



Tweed Fisheries Amendment Act 1859

1859 CHAPTER lxx 22 and 23 Vict

An Act to amend “The *Tweed Fisheries Act 1857*,” and to alter the Annual Close Times in the River *Tweed*. [1st August 1859]

Whereas an Act was passed in the Twentieth and Twenty-first Year of the Reign of Her present Majesty, intituled The^{M1} *Tweed Fisheries Act 1857*: And whereas it is expedient and would be for the Advantage of the Salmon Fisheries in the said River that the Annual Close Times defined by the said Act should be altered, and that the Limits of the Mouth or Entrance of the said River should be extended, and that further Provision should be made for the Regulation of the Fisheries in the said River and within the said extended Limits; but these Objects cannot be effected without the Authority of Parliament:

Modifications etc. (not altering text)

C1 Act amended by [Salmon Fisheries \(Scotland\) Act 1868 \(c. 123\)](#), [s. 41](#), [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\)](#), [s. 10](#) and [Tweed Fisheries Act 1969 \(c. xxiv\)](#)

Marginal Citations

M1 1857 c. cxlviii.

I Short Title.

This Act may be cited for all Purposes as “The *Tweed Fisheries Amendment Act 1859*.”

II Interpretation of Terms.

The Expression “the River” in the recited Act and this Act shall mean and include the River *Tweed*, and every River, Brook, or Stream which flows or runs into the said River, and also the Mouth or Entrance of the said River, as described and defined in this Act; and the several other Words and Expressions interpreted in the Second Section of the recited Act shall, when used in this Act, have the same Meanings as are by the recited Act assigned to them respectively.

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III Certain Sections of 20 & 21 Vict. c. cxlviii. repealed.

From and after the Fifth Day of *October* One thousand eight hundred and fifty-nine, the Forty-first, Forty-second, Forty-third, Forty-fourth, Forty-sixth, Forty-seventh, Sixty-seventh, and Seventy-first Sections of the recited Act shall be and are hereby repealed, and this Act shall commence and take effect: Provided always, that the recited Act, except in so far as expressly repealed by this Act, shall be and remain in full Force and as valid and effectual as if this Act had not been passed; provided also, that, notwithstanding such Repeal, all Penalties in respect of Acts done before the Commencement of this Act may be enforced, and all Proceedings instituted before and pending at the Commencement of this Act may be continued and prosecuted, and all Resolutions duly made and Acts duly done under the Authority of the said repealed Enactments shall be and remain valid and effectual, to all Intents and Purposes as if this Act had not been passed; provided further, that the Forty-first Section of the recited Act shall, notwithstanding such Repeal, be read and continued as an operative Definition for the Purpose of distinguishing the Limits of the Mouth or Entrance of the River *Tweed* as defined by the recited Act and the extended Limits defined by this Act, and for such Purpose only.

IV Extension of Limits of the Mouth or Entrance of the River Tweed.

For the Purposes of the recited Act and this Act, and subject as herein-after provided, the Limits of the Mouth or Entrance of the River *Tweed* shall be deemed to extend and shall extend from the Pier called *Queen Elizabeth's Pier*, along the Sea Coast on the South Side of the said Pier to a Point at High-water Mark on the said Sea Coast on the South Side distant Seven Miles measured in a straight Line from the Lighthouse on the said Pier, and along the Sea Coast on the North Side of the said Pier to the Point of Boundary at High-water Mark between the Borough of *Berwick-on-Tweed* and the Kingdom of *Scotland*, and shall also extend Five Miles in front of the Mouth of the said River and of the whole Line of Sea Coast within the Points of Boundary herein-before mentioned into the Sea, such Distance towards the Sea to be computed by Lines drawn at Right Angles to a Line Drawn between the said Northern and Southern Extremities; and the said Limits on the South shall be deemed to include and shall include the Fishery now known as the *Holy Island* Station of the *Goswick* Fisheries.

V Assessment and Regulation of Fisheries within the Limits of the Mouth or Entrance as extended.

