ANNO UNDECIMO

Georgii III. Regis.

CAP. XXVII.

An Act for regulating and improving the Fisheries in the River *Tweed*, and the Rivers and Streams running into the same; and also within the Mouth or Entrance of the said River.

WHEREAS Salmon, Gilses, Salmon Trouts, and Whitlings, and the Spawn or Fry thereof, are frequently killed, taken, and destroyed at improper Seasons in the River Tweed, and the Rivers and Streams which run into the same, and also within the Mouth or Entrance of the said River, to the great Detriment of the Owners and Occupiers of the Fisheries, and Loss to the Publick: For Remedy whereof, and for the Improvement of the Fisheries in the said River, may it please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Com- Preamble.

Persons killing Salmon, Gilse, Salmon Trout, or Whitling, between *Oct.* 10. and *Jan.* 10. or between 12 o' Clock on *Saturday* Night and two o' Clock on *Monday* Morning, shall forfeit 10 *s.* for every such Fish.

mons, in this present Parliament assembled, and by by Authority of the same, That from and after the Twelfth Day of May, One thousand seven hundred and seventy-one, if any Person or Persons shall take, or kill any Salmon, Gilse, Salmon Trout, or Whitling, or take, kill, or destroy the Spawn, Fry, or young Brood of any such Fish, in the said River Tweed, or in any River, Rivulet, Brook, or Stream, or in any Mill-pool, Mill-lead, Sluice, or Cut, which communicates with the said River Tweed, or within the Limits of the Mouth or Entrance of the said River Tweed, at any Time or Times between the Tenth Day of October and the Tenth Day of January, or between Ten of the Clock on Saturday Night and Two of the Clock on Monday Morning, every such Person and Persons shall forfeit and pay the Sum of Ten Shillings for every Salmon, Gilse, Salmon Trout, or Whitling, so taken or killed, and also the Sum of Ten Shillings for every Parcel or Quantity of the Spawn, Fry, or young Brood of any such Fish so taken, killed, or destroyed.

Limits of the Mouth or Entrance of the River *Tweed.*

And whereas Disputes may arise touching the Limits of the Mouth or Entrance of the River Tweed, be it therefore further enacted, That, for the Purposes of this Act, the Limits of the Mouth or Entrance of the River Tweed shall for the future be deemed and taken to be and extend Three Miles from a Pier called Queen Elizabeth's Pier, and Two Miles from a Rock called Hood's Head Rock.

Any Person who shall kill, or have in his Possession any of the Spawn, Fry, or young Brood of Fish, between *April* 1. and *June* 1. shall forfeit 10 *s.* for every Parcel thereof.

And be it further enacted, That from and after the said Twelfth Day of May, One thousand seven hundred and seventy-one, if any Person or Persons shall place, lay, set, continue, or draw any Net, Creel, Hamper, Engine, or other Device whatsoever in the said River Tweed, or in any River, Rivulet, Brook, or Stream, or in any Mill-pool, Mill-lead, Sluice, or Cut, which communicates with the said River Tweed, or within the Mouth or Entrance thereof, in order to kill or take any Spawn, Fry, or young Brood of any Salmon, Gilse, Salmon Trout, or Whitling, or shall take, kill, or destroy, or have in his, her, or their Custody or Possession any

any Spawn, Fry, or young Brood of any such Fish as aforesaid, between the First Day of April and the First Day of June, every such Person and Persons shall forfeit and pay the Sum of Ten Shillings, for every Parcel of Spawn, Fry, or young Brood of any such Fish which shall be found in his, her, or their Possession, between the said First Day of April and the said First Day of June.

If any Person shall beat the Water, or in any other Manner prevent the Fish entering the River, &c. he shall forfeit any Sum not more than 5*l.* nor less than 10*s.*

And be it further enacted, That from and after the said Twelfth Day of May, One thousand seven hundred and seventy-one, if any Person or Persons shall beat the Water, or place or set any white Object, or any other Thing whatsoever in the said River Tweed, or in any River, Rivulet, Brook, Stream, Mill-pool, Mill-lead, Sluice, or Cut, which communicates with the said River Tweed, or in the Mouth or Entrance of the said River, or in, over, or across the said River Tweed, or any River, Rivulet, Brook, Stream, Mill-pool, Mill-lead, Sluice, or Cut, or in the Mouth or Entrance of the said River Tweed, in order to prevent the said Fish from entering the said River Tweed, or from going up and down the said River, or any River, Rivulet, Brook, Stream, Mill-pool, Mill-lead, Sluice, or Cut aforesaid, or shall by any other Ways, or in any other Manner prevent the Fish from entering the said River, and going up and down the said Rivers and Waters before described, every Person so offending shall, for every Offence, forfeit any Sum not exceeding Five Pounds, nor less than Ten Shillings.

