


ANNO QUINQUAGESIMO OCTAVO

# GEORGII III. REGIS.

## CAP. XLIII.

### An Act for preventing the Deſtruction of the Breed of Salmon, and Fiſh of Salmon Kind, in the Rivers of *England*. [28th *May* 1818.]

WHEREAS Proviſion has been made, in various Acts of Parliament, for preventing the Deſtruction of Salmon, and other Fiſh of the Salmon Kind, in the ſeveral Rivers in *England* named therein, and in Eſtuaries and Arms of the Sea near the Mouths of the ſaid Rivers; and it would be of great public Advantage if ſuch Protection ſhould be afforded generally in all Rivers throughout *England*: 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 from and after the paſſing of this Act it ſhall be lawful for the Juſtices of the Peace, aſſembled at any General or Quarter Seſſions of the Peace, from Time to Time to appoint Conſervators or Overſeers for the Preſervation of the Salmon, and Fiſh of the Salmon Kind, and the Brood, Spawn, and Fry thereof, and preventing the Deſtruction thereof, and enforcing for that Purpoſe the Proviſions of this Act within the Limits of the Juriſdiction of ſuch Juſtices, and within the Limits of which they ſhall be ſo appointed.

Juſtices at Seſſions to appoint Conſervators of Rivers;

II. And be it further enacted, That where no Proviſion is made by any Act now in force for limiting the Times within which it ſhall be lawful to take Salmon, or Fiſh of the Salmon Kind, in any of the Rivers in *England*, it ſhall be lawful for the Juſtices of the Peace acting for the ſeveral

and to fix Periods in which Salmon ſhall not be taken, &c.

ſeveral Counties, at their ſeveral Quarter Seſſions of the Peace, and they are hereby required, at the Requeſt of any Perſon, ſuch Perſon having firſt given Notice, in ſome Newſpaper uſually circulated within the County, of his Intention to apply to the ſaid Quarter Seſſions in that Behalf, to fix certain Days, not exceeding One hundred and fifty Days in each Year, for each River within their reſpective Counties, to be Fence Days for the ſeveral Rivers reſpectively; during which Time it ſhall not be lawful for any Perſon or Perſons whatever to take, kill, or deſtroy, or attempt to take, kill, or deſtroy, any Salmon or Salmon Trout, or Fiſh of the Salmon Kind, or any Brood, Spawn, or Fry of ſuch Fiſh; and the ſaid Juſtices are hereby further empowered, at any General Quarter Seſſions, to vary annually the Number of ſuch Days, and the Periods at which they ſhall commence, as they ſhall think fit.

Penalty on Perſons deſtroying Salmon, or the Brood, Spawn, or Fry thereof.

III. And be it enacted, That if any Perſon or Perſons ſhall at any Time hereafter purſue, take, kill, or deſtroy, or ſeek or endeavour to take, kill, or deſtroy, purſue, hurt, or injure, any Salmon or Salmon Kind, by laying or uſing any hot Lime or Filth, or Material or Drug pernicious to Fiſh, or uſing any Water in which any Green Lint or Flax has been ſteeped, or letting off ſtagnated Water, or any Water impregnated with any Material or Drug pernicious to Fiſh; or if any Perſon ſhall uſe or employ any ſuch Means as aforeſaid, or uſe any Fire or Light or White Object, or lay down any Kind of Net, Engine, or Device, or wilfully do or commit, or cauſe to be done or committed, any Act whatſoever, in any River, Water, Rivulet, Stream, Mill Dam, Mill Sluice, Cut, Pool, or Pond communicating therewith, for the Deſtruction of the Brood, Spawn, or Small Fry of Salmon therein (Angling excepted); or if any Perſon ſhall hereafter make, erect, or ſet any Bank, Dam, Hedge, or Stank, Net or Nets, or place any Fire or Fires, Light or Lights, or any White Object or Objects, ſo that the young Fry or young Salmon be prevented from going down from ſuch Rivers, Rivulets, or other Waters communicating therewith as aforeſaid, or any of them, every ſuch Perſon ſo offending ſhall for every ſuch Firſt Offence forfeit and pay any Sum not exceeding Ten Pounds nor leſs than Five Pounds, and for every Second and ſubſequent Offence any Sum not exceeding Fifteen Pounds nor leſs than Ten Pounds, at the Diſcretion of the Juſtice or Juſtices before whom the Offender or Offenders ſhall be convicted, and ſhall alſo forfeit all the Fiſh, Spawn, Brood, or Fry ſo taken, and all the Nets, Weapons, Lines, Inſtruments, Boats, Devices, or Things uſed in the taking thereof.