The Rates or Assessments by the recited Act authorized to be levied shall be leviable on and in respect of all Salmon Fisheries within the Limits of the Mouth or Entrance of the River *Tweed* as above defined, and shall be payable by and recoverable from the Owners, Tenants, or Occupiers of such Fisheries in manner provided by the recited Act; and the whole Enactments and Provisions of the recited Act (so far as not hereby repealed) and of this Act, except as herein-after provided, shall extend and be applicable to the Mouth or Entrance of the said River within the Limits above defined: Provided always, that the Provisions of the Fifty-fifth and Sixtieth Sections of the recited Act shall not be applicable to any Stake Net or Bag Net which may be set or placed beyond the Limits of the Mouth or Entrance of the said River, as defined by the Forty-first Section of the recited Act, and within the extended Limits defined by this Act; provided also, that the Rates or Assessments to be levied on and in respect of the Fisheries situated beyond the Limits as defined in the recited Act, and within the said extended Limits, shall not be applied in or towards the Payment or Discharge

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of any Debts or Obligations contracted by the Commissioners previous to the passing of this Act.

VI Annual Close Times.

It shall not be lawful for any Person to fish for or take or aid or assist in fishing for or taking any Salmon in or from the River at any Time between the Fourteenth Day of *September* in any Year and the Fifteenth Day of *February* in the Year following, except by means of the Rod and Line with the artificial Fly only, nor with the Rod and Line at any Time between the Thirtieth Day of *November* in any Year and the First Day of *February* in the Year following, and which respective Periods above defined shall be and be held to be the “Annual Close Times,” within the Meaning of the recited Act and this Act; provided that the Commissioners or any Five of their Number may, by Writing under their Hands or under the Hand of their Clerk, authorize any Persons appointed by them to fish for and take Salmon in or from the River, with the Consent of the Owner of the Fishery from which such Salmon are taken, during the Annual Close Times, for the Purpose of artificial Propagation.

Modifications etc. (not altering text)

- C2 S. VI amended by [Freshwater and Salmon Fisheries \(Scotland\) Act 1976 \(c. 22\), s. 7, Sch. 3 Pt. I para. 3](#)
- C3 S. VI: power to amend conferred by [Salmon Act 1986 \(c. 62, SIF 52:2\), ss. 8, 10\(6\)](#)
- C4 S. VI excluded by [Salmon Act 1986 \(c. 62, SIF 52:2\), ss. 28\(2\)\(b\)\(ii\), 29](#)

VII F1

Textual Amendments

- F1 Ss. VII, XIV, XV repealed by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\), Sch. 2](#)

VIII Penalty for fishing in Annual or Weekly Close Times.

Every Person who during the Annual Close Times or Weekly Close Times fishes for or takes or aids or assists in fishing for or taking any Salmon in or from the River, excepting as aforesaid, shall for every such Offence be liable to a Penalty not exceeding [^{F2F3}£25][^{F3}level 1 on the standard scale], and an additional Penalty of [^{F4F5}50p][^{F5}level 1 on the standard scale] for each Salmon so taken; and every Salmon so taken, and every Boat, Net, Tackle, or Engine by which such Salmon has been taken or attempted to be taken, may be seized and forfeited.

Textual Amendments

- F2 Words substituted by virtue of (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 289C\(4\)\(5\)\(8\)](#) and (E.W.) [Criminal Law Act 1977 \(c. 45\), s. 31.\(5\)\(6\)\(9\)](#)
- F3 Words “level 1 on the standard scale” substituted (E.W.S.) for words “£25” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

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- F4** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)
- F5** Words “level 1 on the standard scale” substituted (E.W.S.) for words “50p” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#)

IX Provisions of recited Act applicable to Annual and Weekly Close Times.

The whole Enactments and Provisions of the recited Act with respect to the Annual Close Times and Weekly Close Time therein defined (so far as not hereby repealed) shall be and are hereby made applicable to the Annual Close Times and Weekly Close Times respectively defined by this Act.

X Penalty for having or selling Fish caught in Annual Close Times.

Every Person who during the Annual Close Times has in his Possession Salmon known by such Person to have been taken or caught in the River during the Annual Close Times (except Salmon which have been taken by means of the Rod and Line between the Fifteenth Day of *September* and the Thirtieth Day of *November*, both Days inclusive, or between the First and Fourteenth Days of *February*, both Days inclusive, or which have been taken for the Purpose of artificial Propagation, under the Authority of the Commissioners, as herein-before provided), or who sells or offers or exposes for Sale or Exchange any Salmon known by such Person to have been caught in the River between the Fifteenth Day of *September* in any Year and the Fourteenth Day of *February* in the Year following, both Days inclusive, shall for every such Offence be liable to a Penalty of not less than [^{F6}50p] and not exceeding [^{F7}£25][^{F8}level 1 on the standard scale] for each Salmon so had in his Possession, or sold or offered or exposed for Sale or Exchange as aforesaid, and every such Salmon, and every Boat, Cart, Basket, or Package in which the same may be found, may be seized and forfeited; and the Proof that such Salmon was not taken contrary to the Provisions of this Act shall lie upon the Person in whose Custody the same is found.

