

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1850. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1850.

13 Victoria – Chapter 23 New Brunswick Local Acts

**An Act to regulate the Fisheries in the Bay, Harbour and River Miramichi, and its Branches.
Passed 26th April 1850.**

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, the Fisheries in the Bay, Harbour and River Miramichi, and its Branches, shall be regulated in the manner hereinafter mentioned, that is to say:—No net whatever to be set off any Island, Middle-ground or Shoal in the said Bay, Harbour, River and Branches, excepting as is hereinafter permitted: No net to be set from Point Escuminac to the western extremity of Huckleberry Island to extend into the Bay more than one hundred fathoms from low water, and no net to be set in the said space but by the inhabitants of Lower Bay du Vin: From thence to the Lot formerly owned by Thomas Ian, now owned by the Estate of Joseph Cunard, no net to be set along the south shore in the said space to extend into the Bay more than two hundred fathoms from three feet water at low water: A base line to run from the said Lot to the upper line of that part of the Lot formerly owned by the late James Horton, Esquire, deceased, in Bay du Vin, presently in the occupation of Abraham Lacy, no net to extend into the Bay more than two hundred fathoms from the said line: From the said lower line of the Lacey Lot to the eastern line of the Lot lately owned by John Mark Crank Delesdemier at the mouth of Black River, no net to extend into the Bay more than two hundred fathoms: From thence to Point Aux Car, no net to extend into the Bay more than two hundred fathoms: From Point Aux Car to the Lot owned by Alexander M'Donald, no net to extend into the Bay more than three hundred fathoms from low water: A base line to run from the said Alexander M'Donald's Lot to Point Cheval, no net to extend into the Bay more than three hundred fathoms from the said line: From Point Cheval to the upper extremity of the Sand Beach in Napan Bay, no net to extend into the Bay more than two hundred and fifty fathoms from low water: No net to be set off either side of Bay du Vin Island to extend into the Bay more than sixty eight fathoms from low water: A base line to run from the upper extremity of the said Sand Beach in Napan Bay to a Point commonly called Green Point on the west side of a small Creek at the end of George Murdock's Marsh, no net to extend into the Bay more than two hundred fathoms from the said line; and no net set from the said line to be nearer than one hundred fathoms to the said Green Point: From the said Green Point to within forty rods of the site of the fish shed formerly occupied by James Anderson, and now owned by Murdock, no net to be set to extend into the Bay more than one hundred and fifty fathoms from low water: From thence to the lower extremity of East Point, no net to be set to extend into the River more than eighty fathoms from low water: No net to be set off East Point to extend into the River more than fifty fathoms from low water: No net to be set off Sheldrake Island to extend into the River or Bay more than sixty fathoms from low water: No net to be set off Hay Island, opposite Neguac, to extend into the Bay more than two hundred fathoms from low water: From thence to Lot number eighty one, formerly owned by the late James Fraser, Esquire, deceased, inclusive, no net to extend into the Bay more than three hundred fathoms from low water; and no net to be set in the said space to be more than two hundred fathoms in length: From thence to the Lot number