Penalty on Perſons having in Poſſeſſion Spawn, Fry, or Brood of Fiſh, or unſizeable Fiſh.

IV. And be it further enacted, That no Perſon ſhall, at any Time after the Firſt Day of *September* One thouſand eight hundred and eighteen, take, kill, or deſtroy, or knowingly have in his or her Poſſeſſion, either on the Water or on the Shore, or ſhall bring to Shore, or cry or carry about, ſell, offer or expoſe to or for Sale, or ſhall exchange for any Goods, Matter, or Thing, any Spawn, Fry, or Brood of Fiſh, or any unſizeable Fiſh, or any Kepper or Shedder Salmon, being unſeaſonable Salmon, commonly called *Old Salmon*, or any Salmon caught in any River during the Periods when fiſhing for Salmon is prohibited under the Proviſions of any Law now in force, or when the ſame ſhall be prohibited by any Order to be made by the Juſtices at their Seſſions as herein-before provided; and it ſhall be lawful for any Conſervator or Overſeer thereof, or any other

Perſon, under the Authority of this Act, to take and ſeize all or any ſuch Spawn, Fry, or Brood of Fiſh, or ſuch other Fiſh as aforeſaid, wherever the ſame ſhall be found, together with all Baſkets and Package in which the ſame ſhall be ſo found or taken, and to deliver the Perſon on whom the ſame may be found to a Conſtable or other Peace Officer; and after every ſuch Seizure ſhall be made, the Spawn, Fry, or Brood, or other Fiſh as aforeſaid, together with the Baſkets and Package in which the ſame ſhall be ſo ſeized, ſhall be delivered into the Hands of ſome Conſtable or other Peace Officer; and every ſuch Conſtable or other Peace Officer is hereby authorized and required to take every ſuch Offender with whom he ſhall be ſo charged for any ſuch Offence into his Cuſtody, and alſo the Spawn, Fry, or Brood of Fiſh, and ſuch other Fiſh as aforeſaid, and all Baſkets and Packages in which the ſame ſhall be ſo ſeized, and which ſhall be delivered to ſuch Conſtable or other Peace Officer as aforeſaid, and to carry ſuch Offender, and all ſuch Spawn, Fry, or Brood of Fiſh, and ſuch other Fiſh as aforeſaid, together with the Baſkets and Package as aforeſaid, which ſhall have been delivered to any ſuch Conſtable or other Peace Officer, with all convenient Speed, before ſome Juſtice or Juſtices or Magiſtrate of the County, City, or Place where the Offence ſhall be committed, for ſuch Offender to be dealt with according to Law; and on the Conviction of any ſuch Offender or Offenders for any ſuch Offence, before any ſuch Juſtice or Juſtices or Magiſtrate as aforeſaid, every ſuch Offender ſhall forfeit all and every ſuch Spawn, Fry, or Brood of Fiſh, unſizeable Fiſh, and Fiſh out of Seaſon, which ſhall be ſo ſeized, together with all Baſkets or Package in which the ſame ſhall be ſo ſeized; and all ſuch Spawn, Fry, or Brood of Fiſh, or ſuch other Fiſh as aforeſaid, together with ſuch Baſkets and Package in which the ſame ſhall have been ſo ſeized as aforeſaid, ſhall, by Order of the Juſtice or Juſtices before whom the ſame ſhall be ſo brought, be delivered to the Perſon or Perſons who ſhall have ſo ſeized the ſame, and ſhall proſecute to Conviction any ſuch Offender; and every Offender who ſhall be ſo convicted as aforeſaid of any ſuch Offence, ſhall beſides forfeit and pay for every ſuch Offence any Sum not exceeding Ten Pounds nor leſs than Five Pounds.

