

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1845. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1845.

8 Victoria – Chapter 65

An Act for regulating the Salmon Fisheries in the County of Restigouche. Passed 27th March 1845.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That an Act made and passed in the third year of the Reign of His late Majesty King William the Fourth, intituled An Act for regulating the Salmon Fisheries in the County of Gloucester, and also an Act made and passed in the seventh year of the Reign of His said late Majesty, intituled *An Act in addition to the Laws now in force for the protection of the Fisheries in the Counties of Northumberland, Kent, and Gloucester, so far as the same in any way relate to the Bays, Rivers, Creeks, and Coves in the County of Restigouche*, be and the same are hereby repealed.

I. And be it further enacted, That from and after the passing of this Act, if any person or persons shall presume to erect or set up any hedge, wear, fish garth, net, or other incumbrance, in any of the Rivers, Coves or Creeks of the said County of Restigouche, contrary to the provisions of this Act, or of any rules or regulations to be made under the authority hereinafter given, or shall place any seine or seines, net or nets, or other device, across any River, Cove or Creek in the said County, in such manner as to obstruct or injure the natural course of Salmon in any River or place where they usually go, such person and persons shall forfeit and pay the sum of five pounds, upon due conviction thereof by the oath of one or more credible witness or witnesses, before any two of Her Majesty's Justices of the Peace of the said County, to be levied with costs, by warrant of distress and sale of the offender's goods and chattels, rendering the overplus, (if any,) to such offender; and ten 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 thirty pounds for the third and every subsequent offence, to be recovered with costs in the manner last mentioned: which penalties, on conviction, shall be paid, one half to the County Treasurer for the use of the said County, and the other half to the informer.

II. And be it further enacted, That from and after the passing of this Act, no person or persons shall use any drift net or nets, seine or seines, for the taking any fish by drifting or sweeping in any of the Harbours, Creeks, Coves or Rivers in the said County, and that if any such drift net or nets, seine or seines, shall be found in any River, Cove or Creek in the said County, contrary to the provisions of this Act, it shall and may be lawful for the Overseer or Overseers of the Fisheries, and they and each of them are hereby required respectively forthwith to seize the same; and if no owner or owners shall appear to claim the same in ten days, such net or nets, seine or seines, shall, together with the fish, if any found therein, be forfeited, and sold by the Overseer 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 should be committed.

III. And be it further enacted, That no fishing stand between Bonne Amie Rocks and the first Island above old Church Point, in the Restigouche River, shall exceed one hundred and fifty fathoms of bar net, or twenty fathoms of swing net, and that fifty fathoms of channel shall be left open and unincumbered; and that at and above the said first Island, one third of the said River shall be left open and unincumbered; which open or unincumbered space shall in all; cases include the main channel, and that no fishing stand in any of the Coves, Creeks or Harbours between Bonne Amie Rock and the Eastern boundary of the County of Restigouche inclusive, shall exceed two hundred fathoms of bar net in length, and twenty fathoms of swing net; and that should any person or persons set salmon nets contrary to the provisions of this Act, it shall be the duty of the Overseer of the Fisheries in the several Parishes in the said County, upon complaint made to him or them, or upon view thereof, to notify the owner or owners, or person in charge of said nets, to remove the same forthwith; and in case such owner or owners, or person in charge, shall refuse or neglect so to do, that then and in that case the said Overseer is hereby authorized and empowered to remove or cause to be removed the net or nets so set as aforesaid, and to sell the same at Public Auction to defray the expenses of the removal thereof, giving six days notice of such sale in at least three different parts or public places of, the Parish where the same may have been so seized, and rendering the overplus, (if any,) after deducting the costs and charges as aforesaid, to the Overseers of the Poor of the said Parish for the use of the Poor of the said Parish.

IV. And be it further enacted, That no net shall be allowed to remain set in any of the Rivers, Coves, Creeks or Harbours of the said County, after the twentieth day of July in each and every year, under a penalty on the owner or owners of such nets of ten pounds for each day the same be allowed to remain set after that time; which penalty shall be sued for, recovered and applied as is directed in and by the second section of this Act.

V. And be it further enacted, That no person or persons whosoever shall spear or kill Salmon in the Restigouche or any of its Branches, or in any other River in the said County of Restigouche, by any device or under any pretence after the fifteenth day of August in each and every year, under a penalty of not less than one pound nor more than five pounds for each and every Salmon so taken; and any person or persons who may become the purchaser or purchasers of any Salmon, knowing the same to be so killed or taken after the said fifteenth day of August aforesaid, he, she or they so purchasing the same, shall for each and every offence forfeit and pay a sum not less than ten shillings nor more than five pounds; which several penalties shall be recovered with costs, by the oath of one or more credible witness or witnesses, before any one of Her Majesty's Justices of the Peace of the said County, to be levied by warrant of distress and sale of the offender's goods and chattels, rendering the overplus, (if any,) to such offender or offenders; and if on the trial of such complaint it shall appear to the satisfaction of such Justice that the person or persons convicted of the said offence is or are unable to pay the said penalty, it shall and may be lawful for the said Justice to commit the said person or persons to close confinement in the Common Gaol of the said County, or some legally authorized Lock-up-House, there to remain for a space of time not less than five days nor more than twenty days, unless the said penalty shall be sooner paid; and the said penalty, when received, shall be paid over, one half to the informer or informers, and the other half to the County Treasurer for the use of the County.

