

C A P. IX.

An ACT for regulating the FISHERIES in the different RIVERS, COVES and CREEKS of this Province.

I. **B**E IT ENACTED *by the Lieutenant 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, fish garth, or other incumbrance or place any seine or seines net or nets across any river, cove, or creek in this province in such manner as to obstruct, injure or hurt the natural course of the fish in any river or place where they usually go, such person or persons shall forfeit and pay the sum of *ten pounds* upon due conviction thereof by the oath of one or more *credible* witness or witnesses before any *two* of His MAJESTY'S Justices of the Peace in the county where such offence shall be committed, to be levied by warrant of distress and sale of the offender's goods, rendering the overplus, if any to such offender; and *twenty pounds* for the second offence, to be recovered with costs by action of debt, bill, plaint, or information in any Court of Record in this province, and *fifty pounds*, for the *third* and *every subsequent* offence to be recovered with costs, in the manner last mentioned; one half of which penalties shall on conviction be paid to the informer and the other half to the Overseers of the Poor of the town or parish where such offence shall be committed to be applied to the use of the poor. PROVIDED ALWAYS, That, nothing herein before contained shall extend or be construed to extend to prevent the erection of wears upon the flats or drawing seines upon the shores or setting nets under the regulations herein after mentioned in any such rivers, coves or creeks.

No hedge, wear, fish-garth or other incumbrance to be set up, or any seine or nets placed across any river, cove or creek to injure the course of the fish,

under the penalty of 10l.

to be levied by Warrant of Distress, &c.

£20 for the 2d. offence, to be recovered with costs by action &c.

one half to the Informer the other half to the Poor.

Proviso.

II. *And be it further enacted*, That, the Justices of the Peace in their General Sessions held in the several counties in this province, may and are hereby required to appoint one or more fit person or persons Inhabitants not being employed as fishermen to be Overseers of the fisheries for each town or parish within their respective counties, 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 provisions of this act.

Justice: in Sessions to appoint Overseers.

III.

Overseers to seize any net &c. found contrary to the provisions of this act,

and if not claimed sell the same.

Overplus after paying the penalties to the Poor.

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 in this province contrary to the provisions of this act, it shall and may be lawful for such Overseers of the Fisheries, and they and each of them are hereby required respectively forthwith to seize the same, and if no owner shall appear to claim the same in *ten days*, such net, seine, or fish garth shall, together with the fish, if any, found therein, be forfeited and sold by the said Overseers to satisfy the respective penalties in this act mentioned and inflicted, and the overplus, if any, shall 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.

Overseers to receive one shilling for each net.

IV. *And be it further enacted*, That, the said Overseers of the fisheries shall be intitled to demand and receive *one shilling* and no more, for each net to be set in the districts to which they shall be respectively appointed, from the proprietors of such nets as a compensation for their trouble.

Overseer neglecting his duty to forfeit 5l.

V. *And be it further enacted*, That, if any such Overseer of the Fisheries shall at any time wilfully and knowingly delay, neglect or refuse to perform the duty in and by this act enjoined, such offender shall forfeit and pay for every offence the sum of *five pounds*, to be sued for, recovered and applied in the same manner as the penalty of *ten pounds* herein before mentioned, can or may be sued for, recovered and applied.

Overseer neglecting his duty sheriff or constable may act.

VI. *And be it further enacted*, That, if any Overseer shall so neglect to perform the duty in and by this act enjoined, it shall and may be lawful for any person or persons to apply to any sheriff or constable who are hereby authorized and required to take up and remove any such incumbrance forthwith; and if no person or persons appear to claim the same within *ten days*, the said net or nets so taken up and removed as aforesaid, shall be considered the *one moiety* as the property of the person or persons so complaining, and the other moiety as the property of the sheriff or constable who may take up and remove the said nets or other incumbrance.

If no claim of nets in ten days to become the property of the complainant and sheriff or constable.

No net to be longer than 30 fathoms in the main river St. John, or extend more than 30 into said river or broad part of the

VII. *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 said river, or the broad part of the *Kennebeckacis* river, or more than *one fourth* part of the width of the water between the shores on each side the said rivers,

rivers and any Islands or Sand-bars in the said rivers; 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 that no drag net or seine shall be used in either of the same rivers or the branches thereof to sweep the same rivers or the branches thereof, or either of them, more than *one fourth* part of the width of such river or branch.

Kennebeckacis or one fourth of the width between the shores and Islands, and in the branches one fourth of the branch, &c.