Persons may angle at certain Times in their own Fisheries.

Provided always, and be it further enacted, That it shall and may be lawful to and for the Owner or Owners of any Fishery in the said River Tweed, or for the Owner or Owners of any Fishery in any River which runs into the River Tweed, and for all and every Person or Persons having his, her, or their Authority, License, or Leave so to do, to angle or fish with Rods and Lines at any Time or Times between the said Tenth Day of January, and the Tenth Day of October in any Year, for any Kind or Sort of Fish in his, her, or their own Fishery or Fisheries, notwithstanding the same shall be let to any Person or Persons; and also to take, carry away, and

make Use of the Fish so taken; and no such Owner or Person, having such Authority, License, or Leave, shall be liable, on account of any such Angling, to any Penalty inflicted by this Act; any Thing herein contained to the Contrary thereof in any-wise notwithstanding.

Laying Dirt, &c. in the River the Forfeiture 20 s.

And be it enacted by the Authority aforesaid, That if any Person or Persons whatsoever shall, at any Time or Times after the said Twelfth Day of May, One thousand seven hundred and seventy-one, lay or place any Dirt or Rubbish in the said River Tweed below High-water Mark, every such Person shall forfeit and pay the Sum of Twenty Shillings for every such Offence.

Persons killing Salmon, &c. in the Entrance of the *Tweed*, to forfeit 10 s. for each Fish;

And whereas of late Persons have made a Practice of fishing in the Mouth or Entrance of the River Tweed, by which Practice the Fish are disturbed and hindered from entering the said River, be it therefore further enacted by the Authority aforesaid, That from and after the said Twelfth Day of May, One thousand seven hundred and seventy-one, if any Person or Persons whatsoever shall, at any Time or Times, fish for, take, or kill any Salmon, Gilse, Salmon Trout, or Whitling, within the Mouth or Entrance of the said River Tweed, every such Person or Persons shall forfeit the Sum of Ten Shillings for every Salmon, Gilse, Salmon Trout, or Whitling so taken or killed, together with the Boats, Tackle, Nets, Engines, and all other Devices made Use of in taking or killing the same, and also the Fish so killed or taken; and all such Boats, Tackle, Nets, Engines, and other Devices so forfeited, shall be cut to Pieces, burnt, or otherwise destroyed; or if any Person or Persons shall buy or sell, or offer to sale, or have in his, her, or their Custody or Possession, any Salmon, Gilse, Salmon Trout, or Whitling, knowing the same to have been killed or taken within the Mouth or Entrance of the said River, every Person offending in any of the Cases aforesaid shall forfeit the Sum of Ten Shillings for every such Salmon, Gilse, Salmon Trout, or Whitling so bought, sold, or which shall be in his, her, or their Custody or Possession.

and buying or selling, or having such Fish in their Possession, knowing the same to be so killed, to forfeit 10 s.

Provided

Provided always, That nothing herein contained shall any-ways prejudice or affect the Right of the Owners or Proprietors of Fisheries, or the Right of any other Person or Persons who now are, or at any Time hereafter shall or may be seized, possessed of, or intitled to, any Manors, Seigniories, or Royalties within the Mouth or Entrance of the said River Tweed, as the same is herein before described; but that all and every such Owners and Proprietors, and other Person or Persons, as last are mentioned, shall have and enjoy all such Right of Fishery within the said Mouth or Entrance of the said River Tweed as they have hitherto lawfully exercised or enjoyed, or could or might have lawfully exercised or enjoyed in case this Act had not been made (so as such Right be used and exercised at such Times and Seasons only, under such Regulations, and subject to such Penalties and Forfeitures as are herein before directed concerning the Fisheries within the said River Tweed, and within the Mouth or Entrance thereof); any Thing in this Act contained to the Contrary in any-wise notwithstanding. Persons having a Right may fish in the Entrance of the River by the Regulations herein before-mentioned.

