

No. 126.

1st Session, 6th Parliament, 21 Victoria, 1858.

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**An Act to consolidate the laws relating
to the Inspection of Fish in Upper and
Lower Canada.**

Received and read 1st time, Friday, 30th
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Hon. Mr. SICOTTE.

S. Derbshire & G. Desbarats, Queen's Printer.

An Act to consolidate the laws relating to the Inspection of Fish and Oil in Upper and Lower Canada.

WHEREAS it is expedient to amend and consolidate the laws relative to the proper Inspection of Fish and Oil, and for the better regulating the curing and packing of Fish : Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Preamble.

I. The Act of the Legislature of Lower Canada, second Victoria, chapter sixty-five,—the Act of the Legislature of this Province, thirteenth and fourteenth Victoria, chapter forty-three, and the Act of the Legislature of Upper Canada, third Victoria, chapter twenty-four, are hereby repealed.

Certain Acts repealed.

II. It shall be lawful for the Governor in Council to appoint Inspectors of Fish and Oil in the Districts of Quebec and Montreal, in the Counties of Gaspé and Bonaventure and in the Magdalen Islands, respectively, and also in such Counties and localities respectively, in Upper and Lower Canada, as may be deemed most conducive to the interests and wants of each section of the Province ; and to make from time to time all and every regulation that may be necessary, for better carrying out the provisions of this Act.

Appointment of Inspectors ; and making regulations.

III. Each person so appointed an Inspector of Fish and Oil, shall, before entering upon the duties of his office, give security to the satisfaction of the Governor in Council, in the sum of one hundred pounds currency, for the due performance of his said duties, and shall take and subscribe the following oath before one of the justices of the peace for the district or county in which he may have been appointed to act :

Inspector to give security, and take an oath of office.

“ I, A. B., Inspector of Fish and Oil, in and for the City or County (or as the case may be) of _____ do solemnly swear, that to the best of my judgment, skill and understanding, I will faithfully, honestly and impartially fulfil, execute and perform the office and duty of such Inspector, according to the true intent and meaning of the Act, etc.” (*insert the title of this Act.*)

The oath.

And the Magistrate shall cause the said oath to be filed with and kept by the Clerk of the peace for the district or County where the Inspector may have been appointed, and the Clerk of the peace, if so required, shall furnish a certificate thereof to the Inspector taking the same, on payment of *two shillings and six pence*, currency.

Where to be kept.

Inspector to
have branding
irons, &c.

IV. Each Inspector appointed under the authority of this Act, shall provide himself with sufficient branding irons, for the purpose of branding such casks and boxes as may by him be inspected in pursuance of this Act.

What fish only
shall be
branded as
merchantable.

V. It shall be the duty of each such Inspector to see that all Salmon, Mackerel, Shad, Herring, and all kinds of split, whole, dried, pickled or salted fish, of any kind, intended for barrelling and submitted to him for inspection, have been well struck with salt or pickle, in the first instance, and preserved sweet, free from taint, rust, oil and damage of every kind; and no other fish shall be branded by him as inspected and merchantable.

How certain
kinds of fish
must be pack-
ed.

VI. No fish of the description hereinabove mentioned, intended for exportation, shall be branded as inspected and merchantable, unless it be well and properly packed in good, tight and substantial tierces, half tierces, barrels or half barrels; nor shall any pickled or salted Salmon be so branded, except in tierces containing three hundred pounds, exclusive of salt and pickle, or in half tierces containing one hundred and fifty pounds, exclusive of salt and pickle, or in barrels containing two hundred pounds, exclusive of salt and pickle, or in half barrels containing one hundred pounds, exclusive of salt and pickle, avoirdupoise weight, nor shall any other pickled or salted fish be so branded, if packed in barrels containing less than twenty-eight gallons or in half barrels less than fourteen gallons wine measure.

Casks contain-
ing small fish
packed whole.

VII. Nothing contained in the foregoing sections shall prevent the branding of casks containing any small fish usually packed whole, provided the same shall have been fully packed, closed, edgewise, and properly salted with good coarse wholesome dry salt, in quantity sufficient only for their due preservation.

How herrings
must be pack-
ed.

VIII. No red and smoked herrings shall be so branded, unless they be well and sufficiently cured and saved, and carefully and properly packed in good and substantial barrels, half barrels, kegs or boxes, and each box of herrings shall weigh at least twenty-five pounds.