seventy six, formerly owned by the late James Thorn, deceased, inclusive, no net to extend into the Bay more than two hundred and eight fathoms from low water: A base line to run from low water on Lot number seventy six to the first point above the house owned by the late John English, deceased, opposite to the lower end of Sheldrake Island, no net to extend into the Bay more than two hundred and fifty fathoms from the said line: From thence to the lower line of Lot number seventy one, no net to extend into the Bay more than two hundred fathoms from low water: No net to be set in front of Lot number seventy one to extend into the River more than seventy fathoms from low water: A base line to commence at the upper line of Lot number seventy one, or Moody's Point at low water mark and end at low water mark on Lot number sixty nine, from thence to continue to low water mark on Lot number sixty six, no net to extend into the River more than sixty five fathoms from the said line: No net to be set in front of the Lots number sixty five and sixty six to extend into the River more than sixty five fathoms from low water: No net to be set in front of the Lots number sixty four and sixty three to extend into the River more than seventy fathoms from low water: No net to be set in front of Lot number sixty two to extend into the River more than sixty five fathoms from low water: No net to be set in front of Lot number sixty one to extend into the River more than forty five fathoms from low water: From Lot number sixty one to Lot number fifty nine, inclusive, no net to extend into the River more than sixty five fathoms from low water: No net to be set in front of the Lots number fifty eight, number fifty seven, number fifty six, number fifty five, and number fifty four, to be longer than sixty five fathoms, beyond forty fathoms from low water: No net to be set in front of the Lots number fifty three, number fifty two, and number fifty one, to be longer than sixty five fathoms beyond fifty fathoms from low water: No net to be set in front of Lot number fifty to extend into the River more than sixty five fathoms from low water: From thence to Lot number thirty nine inclusive no net to be set to extend into the River more than thirty seven fathoms from low water: No net to be set in front of Lot number thirty eight to extend into the River more than fifty fathoms from low water: No nets to be set in front of Lots number thirty seven, number thirty six, number thirty five, and number thirty four, to extend into the River more than sixty eight fathoms from low water: From thence to the Brook on the upper side of Gilmour, Rankin and Company's Wharf, Douglastown, inclusive, no net to extend into the River more than seventy fathoms from low water: From thence to Lot number fourteen inclusive no net to extend into the River more than fifty fathoms from low water: From thence to Lot number five inclusive no net to extend into the River more than forty two fathoms from low water: From thence to Lot number one inclusive no net to extend into the River more than fifty five fathoms from low water: From thence along the north shore to Oxford's Cove on the North West Branch, no net to extend more than thirty fathoms from low water: From thence to the Saw Mill Cove inclusive no net to be set to extend into the River more than thirty five fathoms from low water, excepting in front of the Lots formerly occupied by James Oxford, Duncan MacIntire, and George Hubbard, where the nets shall not extend into the River more than twenty fathoms from one foot water at low water; and Lots number one and number four, where the nets shall not extend into the River more than forty fathoms from one foot water at low water: From the said Saw Mill Cove to the Cove below Barrs' Point, no net to extend into the River more than sixty fathoms from low water: From thence to the upper Bass Fishery, no net to extend into the River more than thirty fathoms from low water: From thence to the upper line of the Lot occupied by William Matchett, nearly opposite the mouth of the Little South West River, no net to extend into the River more than twenty five

fathoms from low water, excepting in front of the Lots formerly occupied by George Urquhart and Thomas Wright, where no net shall extend into the River more than sixty fathoms from low water: From William Matchett's said upper line to the upper line of the Lot presently occupied by John Ryan, no net to be set to extend into the River more than twenty fathoms from low water: No net to be set on either side of the North West Branch, or any of its Branches, from the said John Ryan's said upper line upwards, to extend more than one third part across the said Branch or any of its Branches: No net to be set off the Lot occupied by James Johnstone on the south side, to extend into the River more than twenty five fathoms from low water: No net whatever to be set off the south side from the lower line of the James Johnstone Lot to the mouth of the Little South West River: No net to be set on either side of the Little South West to extend more than one third part across the said River and its Branches; and from the mouth of the Little South West, down along the south or western shore, to the lower line of the Lot formerly occupied by the late Andrew M'Grath, deceased, no net to be set to extend into the River more than twenty five fathoms from low water: From thence to the upper line of the Lot occupied by John Goodfellow, no net to be set to extend into the River more than thirty fathoms from low water: No net to be set in front of the Lot occupied by John Goodfellow to extend into the River more than forty fathoms from one foot water at low water: From John Goodfellow's lower line to the lower line of the Lot lately occupied by Samuel Robinson, no net to be set to extend into the River more than thirty five fathoms from low water, excepting in front of the Lots occupied by Charles Stewart, Jared Tozer and Elson Tozer, where the nets shall not extend into the River more than twenty five fathoms from one foot water at low water: From the lower line of the Samuel Robinson Lot downwards to Beaubear's Point inclusive, no net to be set to extend into the River more than forty fathoms from low water: No net whatever to be set off Martin's Island, or off or to any other Island, Middle-ground or Shoal in the said North West Branch (of the River Miramichi) and its Branches: A base line to run from East Point to West Point, no net to extend into the River more than fifty fathoms from the said line: From low water mark at West Point, a base line to run to low water mark at the lower point of Lot number nine, no net to extend into the River more than sixty five fathoms from the said line: From the said point of Lot number nine to Terril's Point no net to extend into the River more than sixty five fathoms from low water, excepting in front of Lots number eighteen and number nineteen, where the nets are to extend sixty five fathoms beyond twenty fathoms at low water: No net to be set off Terril's Point to extend into the River more than forty fathoms from low water: A base line to run from Terril's Point to the lower end of Middle Island, no net to be set to extend into the River more than forty eight fathoms from the said line: No net to be set from Middle Island towards the north shore to extend into the River more than fifty fathoms from low water: No net whatever to be set from Middle Island towards the south shore: No net to be set from the south shore opposite to the upper end of Middle Island to the lower line of the Lot number fifty, being the property lately occupied by Theophilus DesBrisay, Esquire, to extend into the River more than fifty two fathoms from low water, excepting in front of the Lots number twenty eight and number twenty nine, which shall not exceed sixty fathoms from low water; and in front of Lot number thirty two no net to extend into the River more than thirty eight fathoms from low water; and no net to be set in front of Lot number thirty three to extend into the River more than fifty five fathoms from low water: No net to be set in front of the Lots number fifty, number fifty one, number fifty two, number fifty three and number fifty four inclusive, to extend into the River more than sixty fathoms from low water: No net to be set in front of the Lots number fifty nine, number