Act not to affect the preſent Modes of Fiſhing.

V. Provided alſo, and be it further enacted, That nothing herein contained ſhall extend or be deemed or conſtrued to legalize, nor to demoliſh, take away, or deſtroy any Net, Fiſh Lock, Coop, Bay, or other Work, which ſhall have been or may hereafter be lawfully erected, put, placed, fixed, or uſed in any ſuch Arm of the Sea, or Eſtuary, or Mouth of any River, or in or upon any Bank, Sand, or Shore thereof, or near thereto, or in or near any River, Rivulet, Brook, Stream, Pond, Pool, or other Water, Mill-lead, Mill-dam, Sluice, or Cut, which runs into or otherwiſe communicates therewith, or to the preſent Modes or Methods uſed for taking and killing Fiſh therein, other than and as are in this Act particularly prohibited.

Recovery of Penalties.

VI. And be it further enacted, That every the pecuniary and other Penalties and Forfeitures by this Act impoſed may be ſued for, recovered, and adjudged, and every Offence againſt this Act heard and determined, by and before any One or more Juſtice or Juſtices of the Peace or Magiſtrate for the County, Shire, Diviſion, City, or Place wherein any Offender againſt this Act ſhall be or reſide, or wherein or near to which the Offence or Offences ſhall be committed, by and upon the Oath or Affirmation of

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One or more credible Witneſs or Witneſſes, or by the Confeſſion of the Party or Parties; which Oath or Oaths, Affirmation or Affirmations, every ſuch Juſtice of the Peace and other Magiſtrates aforeſaid are hereby authorized, empowered, and required to adminiſter accordingly; and in caſe any Perſon who ſhall be convicted of any Offence or Offences againſt this Act, and ſhall not immediately upon ſuch Conviction pay down the Penalty or Penalties, together with ſuch Coſts of Suit or Proſecution in which he, ſhe, or they ſhall have been ſo convicted or ordered to pay as aforeſaid, into the Hands of the Juſtice or Juſtices of the Peace or Magiſtrate as aforeſaid, by and before whom he or ſhe ſhall have been ſo convicted, or other Perſon by them or any of them authorized to receive the ſame, in order that the ſame may be diſpoſed of and diſtributed according to the Directions of this Act, it ſhall be lawful for any ſuch Juſtice or Juſtices of the Peace or Magiſtrate aforeſaid to order any Conſtable or other Peace Officer to take the Charge of and keep in Cuſtody any ſuch Perſon ſo convicted; and immediately thereupon every ſuch Juſtice or Juſtices of the Peace or Magiſtrate is hereby authorized, empowered, and required to grant his or their Warrant or Warrants in due Form of Law, under his or their Hand and Seal or Hands and Seals, and thereby commit every ſuch Offender to the Common Gaol or Houſe of Correction for the County, Shire, Diviſion, City, or Place for which ſuch Juſtice or Juſtices or Magiſtrates aforeſaid ſhall act, for ſuch Time or Times hereinafter mentioned, unleſs the ſaid Penalty or Penalties and Coſts ſhall reſpectively be ſooner paid; or otherwiſe ſuch Juſtice or Juſtices of the Peace or Magiſtrate ſhall and may grant his or their Warrant or Warrants in due Form of Law, under his or their Hand and Seal or Hands and Seals, to levy and recover the ſaid Penalty and Penalties and Coſts by Diſtreſs and Sale of the Offender's Goods and Chattels; and that all Penalties and Forfeitures which ſhall be ſo paid or levied as aforeſaid, ſhall from Time to Time be paid, applied, and diſpoſed of as follows; (that is to ſay), One Moiety thereof to the Informer or Informers, and the other Moiety, after defraying all Coſts, Charges, and Expences attending the Proſecution, and the levying and recovering of the Penalty, to the Overſeers of the Poor of the Pariſh or Place where the Offence or Offences ſhall have been committed; and the Overplus of the Money levied remaining (if any there be), after any Penalty or Penalties, and all Coſts, Charges, and Expences attending the levying and recovering thereof are deducted, (which Coſts, Charges, and Expences ſhall always be taxed, ſettled, and aſcertained by and before the Juſtice or Juſtices of the Peace or Magiſtrate, as by or before whom any ſuch Offender ſhall be convicted), ſhall on Demand be returned to the Owner or Owners of the Goods and Chattels ſo diſtrained; and in caſe ſufficient Diſtreſs or Diſtreſſes ſhall not be found, or ſuch Penalty or Penalties and Coſts ſhall not be immediately paid, that then it ſhall be lawful for any ſuch Juſtice or Juſtices of the Peace or Magiſtrate, and he and they is and are hereby reſpectively authorized, empowered, and required, for the Firſt Offence to commit every ſuch Offender or Offenders to ſuch Gaol or Houſe of Correction as aforeſaid for any Time not exceeding Four Months nor leſs than Two Months, for the Second Offence any Time not exceeding Eight Months nor leſs than Six Months, and for the Third and every other Offence, for any Time not exceeding Twelve Months nor leſs than Eight Months, there to be kept at hard Labour, and be and remain without Bail or Mainprize.

