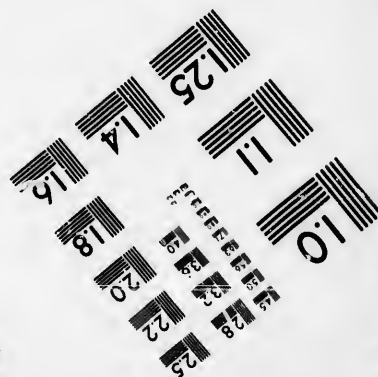
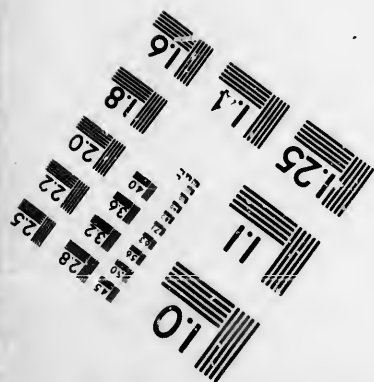
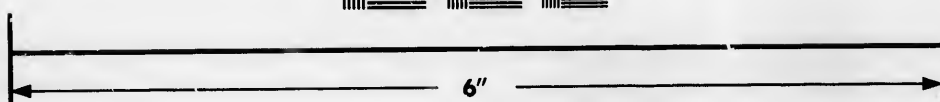
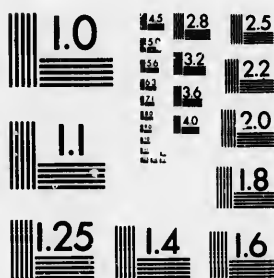


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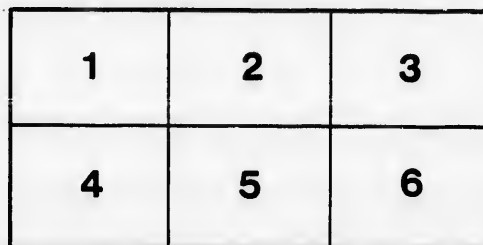
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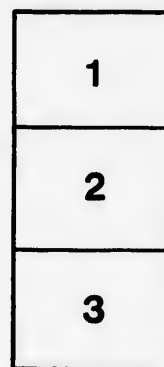
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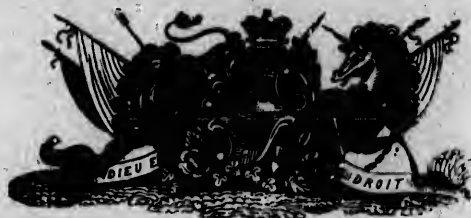
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INFORMATION
CONCERNING THE
INLAND FISHERIES
OF THE
PROVINCE OF QUEBEC.

The Queen vs. Robertson.

EXTRACTS FROM THE FEDERAL FISHERY LAWS AND
REGULATIONS MADE THEREUNDER.

The Quebec Fishery Laws and Regulations.

Department of Crown Lands:

QUEBEC.

January, 1885.

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INLAND FISHERIES,

PROVINCE OF QUEBEC.

As a considerable amount of uncertainty respecting the law bearing upon inland fisheries and fishing rights in the Province of Quebec is known to exist even among those who are interested in such matters, the following pages have been compiled with a view to the promotion of a better knowledge of the subject.

With regard to certain erroneous ideas entertained by many parties, viz. :—

That the Inland Fisheries were transferred from the Federal Government to the Provincial Governments and private owners of lands by a law passed for the purpose ;

That the control and regulation of all matters relating to Inland Fisheries are now vested in the Provincial Governments ;

That owners of fishing rights pertaining to private lands may now take fish in their own waters in any way they please ;

It should be understood that it was no new law, but a judgment of the Supreme Court of Canada, based upon the old or common law and a correct interpretation of the Confederation Act, which established the fact that the right of fishing in inland, non-navigable waters belongs to the owners of the lands bordering on such waters.

But the same judgment sets forth that the Confederation Act gave the Dominion Parliament power to pass laws for the regulation and protection of inland as well as other fisheries, and prescribing

the manner in which, and times when the private right of fishing in inland waters may be exercised.

This is also an answer to the third erroneous view above mentioned, for the law passed by the Dominion Parliament prescribing how and when fish may be caught was not set aside by the judgment referred to, but rather confirmed.

