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BY AUTHORITY.

CAP. XVIII.

An ACT, in addition to an Act, intituled "An Act to empower the Justices of the Sessions, in the several Counties in this Province, to make such regulations respecting Markets and Ferries within such Counties as may be found necessary." Passed the 14th of March, 1810.

WHEREAS it may be convenient to extend the powers given to the Justices of the General Sessions of the Peace, in the several Counties in this Province, in and by an Act, made and passed in the twenty-eighth year of His Majesty's Reign, intituled "An Act to empower the Justices of the Sessions in the several Counties in this Province, to make such regulations respecting Markets and Ferries, within such Counties as may be found necessary." And to enable the said Justices in like manner to make regulations respecting cauleys, promenades, or walks, made and provided for the accommodation of foot passengers in the public Streets or squares in the several Towns and Parishes, where the same may be found necessary. Be it enacted by the President, Council, and Assembly, That in such of the Towns and Parishes in the several and respective Counties wherein, any cauley, promenade, walk, pavement, or other structure shall be made and provided for the accommodation of foot passengers in the public streets, squares, or other public places in any such Town or Parish, except the Parish of Saint John, in the County of Saint John, it shall and may be lawful for the Justices of the General Sessions of the Peace, in the several and respective Counties to make such orders, rules, and regulations, respecting the same, and to prevent any injury being done to the same by riding with horses, carts, or carriages over the same, or by wilfully cutting down, injuring or destroying any posts, railings, trees or other defences placed and erected for the ornament or protection of the same, or otherwise howsoever, as such Justices in their discretion, shall from time to time think expedient and necessary under such and the like penalties, to be recovered, levied, and applied in like manner as is provided in and by the said herein before recited Act, for carrying into execution the powers given and granted to such Justices, in and by the same Act, any Law, usage or custom to the contrary thereof, in any wise notwithstanding.

CAP. XIX.

An ACT, to make perpetual an Act, for the further and better support of the Poor in the City of Saint John. Passed the 14th of March, 1810.

Be it enacted by the President, Council, and Assembly, That an Act made and passed in the forty-first year of His Majesty's Reign, intituled "An Act for the further and better support of the Poor in the City of Saint John," be, and the same is hereby made perpetual.

CAP. XX.

An ACT, for the further regulation of Fisheries, and for preventing their decay. Passed the 14th of March 1810.

WHEREAS by an Act, made and passed in the thirty-third year of His Majesty's Reign, intituled "An Act for regulating the Fisheries in the different rivers, coves and creeks of this Province;" it is enacted that no net shall be set in the river Saint John, below the Boars Head, or in the harbour of Saint John, more than twenty fathoms in length: And whereas doubts have arisen as to the outward limits of the said harbour.

I. Be it enacted by the President, Council, and Assembly, That no net more than twenty fathoms in length, shall be set, in any part of the said harbour, on the northerly side of Partridge Island, nor within, or to the northward of straight lines to be drawn, the one from a point commonly called Black Point, on the western side of the said harbour, to the most westerly point on the said Island; and the other from the most easterly point on the same Island, to a point called Lower-Battery Point, on the eastern side of the said harbour; under the penalty of ten pounds for each and every offence. And no net more than thirty fathoms in length, shall be set any where on the outer or southerly side of the above described limits, under the like penalty of ten pounds. And every net that shall be set in violation of this regulation, shall be liable to seizure and sale, in the manner and under the conditions and regulations prescribed in the third Section of the said Act for regulating the Fisheries in the different rivers, coves, and creeks of this Province.

II. And be it further enacted, That no net shall be set at or upon the rocks commonly called Shag Rocks, lying between Partridge and Maawagonish Islands; nor shall any two nets tied or fastened together be set, nor any drift net be used, for the purpose of catching fish, in the river Saint John, below the Boars Head, nor in the harbour of Saint John, as above limited, nor in any part of the river Saint Croix, within the limits of this Province; under the like penalty respectively of ten pounds for each and every offence, and the seizure and sale of the nets as aforesaid.

