

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1793. Fredericton: J. Ryan, 1793.

33 George III – Chapter 9

An Act for regulating the Fisheries 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, 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.

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, seines 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, 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.

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, 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 authorised 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.

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 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.

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.

IX. And be it further enacted, That, no net shall be set in the river St. John below the Boarshead 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.

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 proper 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.

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.

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.