VII. And be it further enacted, That it ſhall and may be lawful for any Juſtice or Juſtices of the Peace or Magiſtrate, or any of them, and they are hereby required, upon Information being made to him or them upon Oath againſt any Perſon or Perſons who ſhall or may offend againſt any thing contained in this Act, to grant his or their Warrant or Warrants under his or their Hand and Seal or Hands and Seals, to apprehend any Perſon or Perſons ſo offending, and cauſe ſuch Offender or Offenders to be brought before him or them, or ſome other ſuch Juſtice or other Magiſtrate; or it ſhall and may be lawful to and for any ſuch Juſtice or Juſtices, or other Magiſtrates as aforeſaid, upon any Information made without Oath, to grant his or their Summons or Summonſes againſt the Party charged with any ſuch Offence or Offences, or for any Witneſs or Witneſſes to prove any ſuch Offence or Offences as aforeſaid; and if any ſuch Perſon or Perſons who ſhall be duly ſummoned ſhall neglect or refuſe to appear at the Time and Place appointed by ſuch Summons or Summonſes, every ſuch Juſtice or Juſtices of the Peace or Magiſtrates ſhall and may, upon Oath being made of the Perſon or Perſons being ſo duly ſummoned, grant his or their Warrant or Warrants, under his or their Hand and Seal or Hands and Seals, to apprehend and bring before him and them, or ſome other ſuch Juſtice or Magiſtrate as aforeſaid, the Party or Parties who ſhall neglect or refuſe to appear after being duly ſummoned as aforeſaid; and ſuch Juſtice or Juſtices or other Magiſtrates aforeſaid ſhall inquire into, hear, and determine the Matter of every ſuch Offence or Offences in a ſummary Way.

Juſtices, on receiving Information, may grant Warrants for apprehending Offenders.

VIII. And be it further enacted, That no Owner, Farmer, or Occupier of, or any Perſon otherwiſe intereſted in any Fiſhery or Right of Fiſhing in any Arm of the Sea, River, or other Water aforeſaid, ſhall be deemed an incompetent Witneſs to prove any Offence or Offences done or committed againſt this Act, by reaſon of his or her being ſuch Owner, Farmer, or Occupier.

Owners, &c. of Fiſheries may be Witneſſes to prove Offences.

