

C A P. LX.

An Act for the regulation of Fishing and protection of Fisheries.

[Assented to 22nd May, 1868.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

FISHERY OFFICERS.

1. The Governor may appoint Fishery Officers, whose powers and duties shall be defined by this Act and the Regulations made under it, and by instructions from the Department of Marine and Fisheries; and every Officer so appointed under oath of office and instructed to exercise magisterial powers, shall be ex officio a Justice of the Peace for all the purposes of this Act and the Regulations made under it, within the limits for which he is appointed to act as such Fishery Officer :

2. Each Fishery Officer shall take and subscribe the following oath :—

“ I, A. B., a Fishery Officer in and for the district described in my appointment, do solemnly swear, that to the best of my

“ my judgment, I will faithfully, honestly and impartially
 “ fulfil, execute and perform the office and duty of such Officer
 “ according to the true intent and meaning of the Fisheries Act
 “ and Regulations, and in accordance with my instructions.
 “ So help me God. ”

FISHERY LEASES AND LICENSES.

Fishery leases
and licences.

If for more than
nine years.

2. The Minister of Marine and Fisheries (may, where the exclusive right of fishing does not already exist by law, issue or authorize to be issued fishery leases and licenses for fisheries and fishing wheresoever situated or carried on ; but leases or licenses for any term exceeding nine years shall be issued only under authority of ,an Order of the Governor in Council.

DEEP SEA FISHERIES.

As to right to
use vacant pu-
blic property for
fishing pur-
poses and as to
taking bait, &c.

Proviso.

3. Every subject of Her Majesty may use vacant public property, such as by law is common and accessory to public rights of fishery and navigation, for the purposes of landing, salting, curing and drying fish, and may cut wood thereon for such purposes, and no other person shall occupy the same station unless it shall have been abandoned by the first occupant for twelve consecutive months ; and at the expiration of that period any new occupier shall pay the value of flakes and stages and other property thereon of which he may take possession, or the buildings and improvements may be removed by the original owner ; and all subjects of Her Majesty may take bait or fish in any of the harbours or roadsteads, creeks or rivers ; subject always, and in every case, to the provisions of this Act as affects the leasing or licensing of fisheries and fishing stations ; but no property leased or licensed shall be deemed vacant.

COD FISHERY.

Nets for taken
Cod.

4. No one shall use mackerel, herring nor caplin seines for taking codfish, and no codfish seine shall be of a less sized mesh than four inches in extension in the arms, and three inches in the bunt or bottom of the seine.

WHALE FISHERY.

Whales &c.,
not to be killed
by rockets or
shells.

Penalty.

5. Whales, seals and porpoises shall not be hunted or killed by means of rockets, explosive instruments or shells, under a penalty not exceeding three hundred dollars, or at least three months' and not exceeding six months' imprisonment, in default of payment.

SEAL FISHERY.

Sedentary fish-
eries not be
disturbed.

6. During the time of fishing for seals, no one shall, with boat or vessel, knowingly or wilfully, disturb, impede or injure any

any sedentary seal fishery, nor prevent, hinder or frighten the shoals of seals coming into such fishery, under a penalty not to exceed sixty dollars for each offence, or imprisonment in default of payment not exceeding one month; the defendant being also liable for damages, to be adjudged by any Fishery Officer or other magistrate before whom the injured party may complain : Penalty.

2. Disputes between occupiers of seal fisheries concerning limits and the mode of fishing or setting nets, shall be decided summarily by any Fishery Officer or other magistrate, on the report of arbitrators, and any damages assessed or accrued, or that may afterwards arise out of a repetition or continuance of the difficulty ordered to be remedied, may be levied under the warrant of any Fishery Officer or other magistrate. Disputes as to Seal fisheries how settled.

SALMON FISHERY.

7. Salmon shall not be fished for, caught or killed, between the thirty-first day of July and the first day of May, in the Provinces of Ontario and Quebec, and in the River Restigouche, and between the fifteenth day of August and the first day of March, in the Province of New Brunswick; provided always, that it shall be lawful to fish for, catch and kill salmon with a rod and line, in the manner known as fly-surface-fishing, between the thirtieth day of April and the thirty-first day of August, in the Provinces of Ontario and Quebec, and between the first day of March and the fifteenth day of September, in the Province of New Brunswick : Close Season for Salmon. Proviso as to fly surface fishing.

2. Salmon shall not be fished for, caught or killed in the Province of Nova Scotia, save as provided and authorized by the laws now in force in that Province ; In Nova Scotia.

