

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1791. Saint John, NB: Christopher Sower, Printer to the King's Most Excellent Majesty, 1791.

31 George III – Chapter 13

An Act for Regulating the Fishery in the different Rivers, Coves and Creeks of this Province.

I. Be 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 or 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 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 offenders goods, Tendering 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 parish or town 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 between high and low water marks, or drawing seines upon the shores or setting nets under the regulations herein after mentioned, in any such rivers, coves or creeks.

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.

III. And be it further enacted. That if any net, hedge, wear, fish garth, sein or other incumbrance shall be found in any river, cove or creek in this province, contrary to the provisions of this Act, and no owner shall appear to claim the same, 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 says, 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.

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.

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.

VI. And be it further enacted, That no net shall be set longer than thirty fathoms in the main river Saint John or extend more than thirty fathoms into the same river or the broad part of the Kenebeckacis [Kennebecasis] 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 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: And that no net shall be set in the river Saint John below the Boar's Head or in the harbour of Saint John more than twenty fathoms in length or shall extend into the water more than twenty five fathoms from the water's edge: And that no net shall be set or remain in the water, nor any seine be drawn in any of the places in this clause mentioned between the time of sun set on Saturday night and sun rise on Monday morning between the first day of April and the first day of August in each and every year; under the penalty of ten pounds for each and every of the said offences to be sued for, recovered and applied in the manner herein last before mentioned.

VII. And be it further enacted, That the Justices of the Peace in, their General Sessions in the counties of Charlotte and Westmorland shall and may make such further rules and regulations for the fisheries in those counties as they shall think fit, Provided the same be not contrary to, or inconsistent with the provisions herein before contained; and the Overseers of the Fisheries in those counties are hereby required to see that such rules and regulations so to be made are observed and enforced in the same manner and under the like penalties as any of the rules and regulations in this Act are required to be observed and enforced.

VIII. And be it further enacted, That nothing herein before contained shall extend or be construed to extend to the county of Northumberland, but that the fishery of the river Miramichi and its branches shall be regulated in manner herein after mentioned that is to say – no net shall be set in the said river Miramichi on either side thereof, between Sheldrake Island and lot number fifty inclusive, on the north side of the said river, now or late in the occupation of Alexander Stuart, more than eighty fathoms from low water mark into the said river, nor between the said lot number fifty and lot number thirty nine, or the lower end of Middle Island more than forty fathoms, nor upon any lot opposite to Middle Island to the North side of the river more than thirty fathoms, nor from the upper end of Middle Island to lot number twenty four more than sixty fathoms, nor from the said lot number twenty four to lot number one inclusive more than fifty fathoms, nor from lot number one to Beauheberts' Point more than forty fathoms, and no net shall be set between the said point and Tittle island. Provided always, that no net to be set in the

said river shall extend into the water more than ten fathoms where the water in the said river shall be deeper than four fathoms.

IX. And be it further enacted, That no nets shall be set or seines drawn in Miramichi Bay, that is from Bay du Vin Island to point Cheval longer than one hundred fathoms.

X. And be it further enacted, That no net shall be set in either of the branches of the said river Miramichi above Beauhebert's point more than one third part of the width of the river at low water on either side into the said river. Provided, That no net to be set in either of the said branches shall exceed forty fathoms in length.

XI. And be it further enacted, That if any person or persons shall set or place, or cause to be set or placed any net in the said river Miramichi or its branches, or the Bay of Miramichi contrary to the true intent and meaning of this act, such offender or offenders shall respectively forfeit and pay for the first offence the sum of ten pounds, for the second offence the sum of twenty pounds and for the third and every, subsequent offence the sum of fifty pounds, to be recovered by action of debt, bill, plaint or information in any Court of Record in this province, by any person who shall inform or sue for the same, together with costs, one half of such penalties and forfeitures to be to the use of the poor of the town, or parish where such offence shall be committed, and be paid into the hands of the Overseers of such poor for that purpose, and the other half to the person who shall inform and sue for the same.

XII. 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.

XIII. 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 the regulation thereof already granted to any person or persons whomsoever, any thing herein contained to the contrary thereof notwithstanding. Provided also, And be it further enacted, That all and every of His Majesty's Subjects owning or lawfully possessing lands, bounding on any river, cove or creek in this province shall have and be deemed to have the sole and exclusive right of taking, fish on the shores thereof to low-water mark; and no person or persons whatever shall or may lawfully set or erect any net, wear or fish garth, or draw any seine, on the said shores of such rivers, coves or creeks between high and low watermarks, except the owner or owners, or lawful possessor or possessors thereof, or persons by virtue of their leave or license, any law, usage or custom to the contrary notwithstanding.

XIV. And be it further enacted, That this act shall continue and be in force two years and no longer.