sixty, and number sixty one, to extend into the River more than fifty fathoms from low water: From thence to the Lot number forty one, in the Grant to the late William Davidson, Esquire, no net to extend into the River more than forty fathoms from low water: No net to be set in front of the Lot now occupied by Peter Foley to extend into the River more than seventy fathoms from low water: No net to be set from Beaubear's [Beaubears] Island to extend into the River more than thirty fathoms from low water: No net whatever to be set in the Tickle between Beaubear's Island and Beaubear's Point: No net whatever to be set in front of the Burying Ground on Beauhear's Point: No net to be set from either side of the South West Branch from Beaubear's Point on the western shore, and Peter Foley's Lot on the eastern shore, to the lower extremity of Barnaby's Island, to extend into the River more than forty fathoms from low water: No net whatever to be set from Barnaby's Island towards the south shore. No net to be set on either side of the said River from the lower extremity of Bamaby's Island to the upper line of the Lot presently occupied by James M'Intosh, to extend into the River more than thirty fathoms from low water: From thence, on both sides of the River, to the mouth of Indian Town Brook, no net to be set from either side to extend into the River more than twenty five fathoms from low water: No net to be set off the Lots on the north shore opposite Brown's Bar, or opposite the Bar at the Elm tree, to extend into the River more than fifteen fathoms from low water: No net to be set on either side of the said South West Branch, or any of its Branches, from the mouth of Indian Town Brook to the Head of the Miramichi River, and its Branches, to extend more than one third part across the said River or its Branches: No net whatever to be set off or to any Island, Middle-ground or Shoal in the said South West Branch (of the River Miramichi) and its Branches: Provided always, and it is hereby declared, that no net to be set in any of the Branches of the River Miramichi by virtue of this Act, or in any other Rivers of the County of Northumberland not hereinbefore provided for, shall extend more than one third part across the said Branch or River, anything hereinbefore contained to the contrary notwithstanding; and provided always, that where one third part shall include or take in more than one half of the main channel in any of the said Branches or other Rivers as aforesaid, no net whatever shall be set on the channel side of the River: And be it enacted, that no nets whatever shall be set inside of any base lines allowed in the Bay, Harbour, River or Branches of the Miramichi, excepting in front of the Lot formerly owned by Robert England, deceased, in Napan Bay, where the net may extend into the Bay in front of the said Lot two hundred fathoms from low water; and in front of the Lot formerly owned by Richard Home, deceased, where the net may extend two hundred fathoms from low water; provided always, that no part of the said quantity of net is set outside of the said line: And be it enacted, that no nets shall be placed within less than fifty fathoms of each other, measured upon a straight line running parallel as near as may be with the shore in any of the said Rivers or Branches in this section mentioned, under the penalty of not less than five pounds nor more than ten pounds for each and every of the offences against any of the provisions of this section; and that no net shall be set, the meshes of which shall be of a less size than five inches and one half of an inch, under the penalty of not less than three pounds nor more than ten pounds for each and every offence; provided always, that this shall not extend to or affect Herring or Gaspereaux Nets.

II. And be it enacted, That the Justices of the Peace in the said County of Northumberland, in their General Sessions, may and are hereby required to appoint one or more fit person or persons to be Overseers of the Fisheries for each Town, Parish or District, who shall be sworn to the faithful

discharge of their duty, and shall have power to remove any net, hedge, wear, fishgarth, seine, or other incumbrance that shall be found in any River, Cove or Creek, contrary to the provisions of this Act; provided always, that every Overseer of the Fisheries now appointed under the provisions of any of the said hereinbefore recited Acts shall continue in office, and have full power and authority to act under the provisions of this Act, until some other person be appointed in his place.