3. Foul or unclean salmon shall not be at any time caught or killed ; Foul Salmon.

4. Salmon fry, parr and smolt, shall not be at any time fished for, caught or killed, and no salmon or grilse of less weight than three pounds shall be caught or killed ; but where caught by accident in nets lawfully used for other fish, they shall be liberated alive at the cost and risk of the owner of the fishery, on whom shall in every case devolve the proof of such actual liberation ; Fry, parr, or smolt not to be killed.

5. Meshes of nets used for capturing salmon, shall be at least five inches in extension, and nothing shall be done to practically diminish or nullify their size ; Size of meshes of Salmon nets.

6. The use of nets or other apparatus which capture salmon shall, except in the Provinces of Nova Scotia and New Brunswick, be confined to tidal waters, and any Fishery Officer may determine the length and place of each net or other apparatus used Use of nets regulated.

Proviso as to Ontario, &c.

used in any of the waters of the Dominion; provided, that nothing contained in this section shall prevent the use of nets for catching salmon in the lakes of the Province of Ontario, nor preclude the Minister from authorizing, by special fishery licenses or leases, the capture of salmon by nets in fresh water streams;

Boundaries of estuary fishing, to be defined.

7. The Minister, or any Fishery Officer authorized to such effect, shall have power to define the tidal boundary of estuary fishing for the purposes of this Act; and above the actual limit so to be laid down, it shall be unlawful, without the special fishery lease or license above provided for, to fish for salmon except with a rod and line, in the manner known as fly-surface-fishing, under a penalty not to exceed one hundred dollars, and imprisonment in default of payment for any term not exceeding two months;

Penalty for fishing above limits, except with a rod and line, &c.

Distance of nets apart, &c.

8. All nets, or other lawful appliances which capture salmon, shall be placed at distances of not less than two hundred and fifty yards apart, without intermediate fishing materials of any kind being set or used in and about any other part of the stream, and drifting for salmon shall be illegal;

Further distance may be prescribed.

9. Any Fishery Officer may prescribe either in writing or orally on sight, if deemed necessary, a further distance apart to be left between salmon nets, or other fishing apparatus, and their dimensions and extension; but gill or float-nets shall not be used to lengthen, extend or enlarge any other kind of fishery;

Proviso.

As to spawning rivers.

10. No salmon shall be captured within two hundred yards of the mouth of any tributary creek or stream which salmon frequent to spawn;

Mode of killing at certain places.

11. Except in the manner known as fly-surface-fishing with a rod and line, salmon shall not be fished for, caught or killed at any artificial pass or salmon leap, nor in any pool where salmon spawn;

Salmon spawn.

12. Except under the authority and for the special purpose provided for in this Act, no one shall take, buy, sell, destroy, use or possess any salmon roe, nor injure any spawning bed.

LAKE AND RIVER TROUT FISHERY.

Not to be killed in certain ways and at certain seasons.

8. It shall not be lawful to fish for, catch or kill any kind of trout (or "lunge") in any way whatever between the first day of October and the first day of January; and no one shall at any time fish for, catch or kill trout by other means than angling by hand with hook and line, in any inland lake, river or stream, except in tidal waters; Provided always, that as affecting the waters of the Province of Ontario, such prohibitions shall apply only to the kind known as "speckled trout."

Proviso.

Speckled trout.

2. Nothing in the above clause shall prevent the use of small sized trout for the *bonâ fide* purpose of baiting traps, nor affect the taking and using the same by fishermen as bait for codfishing in tidal waters, nor subject them to penalty if by accident in *bonâ fide* fishing for herrings or white-fish by means of nets, trout shall become enclosed or taken. Exception as to fish used for bait, &c.,

WHITE-FISH AND SALMON TROUT FISHERY.

9. It shall not be lawful to fish for or catch white-fish in any manner between the nineteenth day of November and the first day of December, nor by means of any kind of seine, between the thirtieth day of May and first day of August, in the Province of Ontario, or between the thirty-first day of July and first day of December in the Province of Quebec, nor shall the fry of the same be at any time destroyed : Close season for White Fish.

2. Gill nets for catching salmon trout or white-fish, shall have meshes of at least five inches extension measure; and gill nets shall not be set within two miles of any seining ground; Gill nets.

3. Seines for catching white-fish shall have meshes of not less than four inches extension measure. Seines.

BASS AND PICKEREL FISHERY.

10. Close-seasons for bass, pike, pickerel (*dorée*), mas-kinongé and other fish, may be fixed by the Governor in Council to suit different localities. Close Season.

POSSESSION OF FISH.