III. And be it further enacted, That no drift net, whether single, or composed of two or more nets tied or fastened together, and of a length in the whole exceeding thirty fathoms, shall be used for taking fish above the Boars Head, in the river Saint John, or in the river Kennebecasis, under the penalty of five pounds, for each and every offence; nor shall there be used, in any branch of either of the said rivers, any such net of a length exceeding in the whole one fourth part of the width of such branch respectively, under the like penalty of five pounds; nor shall any drift nets be any where made use of as aforesaid, within a less distance than thirty fathoms from each other, under the penalty of ten pounds; nor shall any net whatever remain in the water in any part of this Province, at any time between sun-set on Saturday, and sun-rise on the next ensuing Monday, under the penalty of five pounds. And all the several penalties imposed in this and the two preceding Sections (excepting the seizure and sale of nets,) shall be recovered, paid and applied in like manner as is directed in and by the first Section of the herein before recited Act.

IV. And be it further enacted, That no Salmon shall in any manner whatever be taken or killed, any where within this Province, at any time between the first day of October, and the first day of April, in each and every year, under the penalty of five shillings for every Salmon, so unseasonably taken or killed; nor shall any person purchase the same or make use thereof, under the like penalty of five shillings for every Salmon so unseasonably taken or killed, that shall be found in his, or her possession; which respective penalties by this Section imposed, shall be recovered before any Justice of the Peace of the County, upon the oath of one or more credible witnesses or witnesses, and be levied by warrant of distress and sale of the offenders goods, rendering the overplus if any, after deducting the costs and charges of prosecution to the offender or offenders, and paid, one half to the informer, and the other half to the Overseers of the poor, for the use of the poor of the Parish where the offence shall be committed. Provided always, that the powers given to the Justices of the Peace in the County of Northumberland, in their General Sessions, in and by the ninth Section of an Act passed in the thirty-ninth year of His Majesty's Reign, intituled "An Act for regulating the Fisheries in the County of Northumberland," shall remain unaltered, any thing in this present Act to the contrary notwithstanding.

V. And be it further enacted, That the Overseers of the Fisheries, for any City or Parish bordering upon the Bay of Fundy, or upon any other arm of the sea, shall at all times have power and authority to seize and sell any nets set or used unlawfully, in any arm of the sea adjacent to such City or Parish, in like manner as by Law they would have, if the waters thereof, were within the limits of such City or Parish; and that the Overseers of the Fisheries for the City of Saint John, shall have power to seize and sell as aforesaid, any nets set or used unlawfully, or that may be found drifting any where within the harbour of Saint John, or within the distance of two miles around Partridge Island.

VI. And be it further enacted, That in all Mill Dams or other fabrics, which have been or hereafter shall be erected or placed on, or across any river, situate either wholly or in part within this Province, and which has been usually resorted to by Fish from the sea in considerable quantities at their seasons for spawning, there shall be a waste gate or fish way, sufficient for such fish, in the proper seasons, to pass up and return without any such hindrance or obstruction as may in future tend to divert them from such their usual resort. And if any Mill Dam or other fabric erected or placed as aforesaid, shall at any time after the first day of November next ensuing, be found without such waste gate or fish way, as is hereby required, and complaint thereof be duly made on oath, to the Justices of the Peace, of the County where such Mill Dam, or other fabric, shall be so found in their General Sessions of the Peace (of which complaint the owner or owners of such Mill Dam, or other fabric, shall have timely notice in writing,) it shall be lawful for the said Justices in such Sessions, and they are hereby directed forthwith to issue their Precept to the Sheriff in due form of Law, commanding him to impanel and swear a Jury of twelve good and lawful men of the said County, (but not of the Parish in which such Mill Dam, or other fabric shall be so found) and with such Jury, to view the Premises complained of. And the said Sheriff, after due inquest made by the said Jury, touching all matters and things set forth in such complaint, upon due examination of witnesses on oath, to be by him administered, shall make return of such inquest, to the said Justices in their Sessions, who thereupon, in case the Jury do find the said complaint to be just and true, shall make an order in writing, to be endorsed upon the inquest so returned, thereby directing the owner or owners, occupier or occupiers of such Mill Dam, or other fabric, to make or cause to be made therein such sufficient waste gate or fish way, as is hereby required within a reasonable time, to be in such order specified; and also requiring the offender or offenders to be convicted to pay a fine not exceeding twenty pounds not less than ten pounds immediately into the hands of the County Treasurer, for the

use of the said County. And if any such offender or offenders shall refuse or neglect to pay such fine, together with reasonable charges of prosecution, to be taxed and allowed by the Court, it shall be lawful for the said Justices in their Sessions, and they are hereby directed to issue a warrant for levying such fine and charges by distress and sale of the goods and chattels of the said offender or offenders; and if no sufficient distress can be found, then, on due return thereof made by the Sheriff, the said Justices in their Sessions shall, by a further warrant to be by them issued in due form of Law, commit such offender or offenders to the public gaol of the County, wherein the offence shall have been committed, there to remain for the space of three months, or until the said fine and charges be paid.