And be it further enacted by the Authority aforesaid, That the Penalties or Forfeitures for Offences against this Act may be levied and recovered by Distress and Sale of the Offender's Goods and Chattels, upon Proof of the Offence or Offences before any One or more Justice or Justices of the Peace within that Part of Great Britain called England, the Town of Berwick upon Tweed, or the Bounds and Liberties thereof, or before any Justice or Justices of the Peace, or Sheriff-depute, within that Part of Great Britain called Scotland, for the County, Shire, Liberty, or Place where the Offender or Offenders shall be or reside, either by the Confession of the Party or Parties, or upon the Oath or Oaths of One or more Witness or Witnesses, by Warrant or Warrants under the Hand and Seal or Hands and Seals of such Justice or Justices in that Part of Great Britain called England, the Town of Berwick upon Tweed, or the Bounds and Liberties thereof, or by Warrant or Warrants in due Form of Law of such Justice or Justices, or Sheriff-depute, in that Part of Great Britain called Scotland, Penalties, &c. how to be recovered and applied.

land (all which Warrants such Justice or Justices, or Sheriffs-depute, is and are hereby authorised and required to grant, and to administer such Oath or Oaths); and the Penalties and Forfeitures which shall be so levied and paid, shall, from Time to Time, be applied, One Moiety to the Informer or Informers, and the other Moiety to the Poor of the Parish or Place where the Offender or Offenders shall be or reside; and the Overplus remaining (if any), after such Penalties and Forfeitures, and all Charges attending the levying and recovering thereof, are deducted, shall on Demand be returned to the Owner or Owners of the Goods and Chattels so distrained; and in case sufficient Distress shall not be found, or such Penalties and Forfeitures shall not be forthwith paid, that then it shall and may be lawful for such Justice or Justices, or Sheriff-depute, and he and they is and are hereby respectively authorised and impowered to commit every such Offender or Offenders to the common Gaol or House of Correction, for any Time not exceeding Three Months, nor less than One Month, as the said Justice or Justices, or Sheriff-depute, upon Consideration of the Circumstances, shall think fit.

Convictions shall be in the following Form.

And be it further enacted by the Authority aforesaid, That the Conviction or Convictions of all and every Offender or Offenders against this Act, within that Part of Great Britain called England, the Town of Berwick upon Tweed, or the Bounds and Liberties thereof, shall be certified by the Justice or Justices of the Peace, by or before whom the same shall be made, to the next General Quarter Sessions of the Peace to be held for the County or Place where the Offender shall be convicted, and shall be filed amongst the Records of the said Sessions; and such Conviction shall be in the following Form of Words, or to the like Effect; (that is to say)

Form of Conviction for Offences.

To wit. } BE it remembered, That on the Day of in the Year *A. B.* was, upon the Complaint of *C. D.* convicted before me [*or* us, *as the Case shall happen*] in pursuance of

of an Act passed in the Eleventh Year of the Reign of His Majesty King *George* the Third, *for regulating and improving the Fisheries in the River* Tweed, *and the Rivers and Streams running into the same, and also within the Mouth or Entrance of the said River*. Given under my [*or* our] Hand and Seal [*or* Hands and Seals, *as the Case shall happen*] the Day and Year above written.

Which said Conviction shall be good and valid in the Law to all Intents and Purposes, and shall not be quashed, set aside, or judged void or insufficient for Want of Form only, and shall not be liable to be removed by Certiorari into His Majesty's Court of King's Bench, but shall be deemed and taken to be final to all Intents and Purposes whatsoever.

Persons punished for Offences by this Act, not to be liable to be prosecuted upon any other Act.

Provided always, That where any Offender shall be punished for any Offence by virtue of this Act, such Offender shall not again be prosecuted, nor incur any Penalty by virtue of any other Law or Statute, or be liable to any other Punishment for the same Offence; and no Person shall incur any Penalty, or suffer any Punishment for any Offence committed against this Act, unless the Prosecution of the same shall be commenced within Six Months after such Offence committed.

Persons aggrieved by the Act of any Justice may appeal to the next Quarter Sessions.

And be it enacted by the Authority aforesaid, That all and every Person and Persons who shall think himself, herself, or themselves aggrieved by any Judgement of any Justice or Justices of the Peace, in any of the Cases aforesaid, may appeal to the Justices of the Peace for the County, Shire, Liberty, or Place, where such Judgement shall be given, at their then next General Quarter Sessions; but no such Appeal shall be received, heard, or determined, unless the Appellant or Appellants shall first give, or cause to be given, Fourteen Days Notice in Writing to the Justice or Justices from whose Judgement, Sentence, or Determination he, she, or they shall appeal, of his, her, or their Intention to bring such Appeal, and shall also enter into a Recognizance, with Two sufficient Sureties conditioned to try such Appeal; and the said Justices at their said Sessions, upon due

