

Gaol, or property required for the administration of Justice, shall be seized or sold under such warrant.

Provision as to the liability under the said Act, of Counties united when the loan was contracted but separated before it is paid.

III. Provided always, That whenever a loan shall have been effected on the credit of the said Consolidated Municipal Loan Fund by any Union of two or more Counties then united for municipal purposes, but which have been or shall be afterwards separated before such loan shall have been paid, and such Counties shall upon such separation have agreed or shall hereafter agree in the manner provided by law, as to the part which each or any of them shall have in the liability arising out of such loan, then such agreement shall be the rule by which the Receiver General shall be guided in ascertaining the liability of each of such Counties, and the amount to be paid by or levied upon each of them in respect of such loan, in case of any default to pay any sum which ought under the said Act to be paid to the Receiver General in respect of the same; and any County having paid its share of such liability so ascertained shall not be liable in respect of the share thereof of the other County or Counties united with it when the loan was effected.

Municipality's Share of Clergy Reserve Fund may be taken in payment.

IV. It shall be lawful for the Governor to direct the Receiver General to withhold the share of the Clergy Municipalities Fund accruing and which may hereafter accrue to any Municipality certified by the Receiver General to be in default, or from the several Municipalities in any County while such County is so certified to be in default, and to carry such share or shares to the credit of such Municipality or County on account of such default.

C A P . X X I .

The Fishery Act.

[Assented to 10th June, 1857.]

Preamble.

WHEREAS it is expedient to make better provision for the preservation and regulation of the fisheries of this Province: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts, as follows:

Acts and parts of Acts repealed.

- 1.—1. The Act Ninth George the Fourth, Chapter Fifty-one,—
2. The Act Fourth and Fifth Victoria, Chapter Thirty-six,—
3. The Act Seventh Victoria, Chapter Thirteen,—
4. The Act Sixteenth Victoria, Chapter Ninety-two,—

5. The Seventh paragraph of the Nineteenth Section of the Act Eighteenth Victoria, Chapter One hundred,—
6. The Act Eighteenth Victoria, Chapter One hundred and Fourteen,—
7. The Act of Sixth William the Fourth, Chapter Fifty-Seven,—
8. The Act Eighth Victoria, Chapter Forty-seven,—
9. The Eighteenth sub-section of the Sixtieth Section of the Act Twelfth Victoria, Chapter eighty-one,—

Are hereby repealed.

II. No provision of law repealed by any Act cited in the next preceding Section shall revive by the repeal of the said Laws. Acts repealed by the said Acts not to revive.

III. Notwithstanding the repeal of the Acts enumerated in Section one, every act done, and every right acquired by virtue of the said Acts shall remain valid ; every penalty incurred shall remain recoverable ; and every legal proceeding commenced may be continued as if the said Acts were not repealed. Repeal not to affect penalties incurred, &c.

IV. The Governor may, as occasion shall require, appoint two Superintendents of Fisheries, one for Upper and one for Lower Canada, whose powers and duties shall be defined by this Act and the regulations to be made under it. Two Superintendents of Fisheries to be appointed.

V. All subjects of Her Majesty, but none other, may— Rights of Fishermen.

1. Take bait and fish in any of the harbours, roadsteads, bays, creeks or rivers of the Province, except the Rivers lying within the limits of the territory known as the King's Posts ; Taking bait and fishing.
2. Land any where on public property for the purpose of salting, curing and drying fish ; Landing and curing fish.
3. Cut wood there for the purpose of repairing stages, drying places, flakes, hurdles, cook-rooms and other purposes necessary or useful for preparing or dealing with fish ; Cutting wood.
4. Take possession of any unoccupied portion of the beach which may be necessary for curing fish, and hold the same so long as the same shall not have been abandoned during twelve consecutive months ; Occupying beach.