VII. And be it further enacted, That whenever the owner or owners, occupier or occupiers, of any such Mill Dam, or other fabric erected or placed as aforesaid, shall, after such order and conviction as aforesaid, continue for the space of twenty days, such Mill Dam, or other fabric, without such sufficient waste gate or fish way, as is hereby required, it shall be considered as a new offence, and the offender or offenders shall incur the like penalty, to be recovered before any general or special Sessions of the Peace to be holden in and for the same County, and applied as aforesaid. And every twenty days continuance shall be deemed a new offence, and may be prosecuted as such, and the penalty aforesaid recovered so often as the same may happen.

CAP. XXI.

An ACT to regulate the proceedings in actions of Replevin, and to enable the sale of goods distrained for Rent, in case the Rent be not paid in a reasonable time, and for the more effectual securing the payment of Rents, and preventing fraud by Tenants. Passed the 14th of March, 1810.

WHEREAS no County Courts are held by the Sheriffs of the several and respective Counties in this Province; and whereas the proceedings in actions of Replevin, by Writ issuing out of the Court of Chancery, are dilatory and expensive.

I. Be it enacted by the President, Council, and Assembly, That actions of Replevin, shall and may be prosecuted by Writ issuing out of the Supreme Court, and out of the several and respective Inferior Courts of Common Pleas, in the several and respective Counties in this Province; and that such Writs of Replevin, shall be tested and made returnable in the said Courts respectively, as Writs in other causes within the jurisdiction and cognizance of such Courts; and that such Writs shall, as soon as may be, be framed by the Justices of the Supreme Court, conformably, as near as may be, to the Writs and Processes in that behalf used in England, any Law, usage or custom to the contrary thereof, in any wise notwithstanding.

II. And be it further enacted, That such and the like proceedings shall be had upon such Writs, and upon the return and filing thereof, in all respects, and to all intents and purposes, in the said Courts respectively, as could or might be had in the said Supreme Court, in case such Writs had issued out of the Court of Chancery and been made returnable in the said Supreme Court.

III. Provided always, and be it further enacted, That if any thing touching the freehold or title to lands shall come in question, or the King shall be a party, or the taking of any distress, shall be in the right of the Crown, that then, and in all such cases, no farther proceedings shall be had thereon in the said Inferior Courts, but the party desirous to proceed therein, shall remove such cause, by Certiorari into the Supreme Court, where the same shall be finally heard and determined, any thing herein before contained to the contrary notwithstanding.

IV. And be it further enacted, That when any goods and chattels shall be distrained for any rent reserved and due upon any demise, lease, or contract whatsoever, and the Tenant or owner of the goods so distrained, shall not within five days next after such distress taken, and notice thereof (with the cause of such taking) left at the dwelling house or other most notorious place on the premises charged with the rent distrained for, replevy the same, with sufficient security to be given to the Sheriff, according to Law, that then in such case, after such distress and notice as aforesaid, and expiration of the said five days, the person distraining, shall and may with the Sheriff, or under Sheriff of the County, or with a Constable of the Parish, City, or place where such distress shall be taken (who are hereby required to be aiding and assisting therein,) cause the goods and chattels so distrained, to be appraised by two sworn appraisers (whom such Sheriff, under Sheriff or Constable are hereby empowered to swear) to appraise the same truly, according to the best of their understandings; and, after such appraisal, shall and may lawfully sell the goods and chattels so distrained, for the best price that can be gotten for the same, towards satisfaction for the rent, for which the said goods and chattels shall be distrained, and of the charges of such distress, appraisal and sale, leaving the overplus, if any, in the hands of the said Sheriff, under Sheriff, or Constable, for the owners use.