribed in the ninth and tenth sections of this act.

Actions under this act, how commenced.

8. *And be it enacted*, That any action under the first, sixth, or seventh sections of this act, may be commenced by warrant in the court for the trial of small causes, and be proceeded in as in other cases when the same are commenced by warrant, any law, usage, or custom to the contrary notwithstanding.

Offenders, how proceeded against.

9. *And be it enacted*, That it shall be the duty of all sheriffs and constables, and may be lawful for any other person or persons, to seize and secure any such canoe, flat, scow, boat, or other vessel as aforesaid, and immediately thereupon give information thereof to two justices of the peace of the county where such seizure shall have been made, who are hereby empowered and required to meet at such time and place as they shall appoint for the trial thereof, and hear and determine the same; and in case the same shall be condemned, it shall be sold by the order and under the direction of the said justices, who, after deducting all legal costs and charges, shall pay one half of the proceeds of said sale to the collector of the county in which such offence shall have been committed, and the other half to the person who shall have seized and prosecuted the same.

Penalty for resisting officers.

10. *And be it enacted*, That if any person or persons, on board of any such canoe, flat, scow, boat, or other vessel aforesaid, shall refuse and not suffer to enter the same, or resist before or after entering, any of the said officers or other person or persons seizing the same, or otherwise resist them, or any of them, in the lawful seizing of the same, then every person so offending shall forfeit and pay the sum of thirty dollars, to be recovered and applied in manner directed by the first section of this act.

Owners of marsh, etc., may plant clams, oysters, etc.

11. *And be it enacted*, That it shall be lawful for any person or persons owning marsh or meadow in this state, within the boundaries of which there shall be creeks, ditches, or ponds wherein oys-

ters do or will grow, and where such creeks or ditches do not lead to any public landing, to lay or plant clams or oysters therein, for the use and benefit of such owners, and for the preservation of which to erect a fence, hang or affix gates or locks across said creeks or ditches, to prevent any person or persons from entering the same.

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12. *And be it enacted*, That if any person be found with any craft, boat, or raft, above or within the aforesaid fences, gates, or locks, without leave from the owner or occupant of any creek, ditch, or pond, fenced, gated, or locked as aforesaid, wherein clams or oysters may be laid or planted, or shall in any way break or destroy such fence, gate, or lock, he, she, or they so offending shall severally forfeit and pay, for each and every offence, the sum of fifty dollars, to be recovered by action of debt, with costs, in any court having cognizance thereof, by any person who shall prosecute for the same, one half to the use of the owner or occupant of such creek, ditch, or pond, and the other half to the person who shall sue for the same; *provided*, that nothing herein contained shall be so construed or understood as to obstruct or prevent the free navigation of any thoroughfare, creek, or channel leading from or out of any of the bays or principal waters to any other bay or principal water, or to any accustomed landing place in this state, any thing herein before contained to the contrary notwithstanding.

Penalty for
breaking
down fences,
etc.

13. *And be it enacted*, That it shall not be lawful for any person or persons to rake or take with tongs, or otherwise gather or carry away, any oysters, other than by wading in and picking up by hand the same, within the following bounds in the river commonly called or known by the name of the North or Navesink river, lying within the county of Monmouth, and dividing the township of Shrewsbury from the township of Middletown, above a direct line from the store-house of Eseck White, on the Shrewsbury side of the river, to the dwelling-house of Thomas Layton, on the Middletown side of the river aforesaid; and in case any person or persons shall be found offending against this prohibition, he, she, or they so offending shall forfeit and pay for every such offence the sum of ten dollars, to be recovered in an action of debt, with costs, before any justice of the peace in the county of Monmouth, by any person who shall sue for the same, the one half to the use of the prosecutor, and the other half to be paid to the county collector, to and for the use of the county.

Oysters, how
taken in Na-
vesink river.

14. *And be it enacted*, That it shall and may be lawful for any person or persons owning flats or coves along the shores of the tide-waters in the county of Atlantic, between the Great Eggharbour and Little Eggharbour rivers, inclusive of the shores of so

Owners of
flats between
G. and L.
Eggharbour
rivers may
plant oysters

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CHAP. 8.

much of the said rivers as lie within the said county of Atlantic, to mark out, by fixing stakes across or around the same, at the distance of two rods from each other, and of such length as to be at least two feet above the ordinary high water, and plant or lay clams, oysters, or other shell-fish within or above the same; *provided*, said stakes shall not include any natural oyster beds always covered with water beyond low water mark; *and provided also*, it shall not be lawful to stake out beyond the ordinary low water mark, nor injure any navigation publicly used.

Penalty for taking oysters without permission.