The matter, therefore, stands thus:—The owner of land bordering on any non-navigable river or lake possesses the exclusive right to fish for salmon, trout or any other fish in the water in front of his land, and may exercise that right himself or transfer it to another.

The right of fishing in water in front of public, ungranted lands belongs to the Province, represented by the Local Government, by which it may be disposed of or leased to private parties; and any person who fishes in such waters without authority to do so may be prosecuted for trespass.

All fishing, whether in private or public waters, must be done in accordance with the Federal Fishery Laws and regulations.

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LAKES.

The Province of Quebec contains a great number of lakes abounding with fish, chiefly speckled trout, grey trout, bass and whitefish.

In cases where the lands around these lakes are not disposed of, they are leased by the Commissioner of Crown Lands on favorable terms to parties undertaking to protect them from unlawful and excessive fishing.

It is considered advisable that the waters containing fish should be largely under private control, rather than that the Provincial Government should undertake the work of protection.

The Commissioner of Crown Lands is therefore desirous of encouraging as much as possible the formation of anglers' associations, and granting them five year leases of lakes and rivers or portions of rivers, with the view of preventing such destruction of fish as has taken place in the United States, and has begun and would certainly continue here if not checked.

W. W. LYNCH,

Commissioner of Crown Lands.

Quebec, 17th December, 1884.

THE QUEEN vs. ROBERTSON.

The following are quotations from the remarks made by the judges of the Supreme Court in rendering judgment in the case of *The Queen vs. Robertson*, April 28th, 1882.

The full text of the judgment may be had on application to the Commissioner of Crown Lands, Quebec.

CHIEF JUSTICE RITCHIE:

"To all general laws passed by the Dominion of Canada regulating 'Sea coast and Inland fisheries' all must submit, but such laws must not conflict or compete with the legislative power of the local legislatures over property and civil rights, beyond what may be necessary for legislating generally and effectually for the regulation, protection and preservation of the fisheries in the interests of the public at large.

"Therefore, while the local legislatures have no right to pass any laws interfering with the regulation and protection of the fisheries, as they might have passed before Confederation, they, in my opinion, clearly have a right to pass any laws affecting the property in those fisheries, or the transfer or transmission of such property under the powers conferred on them to deal with property and civil rights in the provinces, inasmuch as such laws need have no connection or interference with the right of the Dominion Parliament to deal with the regulation and protection of the fisheries, a matter wholly

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separate and distinct from the property in the fisheries. By which means the general jurisdiction over the fisheries is secured to the Parliament of the Dominion, whereby they are enabled to pass all laws necessary for their preservation and protection, this being the only matter of general public interest in which the whole Dominion is interested in connection with river fisheries in fresh water, non-tidal rivers or streams such as that now being considered, while, at the same time exclusive jurisdiction over property and civil rights in such fisheries is preserved to the provincial legislatures, thus satisfactorily, to my mind, reconciling the power of both legislatures without infringing on either."

HENRY J. (oral judgment.)

"The British North America Act of 1867 conveys to the Dominion no property in the sites of the sea coast or inland fisheries as I construe it. In section 91, which defines the powers of the Dominion Parliament, we find included "sea coast and inland fisheries." That provision in the enumeration of the powers enables the Parliament of the Dominion to legislate on the subject as it does in respect of matters such as "Shipping and Navigation," "Ferries," "Bills of Exchange and Promissory Notes" and many others, without passing any right of property in the several subject matters. In fact, in my opinion, the power under the act is but to regulate the fisheries and to sustain them by grants of money and otherwise as might be considered expedient.

"Independently of the statute, the Dominion Parliament has no power to legislate in respect of property or civil rights in the Province and could not by enactment affect the tenure of or title to real property. By the common law, the owner of the soil has the right of fishery in unnavigable streams and water courses."

FOURNIER, J. (Translation.)

"With respect to the right of ownership, neither the Union Act nor the Fishery Act has altered the state of affairs which existed before Confederation. The ownership remains as before.

"The Federal Government, in my opinion can say to the owner: 'You shall only fish in certain seasons and only with certain authorized instruments or fishing tackle.' Such a restriction is not an encroachment upon, but rather a protection granted to this kind of ownership. It is, I might say, a regulation of police and control over a species of ownership which it is important to protect and preserve for the general benefit. Every one knows what would become of the fisheries in a very short time if every one was allowed to do what he pleased with them.