What fish
shall be brand-
ed as mer-
chantable
No. 1;

IX. It shall be the duty of each Inspector, when called upon to inspect any fish of the description above mentioned, carefully and attentively to examine each and every cask or box submitted to him for inspection; and if such fish be of a good quality, in wholesome pickle and clean salt, and in every way in good order, free from taint, rust, oil and damage, well and properly packed in good, tight and substantial tierces, half tierces, barrels or half barrels, kegs or boxes as hereinabove provided, the Inspector shall brand on the heads or butts of each cask or box so by him inspected, in large and legible letters, the words *Salmon*, *Mackerel* or *Herrings*, (as the case may be,) *Quebec* or *Montreal*, (or as the case may be,) *Inspected Merchantable*, No. 1; and such as shall be found of an inferior or second

And what as
merchantable
No. 2;

quality, or carelessly or badly packed, or in insufficient casks, kegs or boxes, or not in every respect as hereinabove required, shall by such Inspector be branded forthwith on the head or butt of the cask, keg or box with the word "*Inspected No 2*," and the third quality of fish shall be numbered "*Inferior No. 3*;" and the name of the Inspector, and the place, year and month of inspection, shall be marked on the package in all cases of inspection. And if it shall appear to the Inspector that a part of the fish inspected by him, is sound and a part unsound, he shall separate the sound from the unsound, repack the sound fish, and brand it according to its quality, and such portion as the inspector shall judge not capable of preservation, he shall condemn as bad.

And what as inferior No. 3.

Sound and unsound fish to be separated, &c.

X. If any Inspector shall find fish of two or more kinds or qualities intermixed in the same cask, although the same may be well cured and otherwise in good order, it shall be his duty to brand upon such cask the word "*Inspected Mixed*," both in large and legible characters.

Mixed fish to be marked as such.

XI. Each of the said Inspectors shall in like manner, when called upon, carefully inspect all the sorts of oil hereinafter mentioned, and shall paint on the head of the casks in which such oil may be contained the words *Seal Oil*, *Whale Oil*, (as the case may be,) and with the name of the Inspector, the place, with the contents and *outs* of each cask.

Inspection of oil to be made in like manner.

XII. If any Inspector shall brand any cask, keg or box of any description of fish or oil mentioned in this Act, the contents of which he has not inspected according to the true intent and meaning of this Act, or if he shall knowingly permit any other person or persons to use his brands, he shall, on being thereof convicted, incur a penalty of *twenty shillings* currency, for each cask, keg or box so branded, contrary to the provisions of this Act, and shall forthwith be removed from office.

Penalty on Inspector branding without inspecting, or lending his brands, &c.

XIII. Any person, other than an Inspector appointed under this Act, who shall wilfully efface or obliterate, or cause to be effaced or obliterated, from any cask, keg or box, having undergone inspection, all or any of the brands or marks thereupon imprinted or branded by any Inspector, or shall fraudulently impress or brand upon any cask, keg or box, any of the brands or marks by this Act required to be branded on casks, kegs or boxes containing fish or oil so inspected as aforesaid, or shall empty any cask, keg or box already branded, in order to put other fish or oil therein for sale or exportation, shall, on conviction for each such offence, incur a penalty not exceeding *twenty pounds* currency.

Penalty on persons fraudulently effacing or impressing brand, &c.

XIV. It shall not be lawful for any Inspector appointed under the authority of this Act, to trade in, buy or sell directly or

Inspectors not to deal in fish or oil.

indirectly (otherwise than for the consumption of himself and family,) fish or oil of any kind or description to which this Act relates, under the penalty of *twenty-five pounds* currency, for each act of contravention or disobedience to the provisions of this section, and on pain of being dismissed from office. 5

Fees to Inspectors for services under this Act.

XV. Each Inspector to be appointed under the authority of this Act, shall, for the services which may be by him performed as such, be entitled to the following rates or allowances from the persons employing them, and no more, that is to say : 10

1. For each tierce of salmon salmon-trout or sea-trout inspected and branded, *one shilling and three pence* currency ;
2. For each half tierce of salmon, salmon-trout or sea-trout so inspected and branded, *seven pence and half penny* currency ;
3. For each barrel of salmon, salmon-trout or sea-trout 15 inspected and branded, *seven pence and half penny* currency ;
4. For each half barrel of salmon, salmon-trout or sea-trout so inspected and branded, *six pence* currency ;
5. For each tierce of mackerel inspected and branded, *one shilling and three pence* currency ; 20
6. For each half tierce of mackerel so inspected and branded, *seven pence and a half penny* currency ;
7. For each barrel of mackerel inspected and branded, *seven pence and a half penny* currency ;
8. For each half barrel of mackerel so inspected and branded, 25 *six pence* currency ;
9. For each tierce of herring inspected and branded, *one shilling and three pence* currency ;
10. For each half tierce of herring so inspected and branded, 30 *seven pence and a half penny* currency ;
11. For each barrel of herring inspected and branded, *seven pence and a half penny* currency ;
12. For each half barrel of herring so inspected and branded, *six pence* currency ;
13. For each tierce of shad inspected and branded, *one 35 shilling and three pence* currency ;