IX. And be it further enacted, That every pecuniary Penalty and Forfeiture impoſed by this Act may be recovered in a ſummary Manner according to the Proviſions of this Act, or may be ſued for and recovered, together with full Coſts of Suit, by and to the only proper Uſe and Behoof of any Perſon who ſhall inform or ſue for the ſame in any of His Majeſty's Courts of Record at *Weſtminſter*, by Action of Debt, Bill, Plaint, or Information, wherein no Eſſoign, Wager of Law, nor more than One Imparlance, ſhall be allowed.

Penalties may be ſued for.

X. And be it further enacted, That every Conviction of every Offender againſt this Act ſhall be certified by the Juſtice or Juſtices of the Peace by and before whom the ſame ſhall be made, to the General Quarter Seſſions of the Peace to be held in and for the County, Riding, Diviſion, City, or Place where the Offender or Offenders ſhall be convicted, and ſhall there be filed amongſt the Records of the ſaid Seſſions; and every Conviction ſhall be in the Form of Words, or to the following Effect:

Form of Conviction.

'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] *E. F.* One [*or* Two] of
'His Majeſty's Juſtices of the Peace [*as the Caſe may be*] for

'in pursuance of an Act made in the Fifty-eighth Year of the Reign of 'His Majesty King *George* the Third, [*insert the Title of the Act*] for that 'the said [*state the Offence*] [*and if a Case in which 'different Penalties are imposed for repeated Offences*] this being the First 'Offence, Second *or* Third Offence, [*as the Case may be*] and I [*or* we] 'do hereby adjudge him [her *or* them] to pay and forfeit for the said 'Offence, the Sum of of lawful Money of *Great 'Britain*, together with the farther Sum of for Costs 'of Suit and Prosecution, to the said *C. D.* Given under my Hand and 'Seal, [*or* our Hands and Seals, *as the Case may be*] at 'in the County of the Day and Year above written.'

Which said Conviction and Adjudication shall be good and valid in Law to all Intents and Purposes, and shall not be quashed, set aside, or adjudged void or insufficient for want of Form only; and shall not be liable to be removed by Certiorari or otherwise into His Majesty's Court of King's Bench, or any other of His Majesty's Courts of Record at *Westminster*, but shall be deemed and taken to be final to all Intents and Purposes whatsoever.

Persons convicted under this Act, not to be prosecuted under any other.

XI. And be it further enacted, 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 now in force, or be liable to any other Punishment for the same Offence.

Appeal.

XII. And be it further enacted, That every Person who shall think himself or herself aggrieved by the Judgment of any Justice of the Peace or Magistrates in any of the Cases aforesaid, may appeal to the Justices of the Peace for the County, Shire, Division, City, or Place where such Judgment shall be given, at the then next or next but one General Quarter Sessions of the Peace; but that no such Appeal shall be received, heard, or determined, unless the Appellant or Appellants shall, within Ten Days next after such Judgment, and Twenty Days at the least before the holding of such Sessions, give and leave in Writing, as well at the public Office of the Clerk of the Peace for such County, Shire, Division, City, or Place where such Person or Persons shall be convicted, as to the Person or at the Dwelling House of the Informer or Prosecutor, of his, her, or their Intention to bring such Appeal, and shall also enter into a Recognizance before such Justice or Justices, in such Sum as any such Justice or Justices of the Peace shall think fit, not exceeding Twenty Pounds, conditioned to try such Appeal, and likewise to pay the Costs of such Appeal, in case Judgment and Sentence shall upon the hearing thereof be given against the Appellant, within Ten Days next after the Determination thereof; and that the said Justices at their said Session shall and may, upon due Proof of such Notice given as aforesaid, hear and determine every such Appeal in a summary Way, and shall award or order to the Party 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 Ten Days next after the hearing and determining of such Appeal, the same may be levied by Distress and Sale of the Goods and Chattels of the Person or Persons ordered to pay the same, or his or their Surety or Sureties, in the same

Manner and by the ſame Means as all Diſtreſſes are ordered to be taken under or by virtue of this Act.

