ANNO NONO

GEORGII IV. REGIS.

C A P. XXXIX.

An Act for the Preservation of the Salmon Fisheries in *Scotland*. [15th *July* 1828.]

WHEREAS by an Act passed in the Parliament of *Scotland* in the Year One thousand four hundred and twenty-four it was forbidden that any Salmon be slain from the Feast of the Assumption of our Lady until the Feast of *Saint Andrew* in Winter: And whereas sundry other Laws and Acts were made and passed at divers Times by the Parliament of *Scotland* anent the killing of Salmon, Kipper, Red and Black Fish, in forbidden Time, and the killing and destroying of the Fry and Smolts of Salmon; which Laws and Acts were ratified, confirmed, and approved by an Act passed by the said Parliament in the Year One thousand six hundred and ninety-six, intituled *Act against Killers of Black Fish, and Destroyers of the Fry and Smolts of Salmon:* And whereas it is expedient, for the Preservation of the Salmon Fisheries in *Scotland*, that the Penalties enacted by the said Acts should be augmented, and the Period of the forbidden Time altered and extended, and that sundry other Regulations should be

1424. c. 35.

1696. c. 33.

made: Be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Act passed in the Year One thousand four hundred and twenty-four shall be and the same is hereby repealed; and that no Salmon, Grilse, Sea Trout, nor other Fish of the Salmon Kind, shall be taken in or from any River, Stream, Lake, Water, or Estuary whatsoever, or on any Part of the Sea Coast, between the Fourteenth Day of *September* and the First Day of *February* in any Year, by any Person or Persons; any Law, Statute, or Practice to the contrary notwithstanding.

Recited Act repealed.

No Fish of the Salmon Kind to be taken between the 14th Sept. and 1st February.

II. And be it further enacted, That if between the Fourteenth Day of *September* and the First Day of *February* in any Year any Person shall wilfully take, fish for, or attempt to take, or aid or assist in taking, fishing for, or attempting to take, in or from any River, Stream, Lake, Water, or Estuary, or on any Part of the Sea Coast, any Salmon, Grilse, Sea Trout, or other Fish of the Salmon Kind, such Person shall forfeit and pay any Sum not less than One Pound and not exceeding Ten Pounds, for and in respect of each and every such Offence, over and above forfeiting each and every such Fish so taken, and each and every Boat, Net, or Engine by which the same may have been taken.

Penalty on taking or fishing for Salmon within the above Time.

III. And be it further enacted, That if any Person shall, after the Expiration of Two Months from and after the passing of this Act, trespass in any Ground, inclosed or uninclosed, or in or upon any River, Stream, Watercourse, or Estuary, with Intent to kill Salmon, Grilse, Sea Trout, or other Fish of the Salmon Kind, such Person shall forfeit and pay any Sum not less than Ten Shillings and not exceeding Five Pounds.

Penalty on Trespassers.

IV. And be it further enacted, That from and after the passing of this Act, if any Person shall wilfully take, by any Means or by any Device, in or from any River, Lake, Stream, Water, Estuary, or Sea Coast, or use, sell, purchase, or wilfully have in his Possession, the Spawn, Smolts, or Fry of Salmon, or of any other Fish of the Salmon Kind, or in any Way or by any Device wilfully obstruct the Passage of the said Smolts or Fry, or injure or disturb any such Spawn or Fry, or any Spawning Bed, Bank, or Shallow where the same may be, such Person shall forfeit and pay a Sum not less than One Pound and not exceeding Ten Pounds for each and every such Offence.

Penalty on taking Salmon Fry, Spawn, &c.

V. And be it further enacted, That from and after the passing of this Act, if any Person shall at any Time wilfully take, kill, destroy, or expose to Sale, any Red or Black Fish, or other foul, unclean, or unseasonable Salmon, Grilse, Sea Trout, or Fish of the Salmon Kind, such Person shall forfeit and pay a Sum not less than One Pound and not exceeding Two Pounds for every Fish so taken, killed, or destroyed, or exposed to Sale.

Penalty on taking unclean Salmon.

VI. And

Penalty for using Lights to take Fish.

VI. And be it enacted, That from and after the passing of this Act, if any Person shall use any Light or Fire of any kind, in or for the taking or with Intent to take any Salmon, Grilse, Sea Trout, or other Fish of the Salmon Kind, such Person shall forfeit and pay a Sum not less than Two Pounds and not exceeding Ten Pounds for each and every such Offence.