11. No one shall, without lawful excuse, the proof of which shall devolve wholly on the party charged, buy, sell or possess any fish named in this Act, or parts thereof, caught or killed during seasons when and by means whereof catching or killing the same is prohibited by law : Prohibition to buy, sell, or have in close season.

2. It shall be the duty of every customs officer, excise officer, police officer or constable, clerk of a market or other party in charge of any market-place in any village, town or city, to seize and forfeit on view to his own proper use, or gift, any fish enumerated in this Act, caught or killed during prohibited seasons, or which appears to have been killed by unlawful means; but every such seizure and appropriation, with the date, place, and circumstances thereof, shall be duly reported, together with the name, residence and calling of the person in whose possession such fish was found, to the Fishery Officer having jurisdiction over the district within which such seizure, forfeiture and appropriation have taken place. Certain Officers to seize fish exposed for sale in close season. And report the same.

CONSTRUCTION OF FISHWAYS.

To be made where and in such manner as Fishery Officer may determine.

12. Every dam, slide, or other obstruction across or in any stream where the Minister may determine it to be necessary for the public interest that a fish-pass should exist, shall be provided by the owner or occupier with a durable and efficient fishway, to be maintained in practical and effective condition in whatever place and of whatever form and capacity will admit of the passage of fish through the same, (which place, form and capacity any Fishery Officer may by written notice determine) under a penalty of four dollars for each day during which any such obstruction remains unprovided with a fishway after three days' notice in writing to the owner or occupier thereof :

Penalty for contravention.

To be kept open, &c.

2 Fishways shall be kept open and unobstructed and be supplied with a sufficient quantity of water to fulfil the purposes of this enactment, during such times as may be required by any Fishery Officer ;

Minister may pay one half the cost.

3. The Minister may authorize the payment of one-half of the expense incurred by such owner or occupier in constructing and maintaining any fishway ;

May construct and recover the cost in certain cases.

4. Should it be expedient to procure the construction of any fishway pending proceedings against any owner or occupier for the penalty imposed by this Act, the Minister may give directions to make and complete the same forthwith, and to enter upon the premises with the necessary workmen, means and materials, and may recover from the owner or occupier the whole expense so incurred by action before any competent tribunal ;

Not to be obstructed or injured.

5. No person shall injure or obstruct any fishway, nor do anything to deter or hinder fish from entering and ascending or descending the same, nor injure or obstruct any authorized barrier.

GENERAL PROHIBITIONS.

Penalty for fishing in limits leased to another.

13. Whosoever fishes for, takes, catches or kills fish in any water, or along any beach, or within any fishery limits described in any lease or license, or places, uses, draws or sets therein any fishing gear or apparatus, except by permission of the occupant under such lease or license for the time being, or disturbs or injures any fishery, shall incur a penalty not exceeding one hundred dollars with costs, or imprisonment not exceeding two months, and the forfeiture of fishing apparatus so used, and all fish taken or caught ; and any Fishery Officer or any such lessee or licensee may, upon his own view, forthwith seize and remove any net or apparatus so used in trespass, to be afterwards dealt with according to law ; provided always, that the occupation of any fishing station or waters

Right of lessee, &c.

Proviso : as to taking bait or angling.

waters so leased or licensed for the express purpose of net fishing shall not interfere with the taking of bait used for codfishing, nor prevent angling for other purposes than those of trade and commerce :

2. Seines, nets or other fishing apparatus, shall not be set in such a manner, or in such places as to obstruct the navigation with boats and vessels, and no boats or vessels shall be permitted to destroy or wantonly injure in any way, any seines, nets or other fishing apparatus lawfully set ;

Navigation not to be obstructed.

3. Stakes or other timber placed for fishing purposes in any water shall be removed by the user within forty-eight hours after last using the same, or at the expiry of the fishing season ;

Stakes to be removed.

4. The main channel or course of any stream shall not be obstructed by any nets or other fishing apparatus ; and one-third of the course of any river or stream, and not less than two-thirds of the main channel at low tide, in every tidal stream, shall be always left open, and no kind of fishing apparatus or material shall be used or placed therein ; provided that weirs used exclusively for catching eels, and the usage of mill-dams for catching eels, shall be subject to interference only in cases where, and at times when, they injure other fisheries, or by completely barring any passage, shall deprive other weirs of a share in the run of eels, and such place, time and circumstance may be determined by any Fishery Officer ;

Main channels not to be obstructed.

Proviso : as to eel fishing.