VI. And be it further enacted, That no fishing stand in any of the Rivers, Coves, Creeks or Harbours within the said County, shall be fished at any time between sunset on Saturday and sunrise on Monday, under a penalty of five pounds, and all Salmon pickets shall be drawn or removed previous to the first day of August in each and every year, under the like penalty of five pounds; which penalty shall be recovered, levied and appropriated in like manner as is provided in and by the second section of this Act.

VII. And be it further enacted, That Her Majesty's Justices of the Peace of the said County of Restigouche, at their General Sessions, shall and may make such rules and regulations for the further protection of the Fisheries, as well of Salmon as of other Fish, in all Rivers, Coves, Creeks and Harbours in the said County, and shall direct and establish places in the several Rivers, Coves, Creeks and Harbours in the said County, at which nets for the taking of Salmon shall and may be set up, and also shall regulate the length of such nets; and they are hereby authorized and empowered to enforce due obedience to such rules and regulations, by the imposition of such fine not to exceed ten pounds for each offence, or such imprisonment not exceeding twenty days, as they in their discretion may see fit; provided that the said rules and regulations so to be made be not contrary to or inconsistent with the provisions of this Act.

VIII. And be it further enacted, That the said Justices of the Peace of the said County, in their General Sessions, may, and they are hereby authorized and required to appoint one or more fit and proper person or persons to be Overseers of the Fisheries for each Town, Parish or District in the said County; and such Overseer or Overseers within ten days after his or their appointment, shall go before the nearest Magistrate and be sworn faithfully to perform the several duties of the said Office.

IX. And be it further enacted, That it shall be the duty of the said Overseers respectively, to furnish themselves with copies of this Act and of the rules and regulations of the said Justices to be made under the authority hereof; and immediately on the commencement of the Fishing Season in each and every year, and as often as they or any of them shall deem necessary, or upon information to be to them or any of them given, to examine the several Rivers, Coves and Creeks in their respective Towns, Parishes or Districts, and if they or any of them shall discover that any of the provisions of this Act or any of the rules or regulations to be made by authority hereof has been in any wise contravened, it shall and may be lawful for the said Overseer or Overseers, and they are hereby required to take such measures for immediately preventing the same, and prosecuting the offender and offenders to conviction as the said Overseer or Overseers shall deem necessary.

X. And be it further enacted, That if any person or persons hereafter nominated Overseer or Overseers of the Fisheries in the said County, shall refuse to serve, or having taken upon himself or themselves the said office of Overseer or Overseers of the Fisheries, shall wilfully or knowingly delay, neglect or refuse to perform the duty by this Act, or by any rules and regulations to be made under the authority hereof, enjoined and required, he or they shall forfeit and pay the sum of ten pounds, to be sued for, recovered and applied in the same manner as is provided for in and by the second section of this Act.

XI. And be it further enacted, That if any person or persons so to be appointed shall refuse to act, or shall die or leave the said County, it shall and may be lawful for the said Justices or any two of them, to appoint any other person pro tempore, to be entitled to the same immunities, and subject to the same liabilities, and to act in all respects as Overseer or Overseers of the Fisheries until the next General Sessions of the Peace of the said County, at which the Justices shall take the said appointment or appointments into consideration, and confirm or annul the same as they or a majority of them shall see fit.

XII. And be it further enacted, That the said Overseers of the Fisheries, at every General Sessions of the Peace to be holden for the said County, shall exhibit to the Court their respective Accounts of costs and charges by them or any of them incurred in the performance of the several duties hereby imposed upon them, and shall give credit for such monies as they or any of them have received on the conviction of any offender or offenders under the provisions of this Act; and if it shall appear to the satisfaction of the said Justices or a majority of them that such Overseer or Overseers is or are entitled to any further remuneration, it shall and may be lawful for the said Justices, or a majority of them, to order the same to be paid out of the County Treasury.

XIII. And be it further enacted, That all rules and regulations respecting Fisheries in the several Creeks, Coves, Rivers and Harbours of the said County, made by the said Justices, and now in operation by virtue of any Law of this Province, shall be and remain in full force and effect until further and other rules and regulations shall be made by the said Justices, or a majority of them, under the authority to them given by this Act, anything in this Act to the contrary thereof notwithstanding.

XIV. And be it further enacted, That this Act shall continue and be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and fifty.