Saturday's Slop to be kept. 1477. c. 73.

VII. And whereas by an Act passed in the Parliament of *Scotland* in the Year One thousand four hundred and seventy-seven, intituled *Anent Cruves*, it is *inter alia* ordained, that they that hes Cruves in fresh Waters, gar keip the Lawes anent *Satterdaies* Slop, and suffer them not to stand in forbidden Time; and that ilk heck of the said Cruves be Three Inche wide, and quha that beis convict thereof, to pay Five Pund: And whereas it is expedient that the said Penalty of Five Pounds *Scots* Money should be augmented; be it therefore enacted, That from and after the passing of this Act, if any Owner or Occupier of Cruves shall offend against the said Law, such Person shall forfeit and pay a Sum not less than Five Pounds nor exceeding Twenty Pounds Sterling for every such Offence.

Boats to be removed in Close Time.

VIII. And be it further enacted, That every Occupier of any Fishery shall and is hereby required to remove and carry away from such Fishery, and from the Landing Places and Grounds adjacent thereto, all Boats, Oars, Nets, Engines, and other Tackle used and employed by such Occupier in the taking and killing such Fish as aforesaid, on or before the Commencement of the Close Time, or otherwise effectually to secure the same so as to prevent their being used in fishing, until the End of the Close Time; and in case any such Occupier shall neglect or refuse so to remove or secure all and every such Boats, Oars, Nets, Engines, or other Tackle as aforesaid, and to keep the same secure and apart from the said Fisheries during the Time aforesaid, such Person so refusing or neglecting, and being convicted thereof, shall for such Offence, and for every subsequent Neglect after Notice given, forfeit and pay a Sum not less than Forty Shillings and not exceeding Ten Pounds: Provided always, that nothing herein contained shall be construed or taken to prevent any Proprietor of Lands from continuing any such Boat or Boats for the Use of himself or herself, or any of his or her Family, if such Boat or Boats shall have the Name of the Proprietor painted thereon.

Proprietors of Lands may continue Boats for their own Use.

Recovery and Application of Penalties.

IX. Provided always, and be it enacted, That each and every Penalty provided by this Act shall go to the Informer, and may and shall be recoverable, with Expences, as well before the Sheriff as before the Justices of the Peace of any County as aforesaid wherein the same may be incurred, or where the Offender shall reside, at the Instance of any Person or Persons who shall prosecute for the same; and in Prosecutions for the different Penalties imposed by this Act, or any other Act for the Preservation of the Salmon Fisheries in *Scotland*, it shall be lawful for the Sheriff or Justices before whom any Complaint for the Recovery thereof may be brought, to proceed in a summary

summary Way, and to grant Warrant for bringing the Parties complained upon immediately before them, and on Proof on Oath by One or more credible Witnesses, or Confession of the Offence, or other legal Evidence, forthwith to determine and give Judgment in such Complaint, without any Written Pleadings or Record of Evidence, and to grant Warrant for the Recovery of all Penalties and Expences decerned for, failing Payment within Fourteen Days after Conviction, by Poinding and Imprisonment, for a Period, at the Discretion of the Sheriff or Justices, not exceeding Six Months, it being hereby provided that a Record shall be preserved of the Charge and of the Judgment pronounced; and any Person or Persons who shall think himself, herself, or themselves aggrieved by any Judgment of any Sheriff or Justices, pronounced in any Case arising under this Act, or by Assessment made under this Act, in *Scotland*, may appeal to the Commissioners of Justiciary at their next Circuit Court, or where there are no Circuit Courts, to the High Court of Justiciary at *Edinburgh*, in the Manner, and by and under the Rules, Limitations, Conditions, and Restrictions contained in the Act passed in the Twentieth Year of the Reign of King *George* the Second, for taking away and abolishing the Heritable Jurisdictions in *Scotland*; with this Variation, that such Person or Persons shall, in place of finding Caution in the Terms prescribed by the said Act, be bound to find Caution to pay the Penalty or Penalties, and Expences, awarded against him, her, or them by the Sentence or Sentences appealed from, in the event of the Appeal or Appeals being dismissed, together with any additional Expences that shall be awarded by the Circuit Court on dismissing the said Appeal or Appeals; and it shall not be competent to appeal from or bring the Judgments of any Justices or Sheriff acting under this Act under Review, by Advocation or Suspension, or by Reduction, or in any other Way than as herein provided.