5. No net or other device shall be so used as entirely to obstruct the passage of fish to and from any of the waters of the Dominion by any of the ordinary channels connecting such waters, or debar their passage to and from accustomed resorts for spawning and increasing their species ;

No net, &c., to obstruct entirely the passage of fish.

6. The catching, killing or molesting of fish when passing or attempting to pass through any fishway, or fishpass, or in surmounting any obstacle or leaps—the use of any invention to catch, kill or molest fish in the mill-dams, fishways, mill-heads and water-courses appurtenant thereto, are hereby forbidden ;

Killing fish at certain places forbidden.

7. Bag-nets and trap-nets and fish-pounds are prohibited, except under special licenses for capturing deep-sea fishes, other than salmon ;

Certain nets forbidden.

8 It shall not be lawful to fish for, catch or kill salmon, trout (or " lunge ") of any kind, maskinongé, winnoniche, bass, barfish, pickerel, white-fish, herring, or shad, by means of spear, grapnel hooks, negóg, or nishagans ; provided, the Minister may appropriate and license or lease certain waters in which certain Indians shall be allowed to catch fish for their own use in and at whatever manner and time are specified in the license or lease, and may permit spearing in certain localities ;

Fish not to be killed in certain ways.

Proviso : as to Indians.

Young of fish not to be taken. 9. No person shall fish for, catch, kill, buy, sell or possess the young of any of the fish named in this Act, or in any Regulation or Regulations under it;

Seines for bar-fish. 10. Seines for bar-fish, shall have meshes of not less than three inches, extension measure;

Distance between fisheries. 11. Fishery Officers may determine or prescribe the distance between each and every fishery, and shall forthwith remove any fishery which the owner neglects or refuses to remove, and such owner shall be moreover liable for a breach of this Act, and for the cost and damages of removing the same;

Fascine fisheries with box-traps. 12. Every fascine fishery with a box-trap (*coffre*), instead of pound, shall have across the outside end of such box (*coffre*) a wire covering or a net work, the meshes of which shall be at least one inch square; but this shall not apply to eel weirs during autumn;

Nets &c., in small rivers. 13. Nets or other fishing apparatus shall not be so used as to impede or divert the course of fish in any small rivers.

Fish to be allowed free passage on Sunday. 14. From the time of low water nearest six of the clock in the evening on every Saturday, to the time of low water nearest six of the clock in the morning on every Monday, in tidal waters, and from six of the clock in the evening on every Saturday to six of the clock in the morning of the following Monday, in fresh water,—seines, nets or other apparatus used for catching fish shall be so raised or adapted as to admit of the free passage of fish through, past or out of the same, for the purpose of affording a free pass from six of the clock on every Saturday evening to six of the clock on every following Monday morning; and during this close time it shall be unlawful to catch fish by such means; and any fish so taken, caught or killed, together with the nets or other apparatus used, shall be forfeited, in addition to the penalties imposed by this Act.

And forfeited if then taken.

INJURIES TO FISHING GROUNDS AND POLLUTION OF RIVERS.

Penalty for throwing overboard certain substances prejudicial to fisheries. 14. Whoever throws overboard ballast, coal ashes, stones, or other prejudicial or deleterious substances, in any river, harbour or roadstead, or any water where fishing is carried on, or throws overboard or lets fall upon any fishing bank or ground, or leaves, or deposits, or causes to be thrown, left, or deposited upon the shore, beach, or bank of any water, or upon the beach between high and low water mark, inside of any tidal estuary, or within two hundred yards of the mouth of any salmon river, remains or offals of fish, or of marine animals, or leaves decayed or decaying fish in any net or other fishing apparatus, shall incur for any such offence a fine not exceeding one hundred dollars, or imprisonment for not more than two months; and every person so doing, whether master or servant, and

and the master or owner of any vessel or boat from which such ballast, or offals, or other prejudicial substance are thrown, shall severally become liable for each offence; provided always, that it shall be lawful to bury such remains, or offals ashore, beyond high water mark, and at establishments situated inside of the mouths of rivers, for carrying on deep sea fisheries, to drop the same into perforated boxes or enclosures built upon the beach, or under stage-heads, in such manner as to prevent the same from being floated or drifted into the streams, or to dispose of them in such other manner as may be prescribed by any Fishery Officer:

Proviso: as to the disposal of offal.

2. Lime, chemical substances or drugs, poisonous matter, (liquid or solid,) dead or decaying fish, or any other deleterious substance, shall not be drawn into, or allowed to pass into, be left or remain in any water frequented by any of the kinds of fish mentioned in this Act; and saw-dust or mill-rubbish shall not be drifted or thrown into any stream frequented by fish, under a penalty not exceeding one hundred dollars: Provided always that the Minister shall have power to exempt from the operation of this subsection, wholly or from any portion of the same, any stream or streams in which he considers that its enforcement is not requisite for the public interest;

Poisonous substances not to be used.