III. And be it enacted, That if any net, hedge, wear, fishgarth, or other incumbrance, or any drift net shall be found in any River, Cove or Creek, 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 within six days, such net, seine or fishgarth, 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 County Treasurer of the said County of Northumberland.

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

V. And be it 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 manner hereinafter mentioned.

VI. And be it 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 the Inspector or Inspectors hereafter to be appointed, or any of them, or to the Sheriff, his Deputy, or any 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 six 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 Inspector, Sheriff, his Deputy, or any Constable who may take up and remove the same.

VII. And be it enacted, That no salmon shall be taken or killed in any manner whatever in the Bay, Harbour or River Miramichi, below Beaubear's [Beaubears] Island, from the fifteenth day of August, or above Beaubear's Island in both Branches, or in the Bartibogue [Bartibog], Tabusintack [Tabusintac], Bay du Vin, Napan, or Black Rivers, from the thirty first 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 not less than five shillings nor more than twenty shillings for each fish so killed, taken or purchased; and that no net shall be set or allowed to remain on any pickets in the said River or its Branches after the times hereinbefore limited and appointed for fishing, under the penalty of not less than three pounds nor more than five pounds for each and every offence, to be paid by the owner or owners of the said nets, or the person or persons last using the same.

VIII. And be it enacted, That no person or persons shall after the passing of this Act, under any pretence whatsoever, erect, build, make or set up, or make use of in the said Bay, Harbour and River Miramichi, or any of its Branches, or in any other River in the County of Northumberland, any brush or wooden wear or wears, trap or traps, for the purpose of taking gaspereaux, shad, salmon, bass or other fish, under a penalty of not less than five pounds or more than thirty pounds for each and every such offence.

IX. And be it enacted, That in all cases when any fish wear or wears, trap or traps, shall be erected contrary to the provisions of the eighth section of this Act, it shall be the duty of the Overseers of the Fisheries of the Parish or District in which such wear or wears, trap or traps, shall be so erected, and all other person and persons are hereby fully authorized and empowered immediately or any time thereafter, to pull down, remove and destroy such wear or wears, trap or traps.

X. And be it enacted, That it shall not be lawful for any person or persons to drift or sweep for salmon with nets or seines, nor for any person or persons to spear salmon or grilse in any part of the Bay, Harbour, River, or Branches of the Miramichi, or in any other River in the County of Northumberland.

XI. And be it enacted, That if any person or persons shall set, drift or sweep with any net or seine the meshes of which shall be of a size to catch grilse, and not salmon, and shall with such net or seine catch grilse in drifting or sweeping, or by setting such net or seine, he or they shall be liable to the penalties of this Act in the same manner as if he or they should be found drifting with salmon nets, and to be recovered in the same manner.

XII. And be it enacted, That if any person or persons from and after the passing of this Act shall set or place any seine or seines, net or nets in the said Bay, Harbour, River, or Branches of the Miramichi, or in any other River in the County of Northumberland, except as is hereinbefore provided, or shall drift, sweep or spear for salmon or grilse contrary to the provisions of this Act, or shall set, or allow any net to remain set in any part of the said Bay, Harbour, River, or Branches, between sunset on Saturday night and sunrise on Monday morning, contrary to the provisions of this Act, such person or persons so offending shall for each and every of the offences above enumerated forfeit and pay a sum not less than five pounds nor more than ten pounds.

XIII. And be it enacted, That from and after the passing of this Act, no person or persons under any pretence whatsoever, shall sweep or drift for fish with any net whatever, in any part of the Branches of the River Miramichi above or beyond the tide-way, or in any part of the Little South West, Bartibogue, Tabusintack, Bay du Vin, Napan, or Black Rivers, under the penalty of not less than five pounds nor more than ten pounds for each and every offence, and that no net or seine used for sweeping or catching bass shall be of a less size of mesh than five inches from knot to knot, under a penalty of not less than three pounds nor more than ten pounds.

XIV. And be it enacted, That from and after the passing of this Act, no gaspereaux shall be taken in the Bay, Harbour, or River of Miramichi, or its Branches, or in any other River in the County of

Northumberland, after the first day of July in each and every year, under the penalty of ten pounds for each and every offence against the provisions of this section.