Proof of such Notice given as aforesaid, shall hear and determine every such Appeal in a summary Way, and shall award and order to the Party for whom, and in whose Behalf such Appeal shall be determined, such Costs and Charges as they in their Discretion shall think reasonable and just to be paid by the Party or Parties against whom such Appeal shall be determined; and in case such Costs and Charges shall not be paid within the Space of Six Days, the same shall and may be levied by Distress and Sale of the Goods and Chattels of the Person or Persons ordered to pay the same; and if the Person or Persons ordered to pay such Costs shall happen to remove or go into any County, Shire, Liberty, or Place, out of the Jurisdiction of the said Court where such Appeal shall be brought or heard, it shall and may be lawful for any Justice of the Peace of or for the County, Shire, Liberty, or Place wherein such Person shall inhabit or be found, and every such Justice of the Peace is hereby required, upon Request to him for that Purpose to be made, and a true Copy of the Order for the Payment of such Costs and Charges produced and proved by some credible Witness upon Oath (which Oath such Justice is hereby impowered to administer) by Warrant in due Form of Law, to cause the Money mentioned in that Order to be levied by Distress and Sale of the Goods and Chattels of the Person that is ordered and ought to pay the same; and the Determination of the said Justices, at such Quarter Session, shall be binding and conclusive to all Intents and Purposes whatsoever; and no Proceeding to be had touching the Conviction of any Offender or Offenders against this Act, or any Order made, or other Matter or Thing to be done or transacted in or relating to the Execution of this Act, shall be vacated or quashed for Want of Form, or be removed by Certiorari, or any other Writ or Process whatsoever: And that all and every Person and Persons who shall think himself, herself, or themselves aggrieved by any Judgement of any Sheriff-depute in any of the Cases aforesaid, may appeal to the Lords of Justiciary in the next Circuit Court of the Circuit wherein such County or Shire shall lie, in the Way, Manner, and Form, and under and upon the Limitations

tions and Conditions prescribed by and contained in an Act of Parliament, passed in the Twentieth Year of the Reign of his late Majesty, for taking away and abolishing the hereditable Jurisdictions in that Part of *Great Britain* called *Scotland*, and for other Purposes therein mentioned.

And those aggrieved by the Judgement of any Sheriff-depute may appeal to the Lords of Justiciary in the next Circuit Court.

And be it further enacted by the Authority aforesaid, That no Action at Law shall be brought or commenced against any Person or Persons for any Thing done or to be done by virtue of this Act, within that Part of Great Britain called England, the Town of Berwick upon Tweed, or the Bounds and Liberties thereof, until after Fourteen Days Notice thereof in Writing shall be given to the Person or Persons against whom such Action shall be intended to be so brought, or left at his or their last or usual Place of Abode, setting forth the Cause of such Action; and that every Action brought for any Thing done or to be done as aforesaid, shall be brought within the Space of Six Calendar Months next after the Cause of Complaint shall arise, and shall be laid and tried in the County or Place where the Fact was committed, and not elsewhere; and the Defendant or Defendants therein may plead the General Issue, and give this Act and the Special Matter in Evidence at any Trial to be had thereupon, and that the same was done by virtue hereof: And if, on the Trial of such Action, it shall appear that the same was brought before the Expiration of Fourteen Days next after such Notice shall have been so given or left as aforesaid, or after the End of Six Calendar Months next after the Cause thereof shall have arisen, or if such Action shall be brought or laid in any other County or Place than as aforesaid, or after sufficient Tender of Amends shall have been made to the Party or Parties aggrieved, that then, and in any of the Cases aforesaid, the Jury shall find for the Defendant or Defendants therein; and in all Cases where any Verdict shall be found for any Defendant or Defendants in such Action, or if the Plaintiff or Plaintiffs shall discontinue the same after the Defendant or Defendants shall have appeared, or shall be nonsuited; or if, upon Demurrer, Judgement shall be given against the Plaintiff or Plaintiffs, the

Limitation of Actions.

General Issue.

Treble Costs. Defendant or Defendants in such Action shall have Treble Costs, and have the like Remedies for recovering the same as Defendants have for recovering their Costs in other Cases by Law.

Publick Act. And be it further enacted by the Authority aforesaid, That this Act shall be deemed and taken to be a Publick Act, and shall be judicially taken Notice of as such by all Judges, Justices, and other Persons whomsoever, without specially pleading the same.

FINIS.