

C. H. A. P.
III.

issued, in the points wherein they are entitled to have such preference; he is likewise to make an abstract of the executions and other judicial process. In cases of difficulty he is to be assisted and directed by the court; and all his abstracts, made agreeably to this act, are to be as effectual as regular records.

All causes, depending at the time of the accident, may, at the election of the plaintiffs, be determined either in a summary way, upon the best evidence the nature of the case will admit, or in the way used in chancery, bills being first filed as in that court. The said causes may, at the discretion of the court, be continued from term to term until next March court, and no longer, unless evidence beyond sea may be wanted.

But this act is not to be construed so as to cure any defect or irregularity not owing to the accident aforesaid.

C. H. A. P. IV.

An ACT for the preservation of the breed of fish.

Preamble.

WHEREAS it is found by experience, that large quantities of young fish, unfit for use, have been for many years past killed and destroyed by wears, dams, pots, and other devices, formed and erected in the rivers of Susquehanna and Patuxent, for the taking of fish, whereby great quantities of fish, which were formerly to be found and taken in said rivers, and other rivers in this province, are much diminished, to the great damage and injury of the public; for remedy whereof,

Persons not to build or repair wears, &c. for destroying fish.

II. *Be it enacted, by the right honourable the lord proprietary, by and with the advice and consent of his lordship's governor, and the upper and lower houses of assembly, and the authority of the same,* That if any person or persons whatsoever, from and after the end of this session of assembly, shall build, set up, repair or maintain, or shall be aiding, assisting or abetting, in building, setting up, repairing or maintaining, any such wears, fishing-dams, pots, or any other devices whatsoever, for the taking of fish within the rivers aforesaid, by which the fish may be obstructed from going up or coming down the said rivers, or shall take or destroy any kind of fish whatsoever, in any such wear, fishing-dam, pot, or other device aforesaid, every such person or persons, so offending, contrary to the true intent and meaning of this act, being legally convicted thereof, by the oath of one or more credible witness or witnesses, or by his or their confession, shall forfeit and pay the sum of twenty pounds current money for every such offence, one moiety of which sum, so forfeited, to be paid to the informer or prosecutor, and the other moiety thereof to be paid to the sheriff of the county where the recovery shall be had, to be by him paid and accounted for to the justices of the several county courts, respectively, and by them applied towards clearing the navigation of the said rivers; to be recovered by action of debt, bill, plaint or information, with full costs of suit, in any county court of this province where such offender shall be apprehended or reside.

Penalty how to be recovered and applied.

Wears, &c. may be destroyed.

III. *And be it enacted, by the authority, advice and consent aforesaid,* That it shall and may be lawful to and for any person or persons whatsoever, to break, throw down, remove and destroy, all or any such wear or wears, fishing-dam, pot, or other device, built or set up, or to be built or set up, in the aforesaid rivers, for catching of fish as aforesaid.

Persons sued, may plead the general issue.

IV. *And be it further enacted, by the authority, advice and consent aforesaid,* That if any person or persons shall be sued or impleaded for breaking, throwing down, removing or destroying, any such wear or wears, fishing-dam, pot or other device, built or set up contrary to the true intent and meaning of this act, it shall and may be lawful for such person or persons, to plead the general issue, and give this act and the special matter in evidence; and if upon trial, the plaintiff or plaintiffs shall be nonsuit, or shall discontinue his or their suits, then, and in such case, the defendant or defendants shall recover double costs.

Seans may be drawn in Patuxent, from the 20th of February, to the 20th of May, annually, 4 days in each week.

V. *And be it further enacted,* That no person or persons whatsoever, shall, from and after the twentieth day of February next, until the twentieth day of May ensuing, and so yearly, and every year, during the times aforesaid, hale, draw or lay across any sean or seans, thereby to catch any fish in the said river of Patuxent, from Mount-Calvert to the head thereof, except on Tuesday, Wednesday, Thursday and Friday, in each week, during the times aforesaid and the continuance of this