Textual Amendments

- F6** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)
- F7** Words substituted by virtue of (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 289C\(4\)\(5\)\(8\)](#) and (E.W.) [Criminal Law Act 1977 \(c. 45\), s. 31.\(5\)\(6\)\(9\)](#)
- F8** Words “level 1 on the standard scale” substituted (E.W.S.) for words “£25” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

Modifications etc. (not altering text)

- C5** [S. X](#) amended by [Freshwater and Salmon Fisheries \(Scotland\) Act 1976 \(c. 22\), s. 7, Sch. 3 Pt. I para. 3](#)
- C6** [S. X](#) amended by [Fisheries Act 1981 \(c. 29, SIF 52:1\), s. 33\(5\), Sch. 4 Pt.II para. 20](#)
- C7** [S. X](#): power to amend conferred by [Salmon Act 1986 \(c. 62, SIF 52:2\), ss. 8, 10\(6\)](#)

XI Removal of Boats and Nets used in fishing.

On or before the Seventeenth Day of *September* in every Year, every Occupier of a Fishery in the River shall and he is hereby required to remove from every Fishery, Fishing Shield, and Fishing Ground, and Houses and Premises occupied or used by

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him, all Boats, Oars, Nets, Engines, and other Tackle used and employed in taking and killing Salmon (excepting Boats with their Oars and such other Implements as are used for Angling or Rod-fishing), and to carry away the same to some Place or Places to be from Time to Time appointed by the Commissioners, where the same can be securely lodged and kept until the Thirteenth Day of *February* in the following Year; and each Boat with its Oars and other Implements as aforesaid so retained for the Purpose of Angling or Rod-fishing shall be removed or carried away on or before the Third Day of *December* in every Year, and shall be lodged and kept and remain as aforesaid until the Thirtieth Day of *January* in the following Year; and every such Occupier who neglects or refuses to remove and carry away all and every such Boats, Oars, Nets, Engines, and other Tackle as aforesaid, and to keep the same secured from the said Fisheries and Premises during the Period aforesaid, shall for every such Offence be liable to a Penalty not exceeding [^{F9}£50][^{F10}level 2 on the standard scale], and all such Boats, Oars, Nets, Engines, and other Tackle not removed or kept secured as aforesaid shall be forfeited: Provided always, that this Enactment shall not be held or construed to extend to public Ferry Boats, or to Boats used by any Owner or Occupier of Land adjoining the River solely for the Transport of himself, or his Family or Servants, or any Persons in his Employment; provided also, that all such last-mentioned Boats shall be under and subject to the Regulations prescribed in the recited Act with respect thereto; provided further, that this Enactment, so far as it requires Nets to be carried away to some Place or Places to be appointed by the Commissioners, shall not apply to the Stake Nets or Bag Nets to be set or placed as provided for by the Twelfth Section of this Act, but that all such Nets shall, on or before the Seventeenth Day of *September* in every Year, be removed and carried away from the said Fisheries and from the Strand or Shore, and kept in such Places as may be provided by the Owners of such Nets.

Textual Amendments

- F9** Words substituted by virtue of (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 289C\(4\)\(5\)\(8\)](#) and (E.W.) [Criminal Law Act 1977 \(c. 45\), s. 31.\(5\)\(6\)\(9\)](#)
- F10** Words “level 2 on the standard scale” substituted (E.W.S.) for words “£50” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

Modifications etc. (not altering text)

- C8** [S. XI](#) amended by [Freshwater and Salmon Fisheries \(Scotland\) Act 1976 \(c. 22\), s. 7, Sch. 3 Pt. I para. 3, Pt. II para. 10](#)
- C9** [S. XI](#): power to amend conferred by [Salmon Act 1986 \(c. 62, SIF 52:2\), ss. 8, 10\(6\)](#)

XII Regulating Stake and Bag Nets.