Mill-rubbish.
Saw-dust.

Proviso:
Minister may exempt any stream, &c.

3. Whoever at any time between the first day of June and the thirtieth day of September, of any year, kindles, makes or places any fire in or near any wood, trees, brushwood, or any wild or uncultivated land, at any place north of the River or Gulf of St. Lawrence, to the east or north of the Saguenay River, or on any of the islands below or to the eastward of Red Island, within the said river or gulf, whereby the fire spreads or extends through standing trees, brushwood or scrub, to a distance exceeding one arpent, shall for such offence, incur a penalty not exceeding fifty dollars, and shall besides be responsible to the Crown, or whoever may be the owner of the land, for all damages occasioned by such fire; provided, that nothing herein contained shall prevent proprietors or those having licenses to cut timber or wood from burning the wood, trees or brushwood on their own land, or otherwise using fire to clear their lands, without injury or prejudice to their neighbours.

Penalty for kindling fires in certain places at certain times.

Proviso: as to burning for clearance.

MISCELLANEOUS PROVISIONS.

15. The Minister may authorize to be set apart, and to be leased, any river or other water for the natural or artificial propagation of fish; and any person who wilfully destroys or injures any place set apart or used for the propagation of fish, or fishes therein without written permission from a Fishery Officer, or from the holder under lease or license, or uses therein any fishing light or other implement for fishing, during the period for which such waters are so set apart, shall incur a fine not exceeding two hundred dollars, or in default of payment, shall be imprisoned for not more than four months:

Waters may be set apart for the propagation of fish.

Penalty for trespass.

Licences to
take spawn,
&c.

2. Nothing contained in this Act shall preclude the granting by the Minister of written permission to obtain fish and fish spawn, for purposes of stocking or artificial breeding, or for scientific purposes ;

Fishery lessees
in arrears.

3. Lessees or licensees of fisheries shall have no claim for renewal of leases or licenses if in arrears of rent or percentage, during four months after the same is due, and any lessee or licensee convicted of an infraction of this Act, or any Regulation or Regulations under it, shall be liable to forfeit his lease or license ;

Special licenses
for Oyster beds.

4. Special licenses and leases for any term of years, may be granted to any party or parties who may wish to plant or form oyster beds in any of the bays, inlets, harbours, creeks or rivers, or between any of the islands on the coast of Canada ; and the holder of any such lease or license shall have the exclusive right to oysters produced or found on the beds, within the limits of such license, for the term of such lease ;

Minister may
expend Parlia-
mentary Grant
for making or
re-stocking
Oyster beds.

5. The Minister may authorize to be expended annually any sum appropriated by Parliament, for the formation of oyster beds in various waters and places found adapted for that purpose, and transplanting oysters, and towards re-stocking exhausted fisheries by natural or artificial means, and to improve streams where natural obstructions exist, and may authorize the construction, erection or placing of any artificial barrier or grating in any stream or river, or in any water-course, and in the channels or beds thereof ;

Protection of
oyster beds.

6. With a view to protect the oyster beds in different parts of the bays and coasts of the Dominion, it shall not be lawful for any person to take oysters, or in any way to injure or disturb such oyster beds, except during times and on terms permitted by Regulation or Regulations under this Act, under a penalty of not more than one hundred dollars nor less than forty dollars together with the forfeiture of the vessel and all the apparatus employed therein ; and in default of payment, the party convicted shall be imprisoned for not less than one month, nor more than two months ;

Penalty for in-
juring them.

Shell-fish Fish-
eries.

7. Shell-fish fisheries shall be subject to the provisions of this Act, and any Regulation or Regulations to be made under it.

FINES AND FORFEITURES.

Penalty in
cases where no
other is pro-
vided.

16. Except for offences to which penalties are already attached, each and every offender against the provisions of this Act, or the Regulations under it, shall for each offence incur a fine of not more than twenty dollars, besides all costs ; and in default of payment of each fine, shall be imprisoned in each case for not less than eight days, and not exceeding one month ;

provided

provided, whenever it shall appear to the satisfaction of the convicting magistrate, that the offence has been committed in ignorance of the law, and that because of the poverty of the defendant, the penalty imposed would be oppressive, a discretionary power may be exercised; and any Fishery Officer or other magistrate may grant a warrant of distress for the amount of fine and costs imposed in any case :

Proviso: discretionary power in certain cases.