"In a very few years their blind cupidity would ruin this source of riches, and our fisheries, instead of becoming as rich and fruitful as formerly, would soon return to the state of exhaustion if not ruin, in which they were before they became the object of a protective legislation. This power of regulation, supervision and protection was, before Confederation, exercised by each province in the public interest and it is the same power which is now exercised by the Federal Government. It has no more right than had the provinces to touch the right of ownership in the fisheries; its power is limited to regulating the exercise of such right. I am of opinion, with the Honorable the Chief Justice, that the right to fish in non-navigable waters is an attribute of the riparian ownership, whether a province or a private individual be the owner, subject however to the right of the public to make use of such non-navigable rivers as means of communication, in so far as their nature may permit of the same."

STRONG, J.

"No principle of law can be better established both in *England* and *America* than the rule which ascribes the ownership of the soil and bed of a non-navigable river *prima facie* to riparian proprietors of the opposite banks, each to the middle thread of the stream.

"It results from the proprietorship of the riparian owner of the soil in the bed of the river that he has the exclusive right of fishing in so much of the bed of the river as belongs to him, and this is

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not a riparian right in the nature of an easement, but is strictly a right of property. To sustain these propositions of law, authorities without number might be cited. It is sufficient for the present purpose to refer to two or three of the most weighty and apposite.

"Sir *Matthew Hale* says in the *Treatise de Jure Maris* :

"Fresh rivers of what kind soever do of common right belong to the owners of the soil adjacent, so that the owners of one side have of common right the property of the soil, and consequently the right of fishing *usque filum aquae*, and the owners on the other side the right of soil or ownership and fishing unto the *filum aquae*, on their side. And if a man be owner of the land of both sides, in common presumption he is owner of the whole river, and hath the right of fishing according to the extent of his land in length; with this agrees common experience."

Chancellor *Kent* in his commentaries Vol. 3, p. 427, ed. 12, states the law as follows :

"But grants of land bounded on rivers or upon the margin of the same, or along the same above tide-water, carry the exclusive right and title of the grantee to the centre of the stream, unless the terms of the grant clearly denote the intention to stop at the edge or margin of the river; and the public, in the case where the river is navigable for boats or rafts, have an easement thereon or a right of passage subject to the *jus publicum* as a common public highway."

"From a treatise on the law of waters lately published by Messrs. *Coulson & Forbes*, I extract the following passage :

"In all rivers and streams above the flow and re-flow of the tide, whether such rivers are navigable or not, the proprietors of the land abutting on the streams are *prima facie* the owners of the soil of the *c'veys* or channel *ad medium filum aquae*, and as such have *prima facie* the right of fishing in front of their own lands. The right is a right of property, one of the profits of the land, and has been called a *territorial fishery*. It is not strictly speaking a

riparian right arising from the right of access to the water, but is a profit of the land over which the water flows, and as such may be transferred or appropriated, either with or without the property in the bed or banks, to another person, whether he has land or not on the borders of or adjacent to the stream."

"By the *British North America Act*, the Crown lands are vested in the respective provinces. This, of course, includes the beds of all non-navigable rivers and the consequent right to the fish in such waters, for there can be no doubt that the right of taking fish in rivers of this class, so long as they remain ungranted, is vested in the provinces as an incident of the ownership of the public domain, just as the timber and all the other profits of the land are so vested. These fisheries, although often in practice not conserved by the provinces, are certainly not public fisheries open of common right to all who may choose to avail themselves of them, as is the case with regard to the fisheries in tidal waters and the great lakes, but the provincial governments may, without special legislation and in exercise of their right of property, restrict their use in any manner which may seem expedient, just as freely as private owners might do. In short, the public have no more right in law to take fish in non-navigable rivers belonging to the provinces than they have to fell and carry away trees growing on the public lands; in the one instance, as in the other, such interferences with provincial rights of property are neither more nor less than illegal acts of trespass."

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EXTRACTS FROM THE DOMINION

FISHERY LAWS AND REGULATIONS.

The following extracts from the Dominion Fishery Laws and Regulations are selected principally for the information of lessees of rivers and lakes in the Province of Quebec, and anglers generally.