XV. And be it enacted, That from and after the passing of this Act, no bass shall be taken or killed in the Bay, Harbour or River of Miramichi, or its Branches, or in any other River in the County of Northumberland, through the ice, or after such Bay, Harbour, River or Branch shall respectively be frozen over in each and every year, nor shall any person purchase any bass so killed or taken under the penalty of not less than five shillings nor more than twenty shillings for each bass so killed, taken or purchased.

XVI. And be it enacted, That no fish of any description caught in the Bay, Harbour or River Miramichi, or any of its Branches, or any other River in the County of Northumberland, shall be applied for the purposes of manure under the penalty of not less than forty shillings nor more than five pounds for each and every offence.

XVII. And be it enacted, That from and after the passing of this Act, if any person or persons who may be the owner or owners of any mill or mills already erected or that may hereafter be erected on or near the River Miramichi, between Beaubear's [Beaubears] Point and Sheldrake Island (except as hereinafter mentioned) for the manufacturing of lumber of any description, or any persons who may be engaged in the manufacturing lumber in any such mill or mills, shall suffer or permit any slabs, rinds, log ends, bark or rubbish of that description, made or cut at any such mill or mills, to fall, roll, float or be thrown into any part of the River Miramichi, or in any Creek or Stream falling into the said River within the limits above mentioned, every such owner or owners of such mill or mills, or other person or persons manufacturing lumber at any such mill or mills, shall forfeit and be liable to pay as a fine for every such offence, a sum not more than twenty pounds nor less than five pounds; provided always, that the saw mill now standing on French Fort Cove within the limits above mentioned shall not be liable to the provisions of this section.

XVIII. And be it enacted, That the Justices of the Peace for the County of Northumberland in their General Sessions, shall and may make such rules and regulations for the salmon, bass, gaspereaux and shad fisheries in the said Bay, Harbour or River of Miramichi, and its Branches, and in all other Rivers, Coves and Creeks within the said County, and also to enforce the rules and regulations so to be made by such fines and penalties so to be imposed, not exceeding for any one offence the sum of five pounds, to be recovered and applied as hereinafter mentioned; provided the said rules and regulations so to be made, be not contrary to or inconsistent with the provisions hereinbefore contained; and the Overseers of the Fisheries to be appointed in pursuance of this Act 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.

XIX. And be it enacted, That all the fines and penalties imposed by this Act shall be recovered with costs upon conviction upon the oath of one or more credible witness or witnesses, before any two of Her Majesty's Justices of the Peace in and for the County of Northumberland, notwithstanding such offence or offences shall be committed in any of the said Rivers or their Branches without the

limits of the said County, and levied by warrant of distress and sale of the offender's goods and chattels, rendering the overplus, if any, after deducting the costs and charges, to such offender; and for want of sufficient goods and chattels whereon to levy any such fine, costs and charges, such offender or offenders shall be imprisoned without bail or mainprize for a term not exceeding one day for every two shillings of the tine imposed and costs of prosecution, and not exceeding in the whole sixty days; one half of which fine shall when recovered be paid to the informer or person prosecuting for the same, and the other half to the Treasurer of the said County of Northumberland, when the person or persons prosecuting or informing shall not be the Inspector or Overseer, and that whenever any Inspector or Overseer to be appointed under this Act shall be the informer or person prosecuting, then the whole of such fine shall be paid to the County Treasurer; and it shall be the duty of the said Treasurer to keep the statement and account of all such sums as shall be paid to him for such fines and penalties in a distinct and separate account, and shall pay out of such fines as far as they shall extend, the amounts ordered by the said Justices to be paid to the said Inspectors respectively, before applying any other of the funds of the said County to the payment of such Inspectors; and it shall further be the duty of the said Treasurer to prepare and exhibit to the Justices at their General Sessions a true and correct statement and account of the same, verified by the oath of the said Treasurer.

XX. Provided always, and be it enacted, That nothing in the Act made and passed the present Session of the Legislature, intituled *An Act to consolidate and amend the Laws relating to the local government of Counties, Towns and Parishes in this Province*, contained, shall authorize or be construed to authorize the Justices of the Peace for the County of Northumberland, at any Court of General or Special Sessions, to make any rules or regulations thereunder contrary to the provisions or any of the provisions of this Act during the time this Act shall remain in force, any thing in the said recited Act contained to the contrary notwithstanding.

XXI. And be it 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 two.