

1881, he endeavored to comply with the regulations of the Order in Council of June 14th, 1879, and applied to the Government, although a riparian proprietor, to give him a license, stating that he was willing to observe the regulations—he was also a great friend and supporter of the present Government—but the only answer he received, was to furnish his titles to the Government, and to state what he was willing to pay to fish on his own property. This having actually happened, they naturally fear that this clause will be used unfairly and unjustly, and to their disadvantage. I fear that the only result of the present clause, if left as it is, will be that we will not get rid of the litigation, which has already been too large an extent increased in consequence of the manner in which the fishery regulations are carried out. The four subsections of the third section gives great power, and reverses the general rule of law, that a man is presumed innocent until proved guilty, the burden of proof in case of seizure being thrown on the accused, and this in case of seizure, not only by a fishery officer, but by any other person. With regard to the sixth clause, I have a very strong opinion that this is also beyond the powers of this Legislature. It provides:

"6. No action, suit or proceeding shall be brought against any fishery officer or person employed for the prosecution of contraventions of the Fisheries Act or regulations made thereunder for anything done in the exercise of his office, or by virtue of his employment, unless within three months after the act committed, and upon one month's previous notice thereof in writing; and the action shall be tried in the county or judicial district where the cause of action arose; and if upon the trial of any such action the defendant shall be condemned, but the Judge shall be of opinion, and, in case of a trial by jury, shall certify, that the defendant acted upon probable cause, the plaintiff shall only be entitled to recover the actual value of anything of which he has been deprived by the defendant and not any vindictive or general damages or any costs of suit."

This is civil procedure; and I take it that when an action is brought in the courts by the course of civil procedure, it is purely within the powers of the Local Legislature. My legal friends on the other side of the House will recollect that in the case to which I have referred, *Cushing vs. The Queen*, which was before the Privy Council, in referring to the question of bankruptcy and the effect of procedure on bankruptcy, as it interferes with that section, it was stated that only so far as was necessary for the purpose of carrying out the requirements of the law, the only procedure in civil rights was necessarily implied, but beyond that it was not. It was not necessary that they should set out where, or when the action should be brought, or where it should be tried. I think, however—and I may say I speak for the riparian proprietor—that section should be looked at with great care as to the powers of Parliament in that direction. While I am anxious to have the latter satisfactorily settled, I know that these parties are prepared to comply with all the regulations, and that so far they find no fault with the regulations with regard to the season for the mode of fishing, only that the provisions with regard to fishing in tidal waters might be more strictly enforced than they are. I think if the Act passes as it is, we will find ourselves in a greater difficulty than ever.

Mr. FORTIN. I am not going to make any remarks on the legal question, because I think it is beyond redemption, the Supreme Court having decided that the rivers above the tide wave are the property of riparian owners. I am very sorry that that judgment has been rendered, because the salmon fisheries, that is to say the commercial fisheries, those which give food to the people and furnish an important article for export trade, will be liable to disappear. But this law is enacted in order to prevent their destruction. How will the new order of things act? As there are some hon. members in this House, and many people in the country, who are not well acquainted with the salmon fisheries on our Maritime coasts, perhaps I may be allowed to say a few words with regard to those fisheries. We have the

Mr. WELDON,

salmon fisheries there as in other parts of the world, where the fishermen toil hard day and night to catch the salmon with nets, in some countries they catch them with seines, to supply food for this country, and an article of exportation which goes into several foreign countries, and for which a large sum of money comes back for the benefit of the fishermen. The fisherman who inhabits the coast, and gains his livelihood by this occupation, must be looked to and protected. In order to protect the salmon from the net fisheries, we oblige the fisherman to set his net in such a particular way, we oblige him to leave all the main channels open, and to raise his net on Saturday night and not set it again until Monday morning. These men are restricted as much as possible, in order to allow a sufficient quantity of salmon to go up to their resting places, where the important function of reproduction has to be performed in quietness, instinct giving the salmon power to go hundreds of miles, perhaps, to go up rapids, and even falls, fifteen or twenty feet high, in order to restock the rivers. That is the commercial side of the salmon fisheries. When the salmon has escaped the net and a lot of them gone up the rivers, the females full of eggs, and the males full of milt, they are exposed to encounter another class of fishermen, who catch them by means of flies for sport or pleasure. They do not catch them for the purpose of food, and when caught they do not make an article which is worth \$1 for exportation. The sport is carried on in those parts of the rivers which by the judgment of the court fall to the riparian owners or to the Local Government, where there are no riparian proprietors, and, therefore, the danger to the salmon is augmented a thousand-fold, because what does the riparian owner care for preserving the salmon for the benefit of the net fishermen who may be many miles distant from him. What he wants is either sport for himself, or he may rent his property for \$100 or \$500, or, perhaps, \$1,000. I know that in one of the rivers of Gaspé, a gentleman who had this stream for a few hundred dollars made \$1,000 by sub-letting it. The danger is that the riparian owners or the Local Governments will be so anxious to make money by renting these places for fly-fishing that the rivers will be depleted of salmon in ten or twenty years and the net fishermen will be obliged to abandon their present fishing places, and, perhaps, have to go to a foreign country to get their living. I understand that the purpose of this Act is to prevent the destruction of salmon in the upper parts of rivers by giving the following power to the hon. Minister of Marine:

"The Minister of Marine and Fisheries may issue, or authorize to be issued, fishery leases or 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; and provided that where an exclusive right of fishing exists by law, no lease or license shall be issued other than a license to fish at a certain time or in a certain mode, and then only to the person in whom the exclusive right is vested."

This means, as I understand it, that no net or fly-fisherman will be allowed to fish unless he gets a license from the hon. Minister of Marine, and I suppose the riparian owner himself will have to procure such a license before he can fish. I suppose it will be stipulated in the license that the licensee shall only fish at certain times. If this law goes into operation and is carried out, as I think it should be, no riparian owner or lessee of a riparian owner should be allowed to fish without permission of the hon. Minister; and, besides, I would stipulate in the license that he should not fish above a certain part of the rivers, or in certain pools. Petitions have been sent to this House from the county of Gaspé, and from various counties in the Provinces of New Brunswick and Nova Scotia, asking this House to declare the close time for fly-fishing to be the same as the close time for net-fishing, that is the 31st of July; and I believe that if the Government granted the prayer of the petitioners, they would remedy one of the greatest evils in the country. When the salmon has escaped the hands of the net-fisher,