For complete copies of these laws and regulations application should be made to the Fisheries Department, Ottawa.

31 VICT. CHAP. 60.

Sec. 7.—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 Province of Quebec.

Salmon angling season.

Sub-sec. 3.—Foul or unclean salmon shall not be at any time caught or killed.

Foul Salmon.

Sub-sec. 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.

Use of nets regulated.

Sub-sec. 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.

Boundaries of estuary fishing to be defined. Penalty for fishing above limits, except with a rod and line, &c.

Sub-sec. 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.

Mode of killing at certain places.

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

Salmon spawn.

Sub-sec. 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 season.

Sec. 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.

WHITE-FISH AND SALMON TROUT FISHERY.

Sec. 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 thirty-first day of July and the 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.

Sub-sec. 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

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

Seines.

BASS AND PICKEREL FISHERY.

Sec. 10.—Close-seasons for bass, pike, pickerel (*dorcee*), maskinongé and other fish, may be fixed by the Governor in Council to suit different localities.

Close season.

POSSESSION OF FISH.

Sec. 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.

Sub-sec. 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

Certain officers
to seize fish
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sale in close
season.

And report the same.

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 circumstance 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.

CONSTRUCTION OF FISHWAYS.

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

Sec. 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.

Sub-sec. 2.—Fishways shall be kept open and unobstructed and be supplied with a sufficient quantity of water to fulfill the purposes of this enactment, during such times as may be required by any Fishery Officer.

Minister may pay one-half the cost.

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

Sub-sec. 4.—Should it be expedient to procure the

ited seasons, or 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.

May construct and recover the cost in certain cases.

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Sub-sec. 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.

Not to be obstructed or injured.

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Sec. 13, Sub-sec. 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 always be 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 circumstances may be determined by any Fishery Officer.

Main channels not to be obstructed

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Sub-sec. 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.

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Killing fish at certain places forbidden.

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

Fish not to be killed in certain ways.

Sub-sec. 8.— It shall not be lawful to fish for, catch or kill salmon, trout (or "lunge") of any kind, maskinongé, winnioniche, bass, bar-fish, pickerel, white-fish, herring or shad by means of spear, grapnel hooks, negog 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.

Proviso: as to Indians.

Young of fish not to be taken.

Sub-sec. 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.

Nets, &c., in small rivers.

Sec. 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.

Sub-sec. 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 o'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.

(This applies to angling, which must be suspended between six o'clock on Saturday evening and six o'clock on Monday morning.)

Sec. 14, Sub-sec. 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 sub-section, 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.

Provide: Minister may exempt any stream, &c.

Sec. 15, Sub-sec. 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.

Licenses to take spawn, &c.

FINES AND FORFEITURES.

Sec. 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

Penalty in cases where no other is provided.

Proviso: discretionary power in certain cases.

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, 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.

Separate offence on each day.

Sub-sec. 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.

Distress for penalty, &c.

Sub-sec. 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.

Forfeiture of articles used in contravention of this Act.

Sub-sec. 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.

Appropriation of pecuniary penalties.

Sub-sec. 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 pro-

secutor, together with the costs taxed to him for attendance as a witness or otherwise.

MODE OF RECOVERY.

Sec. 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.

Sub-sec. 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, or may issue a warrant for the apprehension of such defendant simultaneously with the summons.

Service of
Summons, &c

Proviso : for
cases not
admitting
delay.

Sub-sec. 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.

Limitation
of suits.

Sub-sec. 4.—When not otherwise specified, every proprietor or proprietress, 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.

Who shall be
liable.

No quashing
for want of
Form, &c.

Sub-sec. 5.—No proceeding under this Act, or any other 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 the party has been convicted, and that there is a good and valid conviction to sustain the same.

POWERS OF FISHERY OFFICERS AND OTHER MAGISTRATES.

Fishery officer
may convict
on view.

Sec. 18.—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.

Sub-sec. 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 local-
ity to be
prosecuted.

Sub-sec. 3.—When any offence under this act is committed in, upon or near any water 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.

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

Right of Fishery Officer to pass over lands.

FEDERAL REGULATIONS.

The use of explosive materials to catch or kill fish is forbidden in the Dominion of Canada. (O. C. 20 April, 1876.)