All Stake Nets and Bag Nets set or placed beyond the Limits of the Mouth or Entrance of the said River, as defined by the Forty-first Section of the recited Act and within the extended Limits defined by this Act, shall be subject to the following Provisions and Regulations:

The Nets used in the Formation and Construction of such Stake Nets and of the Leaders of such Bag Nets shall be extended evenly in such Manner that the Meshes of such Nets shall be stretched to their full Opening:

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Every such Stake Net shall be so placed and constructed as that clear Openings for the free Passage of Salmon, as herein-after provided, can be made in the Traps or Chambers thereof:

In every such Stake Net there shall be made, and kept free from Obstruction during the whole Period of the Weekly Close Time, a clear Opening of at least Three Feet in Width in the Traps or Chambers of such Stake Net from the Bottom to the Top thereof, so as effectually to allow of the free Passage of Salmon through such Traps or Chambers during the whole Period of the Weekly Close Time:

Every such Bag Net shall be so placed and constructed as that the Netting of the Leaders thereof can be raised and kept out of the Water:

The Netting of the Leader of every such Bag Net shall during the whole Period of the Weekly Close Time be raised and kept out of the Water:

And every Person committing any Breach or Contravention of the said Provisions and Regulations shall for every such Offence be liable to a Penalty not exceeding [^{F11}£25][^{F12}level 1 on the standard scale], and an additional Penalty of [^{F13}50p][^{F14}level 1 on the standard scale] for each Salmon taken in or by means of any Bag or Stake Nets set, placed, or used contrary to the said Provisions and Regulations, and shall also forfeit any Salmon so taken, and every Bag or Stake Net so set, placed, or used; provided that nothing herein contained shall be construed to render liable to any Penalty or Forfeiture any Person who shall be prevented by Storm or Stress of Weather from making such Openings in Stake Nets, or removing such Leaders of Bag Nets as aforesaid, or from removing such Stake Nets or Bag Nets at the Commencement of the Annual Close Time, in respect of any such Act or Omission while he shall be so prevented.

Textual Amendments

- F11** Words substituted by virtue of (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 289C\(4\)\(5\)\(8\)](#) and (E.W.) [Criminal Law Act 1977 \(c. 45\), s. 31.\(5\)\(6\)\(9\)](#)
- F12** Words “level 1 on the standard scale” substituted (E.W.S.) for words “£25” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)
- F13** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)
- F14** Words “level 1 on the standard scale” substituted (E.W.S.) for words “50p” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#)

Modifications etc. (not altering text)

- C10** S. XII: power to amend conferred by [Salmon Act 1986 \(c. 62, SIF 52:2\), ss. 3\(2\)\(a\), 10\(6\)\(a\)](#)
- C11** S. XII: power to amend conferred by [Salmon Act 1986 \(c. 62, SIF 52:2\), ss. 3\(2\)\(d\), 10\(6\)\(b\)](#)

XIII Regulating Size of Meshes of Nets.

From and after the Fifteenth Day of ~~February~~ One thousand eight hundred and sixty it shall not be lawful to shoot, draw, or use in the River any Net of which the Meshes shall be less than One Inch and Three Quarters of an Inch from Knot to Knot, or Seven Inches round (except Nets which shall be used solely for the taking of Herrings or Shrimps, and Nets which shall be used solely for the Purpose of landing Fish taken with the Rod and Line); and every Person who shoots, draws, or uses in the River, or has in his Possession within Five Miles of the River, any Net adapted for taking or killing Fish with Meshes of smaller Dimensions than those above specified (except

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as aforesaid), or shoots, draws, or uses any double Net, shall for every such Offence be liable to a Penalty not exceeding [^{F15F16}£25][^{F16}level 1 on the standard scale], and an additional Penalty of [^{F17F18}50p][^{F18}level 1 on the standard scale] for each Salmon taken by means of such illegal Net or double Net, and every such illegal Net and every Salmon so taken may be seized and forfeited.

Textual Amendments

- F15** Words substituted by virtue of (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 289C\(4\)\(5\)\(8\)](#) and (E.W.) [Criminal Law Act 1977 \(c. 45\), s. 31.\(5\)\(6\)\(9\)](#)
- F16** Words “level 1 on the standard scale” substituted (E.W.S.) for words “£25” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)
- F17** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)
- F18** Words “level 1 on the standard scale” substituted (E.W.S.) for words “50p” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#)

Modifications etc. (not altering text)

- C12** [S. XIII](#) amended by [Freshwater and Salmon Fisheries \(Scotland\) Act 1976 \(c. 22\), s. 7, Sch. 3 Pt. I para. 3](#)
- C13** [S. XIII](#): power to amend conferred by [Salmon Act 1986 \(c. 62, SIF 52:2\), ss. 3\(2\)\(d\), 10\(6\)\(b\)](#)

XIV, ^{F19}
XV.