2. The contravention on any day of any of the provisions of this Act, or of any Regulation made under it, shall constitute a separate offence, and may be punished accordingly ;

Separate offence on each day.

3. Should any defendant have goods and chattels whereon the costs may be levied, the complainant may distrain for the amount under warrant by any Fishery Officer or other magistrate, notwithstanding the imprisonment of the party convicted and fined ;

Distress for penalty &c.

4. All materials, implements or appliances used, and all fish had in contravention to this Act or any Regulation or Regulations under it, shall be confiscated to Her Majesty, and may be seized and confiscated on view by any Fishery Officer, or taken and removed by any person for delivery to any magistrate, and the proceeds of disposal thereof may be applied towards defraying expenses under this Act ;

Forfeiture of articles used in contravention of this Act.

5. One moiety of every fine or penalty levied by virtue of this Act, shall belong to Her Majesty, and the remaining half thereof shall be paid to the prosecutor, together with costs taxed to him for attendance as a witness or otherwise ;

Appropriation of pecuniary penalties.

6. Her Majesty's share of each fine or penalty and all proceeds derived from the sale of confiscated articles under this Act, shall be paid to the Receiver General through the Department of Marine and Fisheries, and be applied towards the expenses incurred for the protection of fisheries; and persons aggrieved by any such conviction may appeal by petition to the Minister, who shall have power to remit fines and restore forfeitures under this Act.

How to be applied.

Appeal to Minister.

MODE OF RECOVERY.

17. Each penalty or forfeiture imposed by this Act, or Regulations made under it, may be recovered, on parole complaint, before any Fishery Officer, stipendiary or other magistrate, in a summary manner, on the oath of one credible witness :

Before whom to be sued for.

2. Three days shall elapse between the service and the return of summons to any defendant for the first five leagues, and one day more for each additional five leagues of the distance between the place at which the summons is dated and the place of service ; Provided that, when it is expedient to proceed against a defendant without delay, any Fishery Officer or other magistrate may issue a summons, returnable immediately, to compel

Service of Summons, &c.

Proviso: for cases not admitting delay.

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the defendant to appear before him forthwith, or may issue a warrant for the apprehension of such defendant simultaneously with the summons;

Limitation of suits.

3. Penalties incurred under this Act, or the Regulations made under it, shall be sued for within two years from the commission of the offence;

Who shall be liable.

4. When not otherwise specified, every proprietor or proprietor, owner, agent, tenant, occupier, partner, or person actually in charge, either as occupant or servant, shall be deemed to be jointly and severally liable for penalties or moneys recoverable under any of the provisions of this Act or any Regulation or Regulations under it;

No quashing for want of Form, &c.

5. No proceeding under this Act or under any Regulation or Regulations made under it shall be dismissed, and no conviction thereunder shall be quashed for want of form; nor shall any warrant of arrest or commitment be held void by reason of any defect therein, provided it is therein alleged that party has been convicted, and there is a good and valid conviction to sustain the same.

POWERS OF FISHERY OFFICERS AND OTHER MAGISTRATES.

Fishery Officer may convict on view.

1. Any Fishery Officer or other magistrate may convict upon his own view of any of the offences, both as infractions and for non-compliance, punishable under the provisions of this Act; and shall remove or cause to be removed instantly and detain any materials illegally in use:

May cause search to be made.

2. Any Fishery Officer or other magistrate may search, or shall grant a warrant to have searched, any vessel or place where there is cause to believe that any fish taken in contravention of this Act, or anything used in violation thereof may be concealed;

In what locality to be prosecuted.

3. Where any offence under this Act is committed in, upon or near any waters forming the boundary between different counties or districts, or fishery districts, such offence may be prosecuted before any magistrate in either of such counties or districts, or before the Fishery Officer for either contiguous fishery district;

Right of Fishery Officer to pass over lands.

4. In the discharge of his duties any Fishery Officer, or other person or persons by him accompanied or authorized to such effect, may enter upon and pass through or over private property without being liable for trespass;

Disputes as to boundaries.

5. Disputes between parties relative to fishing limits or claims to fishery stations, or position and usage of nets and other fishing apparatus, shall be settled by the local Fishery Officer;

6. Gurry-grounds may be designated or defined by any Fishery Officer; Gurry-grounds.

7. Any Fishery Officer, stipendiary magistrate, or commissioned officer of Her Majesty's Navy, on board of any vessel belonging to or chartered by the Canadian Government, employed in the service of protecting fisheries, and each commissioned officer of Her Majesty's Navy serving on board of any vessel cruising and being in the waters, harbors or ports of Canada, for the purposes of affording protection to Her Majesty's subjects engaged in the fisheries, and to enforce any laws relating to such fisheries, shall exercise magisterial powers in all the waters, harbors or ports, and on all the coasts of the Dominion of Canada where for the time being and for the purposes above described they are so engaged, without property qualification and without taking any oath of office: Certain Officers in the Canadian or British Navy to have magisterial powers under this Act.