The use of seines for the purpose of catching smelts is prohibited in the Dominion of Canada. (O. C. 26 July, 1877.)

The use of smelts for manure is prohibited in the Dominion of Canada, (O. C. 21 December, 1877.)

No person shall fish for, catch, kill, buy, sell or have in possession any speckled trout (*salmo fontinalis*) between the first day of October and the thirty-first day of December in each year in the Province of Quebec. (O. C. 8 October, 1877.)

In the Province of Quebec no person shall fish for, catch, kill, buy, sell or possess any bass, pickerel (*doree*) or maskinongé between the fifteenth day of April and the fifteenth day of May in each year. (O. C. 16 May 1879.)

SYNOPSIS OF THE FISHERY LAWS

REGARDING

CLOSE SEASONS IN THE PROVINCE OF QUEBEC.

IT IS UNLAWFUL TO TAKE

Pickarel, *Dore*,
Maskinongé,
Bass, } From the 15th of April to the 15th of May.

Salmon, with nets—From 1st Aug. to 1st May in following year.
do with fly —From 1st Sept. to “ “ “ “ “

Speckled Trout,
Brook or River Trout,
Large Grey Trout, } From 1st October to 31st December.

Salmon Trout—From 10th October to 1st December.

White Fish —From 10th November to 1st December.

No person may, during their respective close seasons, fish for, catch, kill, buy, sell, or have in possession, any of the kinds of fish mentioned above. Any person doing so is liable to be fined or imprisoned.

Net or seine fishing without license is prohibited. Nets must be raised and angling suspended from Saturday night until Monday morning. Nets or seines must not be set or used, so as to bar channels or bays.

These prohibitions apply to Indians as well as to white men.

QUEBEC FISHERIES ACT.

46 VICT., CAP. 8.

An Act respecting the management of public lands adjoining non-navigable streams and lakes in the Province of Quebec, and the exercise of the fishing rights thereto pertaining.

(Assented to 30th March, 1883.)

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

1.—The Commissioner of Crown Lands or any officer or agent under him authorized to that effect, may grant leases of such of the public lands of the Crown as are situated along the banks of such rivers and lakes in the Province of Quebec, where the exclusive right of fishing is vested in the Crown as the riparian proprietor, at such rates and subject to such conditions, regulations and restrictions, as may from time to time be established by the Lieutenant-Governor in Council, and which shall be published in the *Quebec Official Gazette*.

2.—No lease shall be so granted for a period longer than one year from the date thereof, and if, in consequence of any incorrectness of survey or other error or cause whatsoever, a lease is found to comprise lands included in a lease of a prior date, the lease last granted shall be void in so far as it interferes with the one previously issued ; and the holder or proprietor of the license so rendered void, shall have no claim for indemnity or compensation by reason of such avoidance.

(Repealed, and replaced by sec. 1 of Act of 1884.)

3.—Such license shall confer, for the time being, on the lessee the right to take and keep the exclusive possession of the lands therein described, subject to such regulations and restrictions as may be established, and shall vest in him the right to fish in the waters thereto adjoining, at such times and in such manner as may be regulated and allowed by any law or statute of the Parliament of Canada then in force, or by any regulations passed in virtue thereof.

It shall also entitle the lessee to institute in his own name any action or suit at law against any wrongful possessor or trespassor, and to prosecute the same, and to recover damages if any there be.

4.—Each lessee shall be bound to establish and maintain, on and over the territory covered by his lease, an efficient guardianship to secure a complete protection of the fishery rights belonging to it.

He shall farther be answerable for damages done to the timber growing on the said territory and in the adjoining territory, by himself or the people under his control, either from waste or from want of sufficient precautions in lighting, watching over or putting out fires, and it shall be incumbent upon him, in case of damage done by fire, to prove that all such precautions have been taken.

5.—No lessee shall have the right to sublet any privilege granted him under the provisions of this Act, without first notifying the Department of Crown Lands, and receiving the written consent of the Commissioner or of some other person authorized to that effect.

6.—The rental shall be paid in advance; and any lessee who fails to do so, shall not be entitled to claim the renewal of his lease. The lease of any person convicted of an infraction of this

Act, or who has violated any regulations under it, may be annulled by the Commissioner of Crown Lands.