- Recovering value of stages, &c. 5. Any such subject having so occupied any such portion of the beach may, during the year next after he shall have been twelve months without occupying it, demand personally or by his Attorney, the value of his flakes and stages, of which a new occupant shall have taken possession; and
- Carrying away improvements, &c. 6. Carry away his buildings and improvements, after the close of the fishing season, after having so demanded the value thereof, if he shall not have received the same from the new occupant.
- Sect. 5 not to affect private property, &c. VI. But nothing contained in the fifth section, shall affect private property or prevent the Crown from disposing or taking possession of any public land or beach so occupied for fishing purposes.
- King's Posts. VII. The Governor in Council may grant permission to fish in the Rivers within the King's Posts.
- Throwing ballast, &c., prohibited in certain cases. VIII. Whoever shall throw overboard ballast in any River, Harbour or Roadstead where sea fishing is carried on, or the remains of offal of fish in the said river or within three miles of the coast of the mainland or of any Island, or on any fishing bank, shall incur a fine not exceeding Twenty Pounds.
- Impeding fishing. IX. No one shall anchor near the shore in such manner as to impede the throwing and hauling of seines or the setting of standing nets.
- The same. X. No one shall set standing nets in such manner as to impede the throwing and hauling of seines.
- Impeding navigation. XI. No one shall set nets or seines in such manner as to impede the navigation or anchorage in any Harbour, Roadstead, Bay or other place required for navigation.
- Penalty for contravening sects. 9, 10, 11. XII. Any person contravening any provision of the three preceding sections, shall for each offence, incur a fine not exceeding Five Pounds, and shall nevertheless remain liable for any damages which any party injured by such contravention may recover against him at Law.
- Removal of fishing stakes. XIII. Every person who shall, for fishing purposes, have placed in any River, or in the sea, near the shore, any stake or other timber whatever, shall, on pain of a fine not exceeding Five Pounds, remove the same within eight days from that on which he shall have last used the same.
- Exemption of fishing tackle from seizure. XIV. No one shall between the First of May and the First of November in any year, seize or attach any boat, tackle, net, seine, rigging or other fishing utensils, or any provisions, belonging

belonging to any Fisherman and necessary for his subsistence or his fishing operations, except for the recovery of penalties or fines imposed under this Act. Exception.

XV. Any person who, having been engaged by any written agreement to fish on any conditions or assist in any fishery, shall abandon his Employer's service during the term of his engagement, shall thereby incur a fine not exceeding Ten Pounds, or imprisonment for not more than one month in the nearest Gaol within the Province. Penalty for deserting fishing service.

XVI. Whoever shall engage or endeavour to engage any person then engaged as aforesaid in any way to fish or assist in any fishery, shall thereby incur a fine not exceeding Ten Pounds or imprisonment for not more than one month. Or seducing away persons engaged.

XVII. Any person engaged to fish or assist in any fishery, shall, for securing his wages, salary or share, have a first lien preferable to that of any other Creditor, on the produce of his Employer's fishery, and may recover the sum or share due to him, before the nearest competent tribunal. Lien in favor of fishermen.

XVIII. Whoever shall obstruct the main channel or course of any river, either by placing therein nets or fishing apparatus of any kind, or any obstacle of any kind whatever, for the purpose of taking salmon or any other species of fish, shall thereby incur for each offence, a fine not exceeding Five Pounds, and the forfeiture of his fishing apparatus; and in no case shall the said channel or course so left open be less than one third of the whole breadth of such river. Main channel of rivers not to be obstructed.

XIX. Every penalty or forfeiture imposed by this Act or the regulations to be made under it, may be recovered on complaint before the Superintendent of fisheries, or any Stipendiary or other Magistrate, in a summary manner, and the costs to be recovered shall be the same as is provided by law in either Section of the Province in other cases where summary jurisdiction is given to Magistrates. Recovery of penalties.

XX. Any offender who shall not forthwith pay the fine and costs he may have been condemned to pay, shall be committed to Gaol for any term not exceeding one month. Committal for non-payment.

XXI. Complaints under this Act may be in the form A;— Summonses in the form B;—Supœnas in the form C;—Convictions in the form D,—and Warrants in the form E, of the Schedule hereunto annexed; in other respects the Acts relative to summary convictions by Justices of the Peace shall apply to cases under this Act, and the Superintendent of Fisheries shall, as regards such cases, be deemed a Justice of the Peace for that section of the Province for which he is appointed, whether otherwise qualified or not; and in any proceeding Forms under this Act.
Summary convictions Acts to apply otherwise.