8. Seizures made by any Fishery Officer, Stipendiary Magistrate or Naval Officer, so acting as aforesaid, may be taken for disposal to the nearest or most convenient port where there shall reside any revenue officer or other public officer empowered to dispose of the case: Seizures how to be dealt with.

9. Whenever it may be impracticable for any Fishery Officer, stipendiary magistrate or naval officer, acting in such capacity, to cause any prisoner or prisoners to be conveyed to, and committed to the nearest Common Gaol, he shall have power to detain him or them on board of the vessel, or transfer him or them to another vessel for conveyance and delivery at the most convenient place, and with all convenient dispatch, where he or they can be duly committed into the custody of the Sheriff or other officer of the county or district in which the Common Gaol is situated to which he or they shall be ordered to be committed; and until such prisoner or prisoners shall be so delivered into the immediate custody of any Sheriff or Gaoler the Fishery Officer, Stipendiary Magistrate or Naval Officer having him or them in charge, shall have in all parts through which it may be necessary to convey any prisoner or prisoners, the same authority and power over and in regard to such person or persons, and to command the aid of any of Her Majesty's subjects in preventing his or their escape, or in retaking him or them in case of escape, as any county or district sheriff or peace officer would have while lawfully conveying a prisoner from one part to another of his own district; Powers of Fishery Officer &c., for the detention of prisoners when he cannot convey them to gaol.

10. The offence for which any person or persons may be so committed to any Common Gaol shall always be held to have taken place in the county or district to the Common Gaol of which the commitment has been actually made. Where the offence shall be held to have been committed.

FISHERY REGULATIONS.

19. The Governor in Council may from time to time make, and from time to time vary, amend or alter, all and every such Regulation Governor in Council may

make fishery regulations.

And may thereby vary certain provisions of this Act.

Publication and proof of regulations.

Stating offences against this Act.

Acts and parts of Acts repealed.

Can. 29 V. C. 11.

Proviso: as to certain regulations.

N. B. 23 V. C. 52.

N. B. 26 V. C. 6.

Regulation or Regulations as shall be found necessary or deemed expedient for the better management and regulation of the sea-coast and inland fisheries, to prevent or remedy the obstruction and pollution of streams, to regulate and prevent fishing, to prohibit the destruction of fish and to forbid fishing except under authority of leases or licences, every of which Regulations shall have the same force and effect as if herein contained and enacted, notwithstanding that such Regulation may extend, vary or alter any of the provisions of this Act respecting the places or modes of fishing or the terms specified as prohibited or close seasons, and may fix such other modes, times or places as may be deemed by the Governor in Council to be adapted to different localities, or may be thought otherwise expedient :

2. The publication or such Regulations in the *Canada Gazette*, shall be sufficient notice to give legal effect to the same : and the production of a copy of a paper purporting to be "The Canada Gazette" and containing any such Regulation or Regulations, shall be admitted as full and sufficient evidence of the same in all courts of law or equity in Canada :

3. Every offence against any Regulation or Regulations made under this Act may be stated as in contravention of the *Fisheries Act*.

PROVINCIAL ACTS AND REGULATIONS REPEALED OR CONTINUED.

20. The following Acts and parts of Acts are hereby repealed :

The Act passed by the Legislature of the late Province of Canada, (29 Vic. Cap. 11) intituled : *An Act to amend chapter sixty-two of the Consolidated Statutes of Canada, and to provide for the better regulation of Fishing and protection of Fisheries*, and also the several sections of the said sixty-second chapter of the Consolidated Statutes of Canada therein excepted from repeal ; Provided, always, that the Regulations of 7th May, 1859, adopted under chapter 62 of the said Consolidated Statutes of Canada, and relating to fisheries at and around the Magdalen Islands, and the Regulations of 4th August, 1866, 9th August, 1866, and 26th April, 1867, adopted under the Statute 29 Victoria, Cap. 11, shall continue in force in the Provinces of Quebec and Ontario, until amended or superseded by other Regulations under this Act :

The Act passed by the Legislature of the Province of New Brunswick, (23 Vic. Cap. 52) intituled : *An Act relating to the Fisheries of the County of Restigouche* ;