7.—The Lieutenant-Governor in Council may, if he considers it expedient for the better protection of the provincial fisheries, divide the province into fishery divisions, and may appoint a fishery overseer for each such division, whose duties shall be defined by the regulations made under this Act.

8.—Except in the discharge of any duty imposed by law, no person shall enter upon or pass over the land described in such lease without permission of the lessee or his representative, on pain of incurring a fine of not less than one nor more than ten dollars, and in default of immediate payment, of an imprisonment not exceeding one month. It shall be lawful, nevertheless, whenever any such land is included in any timber license, that the holder thereof shall have at all times the right to cut and take away all trees, timber and lumber, within the limits of his license and during the term thereof, and it shall further be lawful for him to make use of any floatable river or watercourse, and of any lake, pond or other body of water, and the banks thereof, for the conveyance of all kinds of lumber, and for the passage of all boats, ferries and canoes required therefor; subject to the charge of repairing all damages resulting from the exercise of such right.

The present section shall not apply to any person simply passing over the said land, or engaged in any occupation not inconsistent with the provisions of this act.

9.—If any person, without permission of the lessee or his representative, fishes or employs or induces any other person to fish or assist in fishing in the waters adjoining any such leased land, or removes or carries away or employs or induces or assists any other person to remove or carry away any fish caught in any such waters, he shall not acquire any right to the fish so caught, but the same

shall be forfeited and become the absolute property of the lessee, and any such person shall therefor incur a penalty of not less than five nor more than twenty dollars, and in default of immediate payment, of an imprisonment not exceeding one month.

10.—Except for offences to which penalties are already attached, each and every offender against the provisions of this act or regulations made under it shall incur for each offence a penalty of not more than twenty dollars, besides all costs, and in default of immediate payment shall be imprisoned for a period not exceeding one month. Contravention on any day of any of the provisions of this act or of any regulations made under it shall constitute a separate offence and may be punished accordingly.

11.—One half of every penalty imposed by virtue of this act shall belong to Her Majesty for the uses of the Province, and the remaining half shall be paid to the prosecutor, together with the costs which he may have incurred. Each penalty or forfeiture, imposed by this act or by the regulations made thereunder, may be recovered on parol complaint before any fishery officer or other magistrate, or before any Crown Lands agent or other officer or employee of the Crown Lands Department, in a summary manner, on the oath of one credible witness. Any fishery officer or other official, mentioned in this section, may convict upon his own view for any of the offences mentioned in this act.

12.—The Lieutenant-Governor in Council may, from time to time, vary, amend, and alter all and every regulation as shall be found necessary or deemed expedient for the better management and regulation of such land as is leased under the operation of this act and the fishing rights thereto pertaining, and such regulations shall have the same force and effect as if herein contained and enacted. Every offence against any such regulation may be stated as having been made in contravention of this act; and for the pur-

poses of enforcing the same, Fishery Overseers as well as all agents for the sale of Crown Lands, all employees of the Department of Crown Lands, and all wood rangers, and other persons employed by the Department of Crown Lands, shall be *ex officio* Justices of the Peace.

13.—The remuneration of the Fishery Overseers and of all other persons employed to perform any duty imposed by this act or by the regulations made under it, shall be determined by the Commissioner of Crown Lands, either by commission or otherwise, and in either case shall be paid out of the proceeds of the operations of this act.

14.—It shall be lawful for the Commissioner of Crown Lands, or any officer thereto authorized by him, to grant permits to fish in any waters adjoining lands not under lease, for a period not exceeding one month, upon such terms and subject to such restrictions and conditions as shall be provided by Order in Council to that effect.

15.—*Bona fide* residents may fish in such unleased rivers as are known not to contain salmon, and in unleased lakes, without first obtaining the permit mentioned in the preceding section.

16.—This act shall come into force on the day of its sanction.

LEASES OF PUBLIC LANDS.

47 VICT., CAP. 27.

An Act to amend the Act of this Province, 46 Victoria, chapter 8, respecting the management of public lands adjoining non-navigable streams and lakes in the Province of Quebec, and the exercise of the fishing rights thereto pertaining.

(Assented to 10th June, 1884.)

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

46 V., c. 8, s.
2, replaced.

1.—Section 2 of the act 46 Victoria, chapter 8, is repealed, and is replaced by the following :

Duration of
leases of lands
along salmon
rivers.