Textual Amendments

- F19** [Ss. VII, XIV, XV](#) repealed by [Salmon and Freshwater Fisheries \(Protection\) \(Scotland\) Act 1951 \(c. 26\), Sch. 2](#)

XVI Cleeks not to be used in landing Fish.

Every Person who shall between the Fifteenth Day of *September* in any Year and the First Day of *May* in the Year following, in fishing with a Rod and Line, use any Cleek or Instrument for landing Fish other than a Landing Net, shall be liable to a Penalty not exceeding [^{F20F21}£25][^{F21}level 1 on the standard scale].

Textual Amendments

- F20** Words substituted by virtue of (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), s. 289C\(4\)\(5\)\(8\)](#) and (E.W.) [Criminal Law Act 1977 \(c. 45\), s. 31.\(5\)\(6\)\(9\)](#)
- F21** Words “level 1 on the standard scale” substituted (E.W.S.) for words “£25” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

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XVII Nothing in Sect. 72 of recited Act to require the putting back into the River of foul, &c. Fish taken by Rod and Line.

Nothing contained in the Seventy-second Section of the recited Act shall require the putting back into the River of any foul, unclean, or unseasonable Sea Trout, Bull Trout, or Whitling taken or captured by means of the Rod and Line, or render liable to any Penalty any Person who shall not put back into the River any such Sea Trout, Bull Trout, or Whitling so taken or captured; provided that the Proof that any such Sea Trout, Bull Trout, or Whitling was taken or captured by means of the Rod and Line shall lie upon the Person in whose Possession the same shall be found.

XVIII Power to Superintendent of Water Bailiffs to prosecute for Offences, &c.

Complaints and Proceedings for Offences against or Penalties or Forfeitures incurred under the Provisions of the recited Act and this Act may be made, prosecuted, and taken at the Instance of the Superintendent of Water Bailiffs for the Time being appointed and acting under the recited Act and this Act; and such Superintendent shall be entitled and is hereby authorized to make and prosecute such Complaints and to take such Proceedings in his own Name in the same Manner and to the same Effect as Complaints may be made and prosecuted and Proceedings may be taken by the Procurator Fiscal or other Public Prosecutor, or the Commissioners or their Clerk, under the Provisions of the recited Act and this Act.

XIX Recovery and Application of Penalties.

The whole Enactments and Provisions of the recited Act with respect to the Apprehension and Punishment of Offenders, and the Recovery, Application, and Disposal of Penalties and Forfeitures, are hereby incorporated with and made applicable to this Act, and to Offences committed against and Penalties and Forfeitures to be imposed and recovered under the Provisions of this Act; and all Offences committed against the Provisions of this Act shall be prosecuted, and all Penalties and Forfeitures imposed under the Provisions of this Act shall be sued for, recovered, applied, and disposed of, in the Form and Manner (as nearly as may be) prescribed by the recited Act and this Act.

XX Offenders may be committed to Prison without Pounding and Sale.

Any [^{F22}sheriff principal] or Justice before whom any Offender is convicted of any Offence under the Provisions of the recited Act or this Act, on the Failure in Payment by such Offender of the Penalty and Costs which he has been adjudged to pay, may, without issuing any Warrant of Pounding or Distress and Sale for the Recovery of such Penalty and Costs, at once issue his Warrant for the Commitment to Prison of such Offender for the Periods specified in the Eighty-fourth Section of the recited Act, unless such Penalty and Costs be sooner paid and satisfied.

Textual Amendments

F22 Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\), s. 4](#)

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XXI Stamp Duty on Proxies.

Every Proxy granted under the Provisions and for the Purposes of the recited Act or this Act shall be chargeable only with the Stamp Duty imposed on Proxies by the Act of the Nineteenth and Twentieth Years of Her Majesty's Reign, Chapter Eighty-one.

XXII Saving Rights of the Admiralty.

Nothing in this Act contained shall diminish, prejudice, take away, alter, suspend, or affect any Right, Power, Authority, Privilege, or Jurisdiction of the Lord High Admiral of the United Kingdom of *Great Britain and Ireland*, or of the Commissioners for executing the Office of Lord High Admiral.

XXIII River to remain subject to General Acts.

Nothing in the recited Act or this Act contained shall be deemed to exempt the River from the Provisions of any General Act relating to Salmon Fisheries which shall be passed in the present or any future Session of Parliament.

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