

act any person or persons who shall be convicted by his or their own confession or by the oath of one or more creditable witnesses or witnesses before any one or more justice or justices of the peace of any county within this province of having kindled any fire in any woods, fields, or other open place, and who shall depart leaving the same burning, and shall not either extinguish the same by water, or otherwise secure it so that it may not communicate to any woods, under-woods or brush whereby damage may ensue either to any private property or to any unlocated lands in this province, shall for every such offence (although no damage ensued) forfeit and pay the sum of three pounds, one half to the use of the informer and the other half to the use of the poor of the town where such offence shall have been committed, as well as be subject to all damages sustained in consequence of such fire, to be recovered by action of debt in any court of this province where the same shall be cognizable, with costs of suit.

woods, &c. and shall not extinguish or secure the same from communicating to other woods, shall forfeit £3, one half to informer the other to poor of the town and shall pay all damages.

C. A. F. XXXI.

An ACT to prevent nuisances by Hedges, Wears, Seines, and other incumbrances obstructing the passage of FISH, in the Rivers, Coves and Creeks of this Province.

I. *Be it enacted by the Governor, Council and Assembly,*

THAT if any person or persons after the publication of this act shall presume to erect or set up any hedge, wear or fish garth, or other incumbrances, or place any seine or seines, across any river, cove or creek in this province, otherwise than is herein after provided, such person or persons shall upon due conviction thereof by the oath of one or more witnesses or witnesses before any two of his Majesty's justices of the peace where such offence shall be committed, forfeit and pay a sum not exceeding ten pounds, one half of which shall be to the informer and the other half for the poor of the town or parish where such offence shall be committed. *Provided always,* That the justices in their general quarter sessions held in each county shall and are hereby empowered and directed to allow such wears to be erected, or floating nets to be used in such manner as they may judge necessary, said liberty or toleration to be granted under such express restrictions as that the wears so allowed to be erected, or floating nets so to be used shall not obstruct, injure, or hurt the natural course of the fish into any river or place where they usually go.

Persons setting up hedges, &c. across rivers or creeks, otherwise than is provided by this act, shall forfeit a sum not exceeding £10.

Courts of sessions may allow wears to be erected or floating nets used under restrictions.

Justices in sessions to appoint overseers of fisheries with power to remove obstructions.

II. *And be it further enacted*, That the justices in their sessions as aforesaid, may and are hereby empowered to appoint one or more fit persons to be overseers of the said fisheries who shall be sworn to the faithful discharge of their duty, and shall have power to remove any net, hedge, wear, fish garth, seine or other incumbrance, that shall be found in any river, cove or creek, contrary to the regulations so to be made by the said justices.

Nets, &c. found in rivers &c. set contrary to regulations of justices and not claimed in 10 days, may be sold by overseers.

III. *And be it further enacted*, That if any net, hedge, wear, fish garth, seine or other incumbrance, shall be found in any river, cove or creek, contrary to the regulations so made by the said justices, and no owner shall appear to claim the same in ten days, the said net or seine shall together with the fish found therein be forfeited and sold by the said overseers to satisfy the penalties aforesaid, the overplus if any, to be paid to the overseers of the poor, for the use of the poor of the town or parish where such offence shall be committed.

No net to be set in river St. John or broad part of Kennebeckacis longer than 30 fathoms and in the branches not more than one fourth the width.

Persons setting nets otherwise than herein last directed to forfeit £5.

IV. *And be it further enacted*, That no net shall be set longer than thirty fathoms in the main river St. John, or extend more than thirty fathoms into the same river or the broad part of the Kennebeckacis river, and in any of the branches of the said rivers not more than one fourth part of the width of the branch where such net shall be so set, and if any person or persons shall be found setting any net otherwise than is herein directed, such person or persons shall on due conviction thereof, before any two of his Majesty's justices of the peace on the oath of one or more witnesses or witnesses, forfeit and pay the sum of five pounds, one half to the informer, the other half to the poor of the town or parish where such offence shall be committed, to be levied by warrant of distress and sale of the goods of the offender; rendering the overplus if any be to such offender.

Justices of general sessions for the city & county of St. John, to regulate fisheries as far as the Boar's Head and affix penalties to enforce such rules.

V. *And be it further enacted*, That the justices of the general sessions of the peace for the city and county of St. John shall and may make such rules and regulations for the fisheries from the mouth of the river St. John to the Boar's Head, as they shall from time to time find necessary for the effectual preservation and free passage of the fish. And the said justices shall and may affix such penalties as they shall think necessary for the carrying into execution such rules and regulations so by them to be made, such penalties to be recovered in manner and to the uses aforesaid.

The rights &c. of the Mayor &c. of the city of St. John to be secured by this act.

Provided, That nothing in this act or in the rules and regulations to be made by virtue thereof shall extend or be construed to extend to abridge, diminish, or interfere with the rights of fishery or of the regulation thereof, given and granted to the mayor, aldermen and commonalty of, or to the freemen and inhabitants

of the city of St. John, or any or either of them in and by the charter of the said city, any thing herein contained to the contrary notwithstanding.

VI. *And be it further enacted*, That this act shall continue and be in force for two years from the publication thereof and no longer. And whereas there is no court of sessions at present establish'd in the county of Northumberland, *Be it further enacted*, That nothing in this act shall extend or be construed to extend to the said county of Northumberland.

Continuance of the act.

Not to extend to the county of Northumberland.

CAP. XXXII.

An ACT for laying out, repairing and amending HIGHWAYS, ROADS and STREETS, and for appointing COMMISSIONERS and SURVEYORS of HIGHWAYS within the several towns or parishes in this province.

WHEREAS the laying out and making roads for the more easy communication between different parts of this province, will be of great public utility and the laying out repairing and amending highways, roads and bridges in the respective counties is of great importance to the interest and general convenience of the inhabitants of this province.

Preamble.

II. *Be it enacted by the Governor Council and Assembly*, That *Amos Botsford, George Leonard, Zephaniah Kingsley, John Welden, William Anstrutber, James White, Jonathan Leavit, John Coffin, Oziab Ansley, Joshua Gidney, John Whitlock, Samuel Peabody, Elijah Miles, Robert Pagan, Jacob Buffington, James M^cNab, Edward Stelle, Garret Clepper, Robert Coalfrith and Simon Kollock*, be and are hereby appointed commissioners to view the ground and make a straight and perfect survey thereof as near as may be from the western or Carleton district of the city of Saint John, and from the town of Saint Andrew's in the county of Charlotte, and from the town of Sackville in the county of Westmorland, to the town of Fredericton in York county, thro' the counties of King's, Queen's and Sunbury, and also a road of communication from the said town of Sackville to the city of Saint John and between the river Miramichi and the river Saint John, for which purpose and more effectually to enable the said commissioners or any three of them to execute the service

Commissioners.

To view and survey the ground from the western district of St. John, from Sackville & from Sackville to Fredericton and also a road of communication from Sackville to the city of St. John and between the river Miramichi and St. John.