“2. No lease shall be so granted for a period longer than five years from the date thereof; and in the case of lands situate along rivers known as ‘Salmon Rivers,’ leases therefor shall be made only to and in favor of the highest bidder, after the same shall have been put up to public competition, of which at least one month’s notice shall be given in the ‘Quebec Official Gazette,’ and in such other way as to the Commissioner of Crown Lands may seem the most advantageous.

Proviso.

Provided always that the price offered be at least equal to the upset price fixed by the Commissioner, and that if not sold, the Commissioner may afterwards, by private sale, dispose of the said leases at such upset price, or for a greater sum.

Whenever a lease of lands, previously under lease to one person, is adjudged to another person, the new lessee shall be held to indemnify the previous lessee for the real and not artificial value of any necessary buildings or improvements existing on the land leased, which value, in case of any difference of opinion, shall be definitely fixed and determined by the Commissioner of Crown Lands; and such new lessee shall not be entitled to receive a lease until he shall have furnished proof that he has so indemnified the previous lessee.

Indemnity to previous lessee for actual value of improvements in event of property being leased to another.

And if, in consequence of any incorrectness of survey or other error or cause whatsoever, a lease is found to comprise lands included in a lease of a prior date, the lease last granted shall be void in so far as it interferes with the one previously issued, and the holder or proprietor of the lease so rendered void, shall have no claim for indemnity or compensation by reason of such avoidance."

Proviso as to lands leased being already included in existing lease.

2.—The Commissioner of Crown Lands may, upon the recommendation of the lessees of fishing rights, or without such recommendation, appoint as many guardians as may be deemed necessary for the effectual protection of the fisheries in the different rivers and lakes under his control.

Appointment of guardians.

Such guardians shall be sworn to the faithful discharge of their duties and especially to prevent the taking or killing, or attempting to take or kill fish in the waters under their charge by illegal means, or at times when the taking or killing of fish is prohibited by law.

Oath of guardians.

They shall be employed for such length of time as the Commissioner of Crown Lands shall consider necessary; and their services shall be paid for by the lessees.

Term of service and by whom paid.

Statement to
be furnished
by lessees.

3.—It shall be made a condition of leases of lands conveying fishing rights that lessees shall, as soon as possible after the close of each angling season, transmit to the Department of Crown Lands a statement of the number and weight of fish caught in the waters affected by such leases.

Right of pas-
sage reserved.

4.—Leases of lands to convey fishing rights shall be made subject to a general right of passage to and from the water in favor of the occupants, if any, under title from the Crown, of the lands immediately in rear of those leased.

Leases to be
made in the
name of one
person.

5.—Leases of lands conveying fishing rights shall be made in the name of one person only, who shall be recognized as the lessee.

Cancellation of
lease in certain
cases.

6.—Excessive or wasteful fishing or killing of salmon or trout shall involve the cancellation of the lease covering the waters in which it has taken place; and the lessee who has been guilty of such excessive or wasteful fishing shall not be eligible to receive another lease of fishing rights or permit or license to fish within this Province.

Rivers, &c.,
may be reserv-
ed for certain
time.

7.—It shall be lawful for the Lieutenant-Governor in Council, upon the recommendation of the Commissioner of Crown Lands, to reserve from lease for one or more years, for purposes of improvement, any river or lake not leased or part thereof, the exclusive right of fishing in which is vested in the Crown.

Commissioner
may, with con-
sent of owners,
assume con-
trol of fishing
rights fronting
on lakes, &c.,
for certain
purposes.
Share of rent
paid to owners.

8.—The Commissioner of Crown Lands may, with the consent of the owners, and for purposes of management only, assume the control of fishing rights pertaining to granted lands fronting on any river or lake, with a view to improving or leasing the same in connection with those pertaining to ungranted lands fronting on the

same river or lake, and paying over to the private owners of such fishing rights a proportionate share of the rent received for the whole.

9.—It is obligatory upon any person who has no domicile in the Province of Quebec, and who desires to fish in the salmon rivers under the control of this Province, to procure a permit or license to that effect from the Commissioner of Crown Lands before beginning to fish.

Licenses to be obtained by certain persons.

Such license shall be granted upon the payment of a fee of ten dollars, and shall be valid until the close of the angling season of the year in which it is granted.