VIII. *And be it further enacted*, That, the width of all such branches, coves or creeks, wherein there are any Islands or Sand-bars, shall be computed from the opposite shores to the said Islands or Sand-bars to where the water surrounding the said Islands or Bars is *three feet* in depth.

Width of branches where there are Islands, to be computed from the opposite shores to where the water is 3 feet deep.

IX. *And be it further enacted*, That, no net shall be set in the river *St. John* below the *Boarhead* or in the harbour of *St. John*, more than *twenty fathoms* in length: And that no net shall at any time be set or remain in the water, or any seine be drawn, or any Salmon speared, in any part of this province, between the time of Sun-set on *Saturday* night and Sun-rise on *Monday* morning; and that no nets shall be placed within less than *fifty feet* of each other measured upon a straight line, running parallel as near as may be with the shore, in any of the said places in this clause mentioned, under the penalty of *ten pounds* for each and every of the said offences herein before described and prohibited, to be sued for, recovered and applied in the manner herein last before mentioned, any law, usage or custom to the contrary thereof in any wise notwithstanding.

No net to be set below the Boarhead more than 20 fathoms in length, or remain in the water or seines be drawn or Salmon speared in any part of the province from Saturday night to Sunday morning — No nets to be placed within less than 50 feet of each other under penalty of 10l.

X. *And be it further enacted*, That the fisheries in that part of the county of *Northumberland* which are within the Bay and River *Miramichi* and its branches, shall be regulated in the manner herein after mentioned, that is to say, that the Justices of the Peace in the said county in their *first* General Sessions in each year, shall divide the said Bay and River *Miramichi* and its branches as nearly as may be, into *five* equal districts according to the number of permanent settlers, and shall appoint a certain time and place for the inhabitants of each respective district to meet and choose *two* persons the best qualified for that purpose from their knowledge of the fisheries and situation of the Bay and River, all which persons so chosen shall forthwith meet together and proceed to make and form such rules and regulations for carrying on the fisheries so far as respects the length of nets in the said Bay and River, as they or the majority of them shall think the best and most pro-

Regulation of the fisheries within the bay and river Miramichi—Sessions to divide the bay river & branches into 5 districts.

Inhabitants of each district to choose 2 persons, to form rules & regulations

to be returned to the Sessions to be rejected or confirmed under penalty not exceeding 10l.

per to be adopted for the year ensuing; which rules and regulations shall be returned and submitted to the said Justices in their General Sessions or any Special Sessions to be held for that purpose, to be by the said Justices either rejected or approved of, confirmed and established under such penalties and forfeitures, not exceeding the sum of *ten pounds*, as to the said Justices shall seem meet and necessary for carrying the same into execution; and which rules and regulations shall be observed and obeyed by the Overseers of the Fisheries to be by the said Justices appointed in the several districts agreeable to the provisions of this act, in the same manner as if the same rules and regulations were herein and hereby particularly established and enacted.

No Salmon to be taken in the river Miramichi or Restigouche from the 30th August to the 1st of April, under penalty of 5 shillings each fish taken or purchased.

XI. *And be it further enacted*, That, no Salmon shall be taken or killed in any manner whatever, in the river *Miramichi* or in the river *Restigouche* or in any of the branches of the said rivers from the *thirtieth* day of *August* to the *first* day of *April* in every year, nor shall any person purchase any fish so killed or taken under the penalty of *five shillings* for each fish so killed, taken or purchased, to be recovered before any of His MAJESTY'S Justices of the Peace of the county of *Northumberland* to the uses aforesaid.

Justices in their Sessions in Northumberland to make rules and regulations in all other rivers &c. in the county. Sessions in Westmorland and Charlotte to make regulations for said counties—Not inconsistent with the former provisions of this act. To be enforced by the Overseers.

XII. *And be it further enacted*, That, the Justices of the Peace in the said county of *Northumberland*, in their General Sessions shall and may make such rules and regulations for the fisheries in all other rivers, coves and creeks within the said county as they shall think fit; and also the Justices of the Peace for the counties of *Westmorland* and *Charlotte* in their General Sessions shall make such regulations for the fisheries within the said counties as they shall think fit. PROVIDED, the same regulations so to be made, be not contrary to, nor inconsistent with the provisions herein before contained; and the Overseers of the Fisheries in the said counties are hereby required to see that such rules and regulations so to be made are observed and enforced in the same manner as any of the rules and regulations in this act are required to be observed and enforced under such penalties not exceeding *ten pounds* as they in their discretion shall think fit.

Vid. Post 306 - act to amend &c

C A P.