XIII. And be it further enacted, That no Action of Law ſhall be brought or commenced againſt any Perſon or Perſons for any Thing done or to be done by virtue or in Execution of this Act, until One Calendar Month after Notice thereof in Writing ſhall have been given to the Perſon or Perſons againſt whom ſuch Action ſhall be intended to be brought, or left at his, her, or their laſt or uſual Place or Places of Abode, ſetting forth the Cauſe of ſuch Action, and containing the Name and Place of Abode of the Plaintiff or Plaintiffs, and alſo of his or their Attorney; and that every Action brought for any Thing done or to be done as aforeſaid ſhall be brought within the Space of Three Calendar Months next after the Cauſe of Action or Complaint ſhall ariſe, and ſhall be laid and ſued in the County, Shire, Diviſion, City, or Place where the Fact ſhall have been 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 thereof; and alſo that it ſhall and may be lawful to and for ſuch Perſon or Perſons, at any Time before Action brought, to tender Amends to the Party complaining, or his or her Agent or Attorney, and in caſe the ſame is not accepted, to plead ſuch Tender in bar to the Action, together with the Plea of Not Guilty, and any other Plea, with the Leave of the Court; and if, on the Trial of ſuch Action, it ſhall appear that the ſame was brought before the Expiration of One Calendar Month next after ſuch Notice ſhall have been ſo given or left as aforeſaid, or after the End of Three Months next after the Cauſe ~~thereof~~ ſhall have ariſen, or if ſuch Action ſhall have been 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 a Verdict for and acquit the 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, and if, upon Demurrer, Judgment ſhall be given againſt the Plaintiff or Plaintiffs, the Defendant or Defendants in ſuch Action ſhall have Double Coſts, and have the like Remedies for recovering the ſame as Defendants have for recovering their Coſts in other Caſes at Law; and that no Action, Suit, Information, or other Proceeding whatſoever 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 next after any ſuch Offence or Offences ſhall have been committed. Limitation of Actions.

XIV. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend or be conſtrued to extend or alter any Act or Acts of Parliament, or any Clauſe, Proviſion, Regulation, or Penalty or Forfeiture contained in any Act or Acts of Parliament in force for the Regulation of any Fiſhery or Fiſheries, or the Preſervation thereof, or of the Brood, Spawn, or Fry of Fiſh, in any particular County or Arm of the Sea, Eſtuary, or River. Not to affect the Proviſions of any Act;

XV. Provided always, and be it further enacted, That nothing herein contained ſhall extend to affect the Rights of any Lord or Lords, Lady or nor the Rights of Manors:

or Ladies of any Manor; and it shall be lawful for such Lord or Lords, Lady or Ladies, and they are hereby required, to appoint Conservators for the Protection of any River or Rivers within their respective Manors.

Not to affect the Rights of Corporations;

XVI. Provided also, and it is hereby enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice or derogate from the Rights, Interests, Privileges, Franchises, or Authority of any Body or Bodies Politic, Corporate, or Collegiate, or their Successors, or to prohibit, defeat, alter, or diminish any Power, Authority, or Jurisdiction which such Body or Bodies Politic, Corporate, or Collegiate, at the Time of the passing of this Act, did or might lawfully claim, use, or exercise in any River or Rivers as aforesaid.

or of the City of London.

XVII. Provided also, and it is hereby enacted and declared, That nothing in this Act contained shall extend or be construed to extend, to prejudice or derogate from the Rights, Interests, Privileges, Franchises, or Authority of the Mayor and Commonalty and Citizens of the City of *London*, or their Successors, or the Lord Mayor of the said City for the Time being, or to prohibit, defeat, alter, or diminish any Power, Authority, or Jurisdiction which, at the Time of making this Act, the Mayor and Commonalty and Citizens of the City of *London*, or the Lord Mayor of the said City for the Time being, as Conservator of the River *Thames* and Waters of *Medway*, did or might lawfully claim, use, or exercise.

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