14. For each half tierce of shad so inspected and branded, *seven pence and a half penny* currency ;

15. For each barrel of shad inspected and branded, *seven pence and a half penny* currency ;

5 16. For each half barrel of shad so inspected and branded, *six pence* currency ;

For each tierce of white fish so branded and inspected, *one shilling and three pence* currency.

For each half tierce of white fish so branded and inspected, *seven pence and a half penny* currency.

10 For each barrel of white fish so branded and inspected, *seven pence and a half penny* currency.

For each half barrel of white fish so branded and inspected, *six pence* currency.

17. For each box of herring, *one penny* ;

15 18. For each cask of oil containing twenty-eight gallons inspected and branded, *one shilling* currency ;

19. For each tierce of oil, *one shilling and one penny* currency ;

20 20. For each hogshead of oil, *one shilling and three pence* currency ;

21. And for each puncheon of oil, *one shilling and three pence* currency ;

25 22. And all such rates and allowances shall be over and above the expense of cooperage, and washing, cleaning and re-packing any salmon or fish, which such inspector may incur in the due and faithful execution of his duty. Expense of cooperage, &c., to be allowed extra.

30 23. And for liming or white-washing with lime the heads or butts of any vessel of any description containing oil, the Inspector having performed such duty shall be entitled to *two pence* currency. Allowance for liming heads of barrels.

35 XVI. Nothing in this Act shall prevent any dry or green codfish from being inspected, or the Inspector from giving a certificate stating the quantity and quality thereof, inspected and shipped on board of any vessel, and for each quintal so inspected and branded, he shall receive *one penny*, and for each draft of green fish, *one penny* currency. Dry or green codfish may be inspected.

Owner of fish or oil may employ his own cooper, under superintendence of Inspector.

XVII. It shall be lawful for any person causing his fish or oil to be inspected, to employ at his own cost and charges, a cooper to attend upon and assist the Inspector in the performance of his duty, in which case the Inspector shall not be allowed any charge for cooperage, and the cooper so employed shall be governed and guided solely by the directions which he shall receive from the inspector, with respect to any fish or oil by him inspected, and not by any other person whomsoever. 5

Differences between Inspector and Owner of fish, &c., how settled

XVIII. In case of any dispute between any Inspector and his Employer, reference shall be had to another Inspector, and his decision shall be final, and should the opinion of the Inspector be sustained, the expence incurred shall be paid by the owner of the fish, but if otherwise, then the Inspector shall pay the cost incurred by the arbitration. 10 15

Proper timber for fish casks.

XIX. All casks that are used for the packing of salmon, herring, mackerel, salmon, salmon-trout, white fish or shad, or any other kinds of fish, shall be made of good sound wood, of cedar, pine, spruce or fir, and each barrel or cask shall have a hardwood bung stave. 20

Application of fines, &c.

XX. One moiety of the pecuniary fines and of the forfeitures under this Act, shall belong to Her Majesty, and the other moiety to the complainant.

Limitation of actions.

XXI. All penalties incurred under this Act must be sued for within three months from the commission of the offence. 25

Imprisonment for non-payment of fine.

XXII. Any offender who shall not forthwith pay the fine and costs he may have been condemned to pay, shall be committed to Gaol for a term of not less than one month, nor more than six months, at the discretion of the Magistrate before whom the offender may have been convicted. 30

Recovery of penalties, &c.

XXIII. Every penalty or forfeiture imposed by this Act or the regulations to be made under it, may be recovered on complaint before the Superintendent of fisheries, or any Stipendiary or other Magistrate, in a summary manner, and the proceedings and the costs to be recovered shall be the same as is provided by law in either Section of the Province in other cases where summary jurisdiction is given to Magistrates. 35

Annual returns by Inspectors.

XXIV. Each Inspector of Fish shall annually, on or before the first day of January in each year, make a return to the Commissioner of Public Lands or to the Superintendent of Fisheries, shewing the quantity of fish inspected by him, and the names of the owners of the said fish, together with the quality and species thereof respectively. 40