Price of license.

Lessees of fishing rights from the Crown are exempt from the obligation imposed by this section; but no more than two persons shall be exempt under any lease, notwithstanding any arrangement that may exist with regard to the payment of rent.

Exemption in favor of lessees of fishing rights.

10.—This act shall be read and construed as though forming part of the act hereby amended; and the two so united shall be known and may be cited under the name of "The Quebec Fisheries Act."

Interpretation.

Name of act.

11.—This act, with the exception of the first section thereof, shall come into force on the day of its sanction, and the said first section shall come into and be in force only on and after the first day of September next.

Coming into force.

REGULATIONS.

The following Regulations, made and passed by the Lieutenant Governor in Council in connection with the Quebec Fisheries Act, have the force and effect of law :

1.—The Commissioner of Crown Lands may at his discretion reserve from sale or location any public lands adjoining non-navigable rivers and lakes, such reserve to be for such depth as may be found expedient, and leases granted under the provisions of the Quebec Fisheries Act, for the purpose of conveying the fishing rights pertaining to such lands, shall be for the depth so reserved.

2.—Such leases shall be granted, as far as practicable, to responsible parties, able and willing to improve the lakes and rivers and guard them well. Applicants having in view the personal use and enjoyment of the fishing rights to be generally preferred to such as may offer higher rents with a view to farming or subletting the right to fish. Care to be taken that residents in the province be allowed to enjoy a due proportion of the fishing rights.

N. B.—Leases affecting salmon rivers are sold at auction to the party offering the highest rental. They are made for five years or less. (See Quebec Fisheries Act, part 2, sec. 1.)

3.—The valuation of the lands for rent shall be based on the character and condition of the lakes or rivers which they adjoin, as made known to the Department of Crown Lands by reports of official inspector or private individuals. All such reports shall be considered confidential, not to be communicated to other parties without the express authorization of the Commissioner or Assistant Commissioner of Crown Lands.

4.—In case of different parties making application for a lease of the same lands, they shall be asked to state in writing the amount of rent they are severally disposed to pay therefor, and the Commissioner of Crown Lands may at his discretion accept such offer as he shall deem most advantageous.

Offers made by applicants for leases are not to be communicated to other applicants.

5.—Leases of lands made and granted under the provisions of the Quebec Fisheries Act shall not be held to convey the right to work any mine that may be found on such lands, or to cut any timber thereon.

6.—Parties holding leases under the provisions of the above mentioned Act, shall not have any recourse against the government of this Province for any hindrance to their use and enjoyment of the fishing rights pertaining to the lands leased, by the operation of any law enacted or that may be hereafter enacted by the Parliament of Canada, or by any action of the Federal Government or any person employed thereunder.

The special attention of anglers and others interested is directed to the following provisions of the Quebec Fishery Law :

Leases of public lands conveying fishing rights may be granted for five years, and, in the case of lands bordering on salmon rivers, be awarded to the highest bidder at public competition.

Compensation must be made by a new lessee to a former one for the real value of buildings or improvements on land leased.

Lessees are vested with all fishing rights, but must exercise them in accordance with the Federal and Provincial Fishery Laws and Regulations. They may prosecute trespassers and recover damages.

Lessees are bound to establish and maintain efficient private guardianship over the territory leased to them. They are recommended to have their guardians appointed by the Commissioner of Crown Lands, and sworn to the faithful discharge of their duties.

No lessee has the right to sublet without first receiving the written consent of the Commissioner of Crown Lands. Neglect of this requirement involves cancellation of the lease.

Trespassers and poachers are liable to a fine of five to twenty dollars, and imprisonment up to one month.

Excessive or wasteful fishing or killing of salmon or trout involves the cancellation of the lease covering the waters in which it has taken place, and the person guilty of such excessive or wasteful fishing is not eligible to receive another lease of fishing rights or permit to fish within this Province.

It is obligatory upon any person who does not reside in the Province of Quebec, and who desires to fish in the salmon rivers under the control of this Province, to procure a permit or license to that effect before beginning to fish. The fee for such permit is ten dollars (\$10). They may be procured from the Department of Crown Lands at Quebec.

Lessees of fishing rights from the Crown do not require such permits, but not more than two persons are exempt under any lease.

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