Two Proprietors of Fisheries on any River in Scotland may call Meetings of other Proprietors on the same, in order to assess them for the Purposes of this Act.

X. And be it enacted, That it shall be lawful, in *Scotland*, for any Two Proprietors of Salmon Fisheries in any River, or any Stream, Lake, Water, or Estuary communicating therewith, from Time to Time to call Meetings of all the other Proprietors of Salmon Fisheries in such River, and the several Streams, Lakes, Waters, and Estuaries communicating therewith, or on the Sea Coast within Five Miles of the Mouth of such River or Estuary, by Three several Advertisements in any Newspaper published in the County where such Meeting is to be held, or if no Newspaper be there published, then in any Newspaper published in any adjoining County, and also in One *Edinburgh* Newspaper, Fourteen Days before such Meeting shall be held; at which Meetings it shall be lawful for the Majority of Proprietors in Number and Value attending, or authorizing their Factors or other Proprietors by a Written Mandate to act for them, to assess the whole Proprietors of Salmon Fisheries in such River, Stream, Lake, Water, or Estuary, and on the Sea Coast within Five Miles of the Mouth of such River or Estuary, in such Sums as they shall think fit, rateably according to the real Rents of their Fisheries, for the Purpose of enforcing this Act, and the other

Laws regulating Salmon Fisheries; and it shall be lawful for such Meetings to appoint and pay Clerks, Water Bailiffs, and other Officers, as they shall see Cause; and all such Assessments shall be recoverable in the Sheriff's Court, at the Instance of any Clerk or other Person authorized by any such Meeting, in the same Manner and under the same Provisions and Regulations as small Debts are now recovered by the Act passed in the Sixth Year of the Reign of His present Majesty, intituled *An Act for the more easy Recovery of Small Debts in the Sheriff Courts in* Scotland; and this notwithstanding the Amount of such Assessment shall exceed Eight Pounds: Provided always, that if any Salmon Fishery on the Sea Coast shall be within Five Miles of the Mouths of more than One River or Estuary, the Proprietor of such Fishery shall be liable in One Assessment only for such Fishery, and shall be at liberty to make his Election of any One such River or Estuary in connection with which he shall be assessed.

6 G. 4. c. 24.

Proviso as to Fisheries situate within Five Miles of the Mouths of more than One River.

XI. And be it further enacted, That it shall be lawful for any Person, without any Warrant or other Authority than this Act, *brevi manu*, to seize and detain any Person who shall be found committing any Offence against this Act, and to carry such Person before any Justice of the Peace or other Magistrate, or to deliver such Person to a Constable, who is hereby required to carry such Person before a Justice of the Peace or Magistrate, who shall forthwith examine and discharge, or commit such Person until Caution *de judicio sisti* be found, as the Case may require.

Apprehension of Offenders.

XII. And be it enacted, That all Justices of the Peace and other Magistrates shall and may act in the Execution of this Act, notwithstanding such Justice or Magistrate shall be interested in any Salmon Fishery, except in any Case where such Justice or Magistrate, or his Tacksmen, is a Party in the Prosecution or Case to be heard and determined by such Justice or Magistrate; and also that every Owner or Occupier of, or any Person otherwise interested in any Salmon Fishery, shall and is hereby declared not to be an incompetent Witness to prove any Offence committed against this Act, by reason of being such Owner or Occupier so interested.

Justices, though interested in Fisheries, may act.

Owners not incompetent Witnesses.

XIII. And be it further enacted, That no Prosecution or other Proceeding whatever shall be brought or commenced against any Person or Persons for any Offence or Offences against this Act, unless the same shall be laid or commenced within Six Calendar Months after any such Offence or Offences shall have been committed; and provided that where any Offender shall be punished by virtue of this Act, he shall not incur the Penalty of any other Law or Statute for the same Offence.

Limitation of Actions.

XIV. And be it further enacted, That nothing in this Act contained shall extend or be construed to extend to *England*, *Ireland*, *Wales*, or *Berwick-upon-Tweed*, or to the Fisheries in the River *Tweed*, or in any of the Streams and Waters that run into or communicate therewith,

Act not to extend to England, Ireland, Wales, &c.

therewith, or to the Fisheries in the Arm of the Sea between the County of *Cumberland* and the Counties of *Dumfries* and *Wigton* and the Stewartry of *Kirkcudbright*, or the Fisheries in the several Streams and Waters which run into or communicate with the said Arm of the Sea.

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