



ANNO OCTAVO

VICTORIÆ REGINÆ.

CAP. XLVII.

An Act to repeal and reduce into one Act the several laws now in force for the Preservation of Salmon in that part of this Province formerly Upper Canada, and for other purposes therein mentioned.

[29th March, 1845.]

WHEREAS it is expedient to repeal and reduce into one the several Acts now in force in Upper Canada for the Preservation of Salmon within that part of the Province, and to make further regulations as to fishing in the rivers and creeks therein: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Act of the Parliament of the Province of Upper Canada passed in the second year of the Reign of His late Majesty King George the Fourth, intituled, *An Act to repeal the laws now in force relative to the Preservation of Salmon, and to make further provisions respecting the Fisheries in certain parts of this Province, and also to prevent accidents by fire from persons fishing by torch or fire light*; and an Act of the said Parliament passed in the Fourth year of the same Reign, intituled, *An Act to repeal part of and to amend and extend the provisions of an Act passed in the second year of the reign of His present Majesty, intituled, "An Act to repeal the laws now in force relative to the Preservation of Salmon, and to make further provisions respecting the Fisheries in certain parts of this Province, and also to prevent accidents by fire from persons fishing by torch or fire light,"* shall be and the same are hereby repealed.

Preamble.

Act of U. C.
2 Geo. IV. cap.
10.

Act of U. C.
4 Geo. IV. cap.
20.

The said Acts
repealed.

II.

Salmon not to be killed between 10th September and 1st March of the next year.

II. And be it enacted, That from and after the passing of this Act, it shall not be lawful for any person or persons at any time between the tenth day of September in any year, and the first day of March in the succeeding year, to take, catch or kill any Salmon or Salmon fry, in any manner whatsoever.

Salmon not to be killed within a certain distance of the mouths of rivers in Lake Ontario or the Bay of Quinté.
Exception.

III. And be it enacted, That it shall not be lawful for any person or persons at any time to take, catch or kill in any manner, in any District in Upper Canada, any Salmon or Salmon fry nearer the mouth of any of the rivers or creeks emptying into Lake Ontario or the Bay of Quinté, than two hundred yards, or within two hundred yards up from the mouth of any such river or creek as aforesaid: Provided always, that nothing herein contained shall be construed to prevent the taking of Salmon with a seine or net at any place along the shores of Lake Ontario between the first day of February and the first day of August.

Fish not to be taken by torch light within a certain distance of any mill.

IV. And be it enacted, That it shall not be lawful for any person or persons to take, catch or kill, or to attempt to take, catch or kill any fish whatsoever, in any river or creek within Upper Canada, by torch or fire light within one hundred yards of any mill which may now or hereafter be erected on any such river or creek as aforesaid.

No person to have Salmon in his possession during the periods in which it is made unlawful to kill the same.

V. And be it enacted, That from and after the passing of this Act, it shall not be lawful for any person or persons to buy, receive or have in his or their possession, under any pretence whatever, any Salmon taken or caught during the period in which persons are hereby prohibited from taking or attempting to take or catch Salmon within Upper Canada; and the proof that any Salmon was not so taken or caught shall lie on the person or persons in whose possession any such Salmon shall be found.

Onus of proof to be on the possessor.
Penalty on persons offending against this Act, and mode of prosecution.

VI. And be it enacted, That if any person or persons shall be convicted of any offence against this Act, before any one or more of Her Majesty's Justices of the Peace within the District in which the offence shall have been committed, upon the oath of one or more credible witness or witnesses, such person or persons shall upon conviction as aforesaid, forfeit and pay a sum not exceeding ten pounds, nor less than five shillings for the first offence, in the discretion of the Justice or Justices before whom such conviction shall be had, with all reasonable costs both before and after conviction; and for every subsequent offence of a like nature, the sum of five pounds, with costs as aforesaid: and upon any such conviction as aforesaid, it shall be lawful for the said Justice or Justices before whom such conviction shall have been had, to issue his or their Warrant of Distress against the goods and chattels of the offender or offenders, directed to any Constable in the said District, and commanding him to levy the said fine and costs, of the goods and chattels

How such penalty may be levied.

chattels of the said offender or offenders, which Warrant shall be in the form to this Act attached, marked A ; and in default of payment of such fine and costs as aforesaid, by such offender or offenders, and if no goods and chattels of such offender or offenders can be found whereof such fine and costs can be levied as aforesaid, it shall be the duty of the Justice or Justices before whom such conviction shall have been had as aforesaid, to commit such offender or offenders to the common gaol of the District as aforesaid, for a term not exceeding thirty days, unless the fine and costs are sooner paid.

