

Behaviour, &c. These vary according to the Custom of the Country, and in that case Consuetudo loci est observanda.

As to the Justice of Peace himself touching Fees or Profit by him to be taken, his Oath ought to direct him, which is as to that purpose, That you take nothing for your Office of Justice of Peace to be done but of the King, and Fees accustomed, and Costs limited by the Statute.

C H A P. XLII. V. 21.
Fish.

West. 2. 47. 13 R. 2. 19. P. Fish. 1. P. Just. 14. **E**Very Justice of Peace is a Conservator of Rivers, and of the Statutes made in that behalf, (sc. of the Statutes of 13 Ed. 1. cap. 47. 13 R. 2. cap. 19. & 17 R. 2. cap. 9.) within this County where he is a Justice, and may appoint and swear Under-Conservators; and (when he may attend it) ought to survey all the Wears in the Rivers, that they be of a reasonable wideness, and all other defaults done against the aforesaid Statutes.

1. Every Justice of Peace may burn the Nets and other Engines put or cast into Waters, wherewith the Fry or Breed of any Fish may be taken or destroyed; and this shall be for the first Offence: and for the second Offence the said Justice of Peace may (as it seemeth) imprison such Offenders for a quarter of a year; and for the third Offence, One whole year: and as the Trespass or Offence increaseth, so may the Justice of Peace increase the Punishment of such Offenders. See the Statute 13 E. 1. 47. 13 R. 2. 19. & 17 R. 2. 9.

To speak it once for all, where a penalty is appointed upon Conviction of a third Offence, it must be intended (if not expressed in that Statute) that there be, and ought to be Convictions for the first Offence, and so for the second, before the person shall incur or bear the penalty for the third Offence; and the third Offence must be committed after the second Offence, and Conviction thereof, that is, lawful Judgment given for the second, & so the second after the first.

By Warrant of any one or more Justices of Peace, the Constables and Church Wardens (where any Offence is committed in destroying the Spaw and Brood of Sea-fish, against the Statute made 3 Jac. Regis) may levy the Forfeitures of the Offenders by Distress and Sale of the Offenders Goods, rendring to the Offenders the surplusage.

The Particulars of the said Statute 3 Jac. Regis are as followeth:

1. No person in any Haven, Harbour or Creek; or within Five miles of the mouth of any Haven, Harbour, or Creek of the Sea, shall fish with any Draw-net, or Drag net under Three inches meash, (viz. One inch and an half from knot to knot) except for taking of Smoulds in Norfolk only; and except for taking of Herring, Pilchards and Spicots.

2. No person in any Haven, Harbour, or Creek, or within Five miles of the mouth of any Haven, &c. shall fish with any Net with Canvas, or other Engine or Device, whereby the Spaw, Fry or Brood of any Sea fish may be destroyed.

And for every such Offence the Offenders shall forfeit their Nets, and Ten shillings in Mony; the one half thereof to be to the use of the Poor of the Town or Parish where the Offence shall be committed, and the other half to him that will sue for the same; and to be levied by the Mayor or other Head Officer of every City, Borough, or Town-Corporate, or by Warrant from one or more Justices of Peace, *Ut supra*.

Touching the fishing for Pilchards, &c. in Cornwall and Devon, see the said Act. And for general fishing the Act of 15 Car. 2. cap. 14.

‘If