Offences against regulations.

proceeding under this Act, an offence against any regulation made under this Act may be stated as an offence against this Act.

Application of fines.

XXII. One moiety of the pecuniary fines and of the forfeitures under this Act or the regulations to be made by virtue thereof, shall belong to Her Majesty, and the other moiety to the complainant.

Delay between service and return.

XXIII. There shall not be less than three days between the service and the return of the summons, to any Defendant, for the first five leagues, and one day more for each additional five leagues, of the instance between the place at which the Summons is dated, and the place where it is served.

Summons returnable immediately in certain cases.

XXIV. When the Defendant shall not be resident in this Province, and it shall be expedient to proceed against him without delay, the Superintendent of Fisheries, or any Stipendiary or other Magistrate, may, upon complaint, issue a Summons, returnable before him immediately after the service thereof, or within a reasonable time mentioned in the Summons.

Limitation of suits.

XXV. All penalties incurred under this Act must be sued for within twelve months from the commission of the offence.

Fish-ways to be attached to dams.

XXVI. From the first of June to the twentieth of October in each year, the owner of any dam or slide on any river which salmon may ascend, shall, for the purpose of affording a passage to the fish, attach to each dam or slide a fish-way of such form and dimensions as shall be determined by the Governor in Council, under a penalty of One Pound for each day on which he shall fail so to do.

Penalty for default.

Close season for salmon.

XXVII. It shall not be lawful to catch salmon in any way whatever except with a rod and line or line, between the first of August and the first of March in Lower Canada, and the first of September and the tenth of March in Upper Canada.

Salmon not to be killed by torch light, &c., in L. C.

XXVIII. It shall not be lawful to kill Salmon at any time by aid of torch light or other artificial light in Lower Canada.

Nor salmon, or other fish in like manner in U. C.

XXIX. It shall not be lawful to kill Salmon, Maskinongé, Speckled Trout, nor Bass at any time by the aid of spears, torch-light or other artificial light in Upper Canada.

Close season for trout, &c., in U. C.

XXX. It shall not be lawful to catch in any way whatever, maskinongé, speckled trout, or black bass, between the first of October and the first of April in Upper Canada.

And in L. C.

XXXI. It shall not be lawful to catch speckled trout in any way whatever, between the first of October and the fourteenth of February in any year in Lower Canada.

XXXII.

XXXII. It shall not be lawful for any person to buy or sell salmon, maskinongé, speckled trout, or black bass, taken in contravention of the preceding sections; and any fish so taken in contravention of the Law, may be declared forfeited to the complainant by any Magistrate whomsoever.

Fish not to be bought or sold in the close season.

XXXIII. In every case of contravention of this Act or of the regulations to be made under it, for which no other penalty is provided, the offender shall incur a fine of not less than Two Pounds nor more than Five Pounds.

Penalty when no other is provided.

XXXIV. It shall not be lawful to construct any fish pound in any river or brook.

Fish pounds.

XXXV. Every subject of Her Majesty who shall be in peaceable possession of any fishing Station for Salmon or Seals, at the time of the passing of this Act, shall be deemed the owner thereof for the purposes of this Act; he shall be deemed so to be when he shall not have abandoned it during twelve consecutive months, and it shall not be lawful for any other person to set therein any apparatus for catching Salmon or Seals, so as to injure his fishery.

Right of possession in fishing stations.

XXXVI. The powers heretofore vested in the Municipalities by the Seventh sub-section of the Nineteenth Section of the Act Eighteenth Victoria, Chapter One hundred, and by the Eighteenth sub-section of the Sixtieth section of the Act Twelfth Victoria, Chapter Eighty-one, as the said sub-section is extended by the Sixty-seventh and One hundred and Sixth Sections of the said Act, are hereby transferred to and vested in the Governor in Council.

Powers to make regulations about fishing transferred to Governor in Council.

XXXVII. For the purpose of encouraging and affording information with respect to the production of salmon and other fish, an apparatus for the artificial propagation of fish shall be kept in the department of the Commissioner of Crown Lands.

Apparatus for artificial propagation of fish to be procured.