Offender may be committed in default of payment.

VII. And be it enacted, That it shall be the duty of any Constable to whom such Justice or Justices as aforesaid shall direct his or their Warrant against the goods and chattels of any offender or offenders under this Act, within forty-eight hours after the receipt by him of such Warrant, to seize of the goods and chattels of such offender or offenders named in any such Warrant, sufficient to make the amount of the fine and costs, and to give a list of such goods and chattels so seized, signed with his hand, to the owner thereof; upon which list the said Constable shall endorse a notice to the said owner or owners of the time and place at which the said goods and chattels will be sold if the said fine and costs are not sooner paid ; and at the expiration of the time mentioned in such notice, (which shall not be less than eight nor more than sixteen days) it shall be lawful for the said Constable to proceed to sell the said goods and chattels and make the amount of the fine and costs, returning the overplus, if any, to the owner or owners of the said goods and chattels; and the said Constable shall within forty-eight hours after any such sale pay over the said fine and costs to the Justice or Justices from whom the said Warrant was received.

Duty of the Constable to whom any Warrant shall be addressed under this Act.

VIII. And be it enacted, That every Constable acting under the authority of this Act, shall be entitled to the following fees, and no more ; which fees in case of a sale of the offender's goods and chattels, the said Constable is hereby authorized to add to the amount mentioned in any Warrant delivered to him to be executed, viz : for every levy, three shillings and six pence ; for bill of goods seized and notice, five shillings ; every sale, five shillings : Provided always, that in case of any offender or offenders under this Act being committed to the gaol of the District, in default of goods and chattels to satisfy the fine and costs, the Constable for conveying such offender or offenders to gaol shall be entitled to receive the sum of five shillings for every such offender committed, and four pence a mile for every mile he shall be necessarily obliged to travel to convey such offender or offenders to prison ; which fees shall be paid by the Treasurer of the District to such Constable upon the certificate of the Justice or Justices before whom such conviction was had.

Fees to a Constable employed under this Act.

Proviso.
Fee for conveying the offender to Gaol.

How paid.

IX.

Application of
penalties.

IX. And be it enacted, That of all fines levied or collected or to be levied or collected by virtue of this Act, one half shall belong to the informer, and the other half shall be paid into the hands of the Treasurer of the District in which the conviction shall have been had, to and for the public use thereof.

Twenty mile
Pond, Louth.

X. And whereas it is expedient and necessary more effectually to provide for the preservation of fish in the twenty mile pond in the Township of Louth, in the District of Niagara, and to make regulations concerning fishing in the said twenty mile pond: Be it enacted, That it shall not be lawful for any person whomsoever to take or catch or attempt to take or catch, by setting any net or nets, wear or wears, any fish in the aforesaid twenty mile pond, nor to take or catch or attempt to take or catch any fish therein otherwise than with spear, hook or line.

SCHEDULE A.

FORM OF A WARRANT OF DISTRESS.

DISTRICT OF

To A. B., a Constable for the _____ of _____, —GREETING :

Whereas C. D., of _____, in the District of _____, was, on the _____ day of _____ now last (*or instant*), convicted before me (*or us*) of having (*here state the offence concisely*) against the form of the Statute in such case made and provided, and hath therefore by me (*or us*) been condemned to forfeit and pay the sum of _____ currency, and costs, which said penalty hath not been paid, and the same remains to be levied in the manner by law provided; You are therefore commanded to levy of the goods and chattels of the said C. D., which shall be found within the said District of _____, the said sum of _____, and your lawful fees, and to have this Warrant and the said sum of _____ before me (*or us*) on _____ day of _____ next (*or instant, allowing the time mentioned in the Act*), or otherwise then and there to certify me (*or us*) of the reasons why the same shall not have been so levied.

Given under my (*or our*) hand (*or hands*) and seal (*or seals*), this day of _____ in the year one thousand eight hundred and _____

Signature,

or

[L. S.]

Signatures.