15. *And be it enacted*, That if any person or persons shall gather or take away any oysters or clams, above or within the line of stakes aforesaid, without permission first had or obtained from the owner or owners, occupant or occupants, of the flats or coves so staked in, he, she, or they so offending shall forfeit and pay, for each offence, the sum of twenty dollars, to be recovered and applied in manner directed by the twelfth section of this act, and shall moreover be liable to an action at the suit of the owner or owners, occupant or occupants, for his, her, or their damages.

Owners of lands along Newark bay, etc., may plant clams, oysters, etc.

16. *And be it enacted*, That it shall and may be lawful for the owner or owners, or any person or persons having a license in writing from the owner or owners of meadow or other lands, which are opposite or contiguous to flats which are at any time bare, or coves, upon or within which flats or coves there have not been heretofore any natural oyster beds, along the shores of such parts of the Newark bay and Staten Island sound as lie within the township of Elizabeth, to plant and lay clams, oysters, or other shell-fish upon, within, or above such flats and coves, and one chain beyond the same; *provided*, the clams and oysters thus planted shall be enclosed and designated by stakes placed beyond them within the prescribed limits, not less than six rods apart, and of such length as to be at least two feet above ordinary high water; *and provided also*, that this section shall not be so construed as to take away or in any wise impair the common rights of citizens to any natural oyster beds which may be embraced by the boundary herein specified.

Proviso.

Penalty for taking oysters within certain limits without permission.

17. *And be it enacted*, That any person or persons who shall gather or take away any oysters or clams upon, above, or within the limits aforesaid, without permission first had and obtained from such owner or owners, person or persons occupying under such owner or owners as aforesaid, shall be liable to the same forfeitures and the like suits for damages, to be recovered and sued for in manner as is directed and provided in the fifteenth section of this act; *provided*, that nothing in this act shall prevent the legislature from the repeal or modification of this and the last foregoing section, at their pleasure.

18. *And be it enacted*, That in coves and places where notorious and plain ranges or landmarks can be erected and established on contiguous shores, whereby the boundaries of planted beds of oysters may be clearly known and distinguished without danger of mistake, and where in such coves or places such notorious or plain ranges or marks on contiguous meadows or shores shall have been erected and established by stakes or other plain monuments, so that they may be plainly known and distinguished without danger of mistake, and due notice thereof being given, that then and in such cases the provisions of the two last foregoing sections in regard to the planting and setting up of stakes, may be dispensed with, in respect to such places as above described.

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CHAP. 8.
Setting up stakes may be omitted in certain cases.

19. *And be it enacted*, That the time within which the taking and vending of oysters is prohibited by the first and fourth sections of this act, is hereby extended to the first day of October, yearly and every year, in the counties of Burlington, Monmouth, and Atlantic only, under the same penalties and regulations as are therein contained; *provided*, that planted oysters may be taken up at any time by the person owning the same.

Time for taking oysters in certain counties.

20. *And be it enacted*, That no person or persons, under any pretence of taking oysters, or under any other pretence whatever, shall take, remove, or carry off from any natural oyster banks or beds, in this state, any old shells, other than such as cannot be removed or separated from the oysters, without injuring the same; and all such shells shall be culled and separated from the oysters, and thrown back again upon the said natural banks or beds; and in case any person or persons shall so take, remove, or carry off from said natural banks or beds, whether oysters be taken or not, without first so separating the old shells from the oysters, he or they shall for every offence forfeit and pay ten dollars, to be recovered, with costs, by action of debt, by any person who shall prosecute for the same, in any court of record in this state having cognizance of that sum, one half thereof to the use of the prosecutor, and the other to the overseer of the poor, for the use of the poor of the township in which the offence was committed, and the canoe, flat, scow, boat, and other vessel, used and employed in the commission of the offence in this section mentioned, shall be liable to seizure, and be applied to the payment of such penalty; *provided however*, that nothing in this act contained shall be so construed as to prohibit any person or persons from taking, removing, or carrying any shells from beds planted out by him or them pursuant to law.

Old shells not to be removed from natural beds.

21. *And be it enacted*, That it shall not be lawful for any person or persons to sell, or offer for sale, by the bushel or otherwise, any small clams which may have been taken in the waters of the county

Penalty for selling clams under certain size taken in Atlantic county.

TITLE XVI. of Atlantic, unless the said clams shall be of such a size that a
CHAP. 8. bushel will not contain more than four hundred; and if any person
or persons shall so sell, or offer for sale, any such clams, four hundred of which will not make a bushel, such person or persons shall for every such offence forfeit and pay ten dollars, to be recovered, with costs, by action of debt, by any person who shall prosecute for the same, in any court of record in this state having cognizance of that sum, one half to the overseer of the poor, for the use of the poor of the township in which the offence shall have been committed, and the other half to the person who shall sue for the same.