XXXVIII. The production of a copy purporting to be printed in the *Canada Gazette* or otherwise by the Queen's Printer, of any Regulation to be made by the Governor in Council under this Act, shall be *prima facie* evidence of such Regulation, and that it is in force as Law.

Proof of regulations under this Act.

SCHEDULE A.

Form of Complaint.

Upper (or Lower) Canada, }
 County (or District) of . }
 This day of 18 .

To J. S. Superintendent of Fisheries,
 (or a Justice of the Peace for the said County or District.)

A.

A. B. of complains that C. D. of hath (*state the offence briefly in any intelligible terms, with the time and place at which it was committed,*) in contravention of the Fishery Act; wherefore the complainant prays that judgment may be given against the said C. D. as by the said Act provided.

(Signature)

A. B.

SCHEDULE B.

Summons to Defendant.

Upper (or Lower) Canada, }
County (or District) of }.

To C. D. of , &c.

Whereas complaint hath (*this day*) been made before me that you (*state the offence in the words of the complaint, or to like effect*) in contravention of the Fisheries Act; Therefore you are hereby commanded to come before me, at at o'clock in the , to answer the said complaint and be dealt with according to Law.

Witness my hand and seal, this day of 185 .

J. S., Superintendent of
Fisheries for Lower Canada, (or
Justice of the Peace for)
as the case may be.

[L. S.]

SCHEDULE C.

Subpœna to a Witness.

Upper (or Lower) Canada, }
County (or District) of }.

To E. F. of , &c.

Whereas complaint has been made before me that C. D. did (*state the offence as in the Summons*), and I am informed that you can give material evidence in the case; Therefore you are commanded to appear before me, at o'clock in the to testify what you know concerning the matter of the said complaint.

Witness my hand and seal, this day of 185 .

J. S., Superintendent, &c.,

(*as in Summons*).

[L. S.]

SCHEDULE

said C. D. into your custody, and keep him safely imprisoned in the said Gaol for the space of _____, and for so doing this shall be your sufficient warrant.

Witness my hand and seal, this _____ day of _____ 18 ____.

J. S.,
(as in Summons.)

[L. S.]

C A P . X X I I .

An Act further to secure the Independence of Parliament.

[Assented to 10th June, 1857.]

Preamble.

WHEREAS it is expedient to repeal the Acts hereinafter mentioned, and to amend their provisions so as to secure the Independence of the Legislative Council and Assembly of this Province, and to consolidate them as so amended: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Acts 7 V. c.
65 and 18 V.
c. 86, repealed.

I. The Act passed in the seventh year of Her Majesty's Reign, intituled, *An Act for better securing the Independence of the Legislative Assembly of this Province*, and the Act passed in the eighteenth year of Her Majesty's Reign, and intituled, *An Act to amend the Act for better securing the Independence of the Legislative Assembly of this Province*, are hereby repealed, except that any other Act or Acts repealed by them shall remain repealed.

Certain Functionaries and Officers disqualified to vote at elections of Members of the Legislative Council or Assembly.

II. The Chancellor and Vice Chancellors of Upper Canada, the Chief Justice and Judges of the Court of Queen's Bench for Lower Canada, the Chief Justice and Judges of the Courts of Queen's Bench and Common Pleas in Upper Canada and of the Superior Court in Lower Canada, the Judge of the Court of Vice Admiralty in Lower Canada, the Judge of any Court of Escheats, all County and Circuit Judges, all Commissioners of Bankrupts, the Official Principal of the Court of Probate in Upper Canada, and the Surrogates of the several Courts of Probate in the same, all Recorders of Cities, all Officers of the Customs, all Clerks of the Peace, Registrars, Sheriffs, Deputy Sheriffs, Deputy Clerks of the Crown and Agents for the sale of Crown Lands, and all Officers employed in the collection of any duties payable to Her Majesty in the nature of duties of excise,—shall be disqualified and incompetent to vote at any election of a Member of the Legislative Council or of the Legislative Assembly, either in the present Parliament or in any Parliament hereafter to be holden; and if any public officer or person mentioned in this section, shall vote at any such election, he shall forfeit thereby the sum of five hundred pounds currency, to be recovered by such person as shall sue for the same, by action

Penalty for so voting in contravention of this Act.