The Act passed by the said Legislature, (26 Vic. Cap. 6) intituled : *An Act relating to the Coast and River Fisheries* ;

The

The Act passed by the said Legislature, (30 Vic. cap. 14) N. B. 30 V. C. intituled: *An Act to encourage the formation of Oyster Beds*; ^{14.} but any Regulation or Regulations made under either of the three last mentioned Acts and not inconsistent with the provisions of the present Act, shall remain in force in the Province of New Brunswick until amended or superseded by Regulation or Regulations to be made under this Act, and shall be subject in every respect to the authority by this Act vested in the respective Fishery Officers appointed under this Act, who are hereby empowered to enforce the same.

Proviso: as to regulations under it.

21. The following Acts shall continue in force in the Provinces of New Brunswick and Nova Scotia: Acts continued in N. B. & N. S.

An Act passed by the Legislature of the Province of New Brunswick (16 Vic. Cap. 69) intituled: *An Act relating to the Coast Fisheries, and for the prevention of Illicit Trade*; N. B. 16 V. C. 69.

Chapter 94, Revised Statutes, *third series*, "Of the Coast and Deep Sea Fisheries," as amended by subsequent Acts of the Legislature of Nova Scotia: Provided always, that such Fishery Officers as may be especially empowered in that behalf by the Governor in Council, shall also exercise the powers by the said recited Act and chapter of Acts vested in Revenue and other Officers, Sheriffs and Magistrates, and all penalties and forfeitures imposed under the same shall be paid over to the Receiver General through the Department of Marine and Fisheries to be applied towards the Fisheries Protection Service, in like manner as other fines and confiscations under the present Act; N. S. Revised Stat. C. 94. Proviso: certain powers under that Act may be exercised by Fishery Officers.

Chapter 95 of the Revised Statutes of Nova Scotia, *third series*, "Of River Fisheries;" Same Cap. 95

The Act (28 Vic. Cap. 35) intituled: *An Act to amend chapter 95 of the Revised Statutes "Of River Fisheries;"* N. S. 28 V. C. 35.

The Act (29 Vic. Cap. 35,) intituled: *An Act to amend Chapter 94 of the Revised Statutes "Of the Coast and Deep Sea Fisheries;"* N. S. 29 V. C. 35.

The Act (29 Vic. Cap. 36,) intituled: *An Act to amend Chapter 95 of the Revised Statutes, "Of River Fisheries;"* N. S. 29 V. C. 36.

And all Regulations adopted in pursuance of the said chapter of the said Revised Statutes or of the said Acts amending the same shall remain in force until amended or superseded by any Regulation or Regulations under this Act; And regulations under them.

Provided always, that the powers and duties in the above named chapters and Acts devolving on the Governor in Council under the said Acts, shall vest in the Governor of Canada in Council, and Proviso: as to the exercise of powers under the said Acts.

Fishery Officers may perform certain duties.

and the powers and duties belonging to the General or Special Sessions, and the Grand Jury, shall, as affects the making of any Regulation or Regulations, order or orders, be vested in the Governor General in Council, and as affecting the appointment and control of Fishery Inspectors or Wardens, and the declaring of exemptions, shall vest in the Minister; and any Fishery Officer or Officers appointed under this Act shall fulfil the duties of Fishery Inspectors or Wardens, and exercise the functions which by the said above recited chapters and Acts attach to justices and sheriffs, for all the purposes of the aforesaid chapters and Acts or any such Regulation or Regulations ;

Fishery Officers to exercise powers under Rev. Stat. N. S. cap. 103.

Each and every Fishery Officer shall also exercise the power and perform the duty assigned to Commissioners or Overseers of River Fisheries by the second section of Chapter 103, of the Revised Statutes, (*third series*) of the Province of Nova Scotia ;

As to penalties under the said Acts.

22. All fines and penalties levied under the several chapters and Acts recited, or under any Regulation or Regulations referred to in the two next preceding sections, shall be disposable in the same manner as if imposed and levied under the present Act.

FORMS OF PROCEDURE.

Forms of proceedings under this Act.

23. Forms of proceedings, Orders and Notices used under this Act and Regulations, may for respective processes, be in the forms prescribed in the Schedule hereunto annexed, or in any other form ; and in other respects the laws relating to summary convictions and orders, shall apply to cases under this Act.

Short Title.

24. This Act shall be known and cited as *The Fisheries Act*.

SCHEDULE A.

Form of Complaint.

Province of
County (or District) of } .

This day of , 18 .

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

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 Fisheries