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THE
FISHERY ACT,

EXTRACTS OF MUNICIPAL ACTS,

AND THE ACT RELATING TO THE

INSPECTION OF FISH AND OIL

IN

UPPER AND LOWER CANADA.



TORONTO:

PRINTED BY STEWART DERBISHIRE & GEORGE DESBABATS,
Law Printer to the Queen's Most Excellent Majesty.

1858.




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ANNO VICESIMO-SECUNDO

VICTORIÆ REGINÆ.

CAP. LXXXVI.

The Fishery Act.

[Assented to 16th August, 1858.]

WHEREAS it is expedient to make better provision for the preservation and regulation of the fisheries of this Province: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts, as follows:

Preamble.

1. The Act eighteenth Victoria chapter one hundred and forty four,—the Act twentieth Victoria chapter twenty-one, and the fourth section of the Act of the Legislature of Upper Canada, third William the fourth, chapter twenty-nine, are hereby repealed.

Acts and parts of Acts repealed.

2. No provision of law repealed by any Act cited in the next preceding Section shall revive by the repeal of the said Laws.

Acts repealed not to revive.

3. Notwithstanding the repeal of the Acts enumerated in Section one, every penalty incurred shall remain recoverable; and every legal proceeding commenced may be continued as if the said Acts were not repealed.

Repeal not to affect penalties incurred, &c.

PROTECTION OF FISHERIES.

4. The Governor in Council may grant special fishing leases and licenses on lands belonging to the Crown, for any term not exceeding nine years, and may make all and every such regulation or regulations as may be found necessary or expedient for the better management and regulation of the Fisheries of the Province.

Governor in Council may grant fishing licenses and leases, &c. Regulations.

5. The Governor may, as occasion shall require, appoint two Superintendents of Fisheries, one for Upper and one for Lower

Appointment and duties of Superintend-

ents of Fish-
eries ;

And of over-
seers of Fish-
eries.

Lower Canada, whose powers and duties shall be defined by this Act and the regulations to be made under it ; but any appointment made under the fourth section of the Act twentieth Victoria chapter twenty-one, shall remain valid as if made under this Act. Four Overseers may be appointed by the Commissioner of Crown Lands, in such places, and in such divisions of territory, as may be considered necessary, to perform such duties under this Act, and the regulations to be made under it, as may be required by the Commissioner of Crown Lands, and the salary of such overseers shall not exceed one hundred pounds per annum.

Rights of
Fishermen.

6. All subjects of Her Majesty, but none other, may, for the purposes of trade and commerce---

Taking bait
and fishing.

1. Take bait and fish in any of the harbours, roadsteads, bays, creeks or rivers of the Province ;

Landing and
curing fish.

2. Land any where on public property for the purpose of salting, curing and drying fish ;

Cutting wood.

3. Cut wood there for the purpose of repairing stages, drying places, flakes, hurdles, cook-rooms and other purposes necessary or useful for preparing or dealing with fish ;

Occupying
beaches.

4. Take possession of any unoccupied portion of the beach which may be necessary for curing fish, and hold the same so long as the same shall not have been abandoned during twelve consecutive months ;

Recovering
value of
stages, &c.

5. Any such subject having so occupied any such portion of the beach may, during the year next after he shall have been twelve months without occupying it, demand personally or by his Attorney the value of his flakes and stages and other property, of which a new occupant shall have taken possession ; and

Carrying
away impro-
vements, &c.

6. Carry away his buildings and improvements, after the close of the fishing season, after having so demanded the value thereof, if he shall not have received the same from the new occupant.

Sect. 6 not to
affect private
property, &c.

7. But nothing contained in the sixth section, shall affect private property or prevent the Crown from disposing or taking possession of any public land or beach so occupied for fishing purposes.

Waters may
be set apart
for propaga-
tion of fish.

8. The Governor in Council may cause to be set apart any river or other water for the natural or artificial propagation of Salmon, Trout, or other fish.

- 9.** The Governor in Council may grant permission to fish in the Rivers within the King's Posts. Fishing within the King's Posts.
- 10.** The same powers that, by the fiftieth section of this Act, are vested in the Governor in Council, in relation to Lower Canada, shall and are hereby made to apply to the Upper Canada. Powers under sect. 50, to apply to U. C., as well as L. C.
- 11.** Whoever shall throw overboard ballast in any river, harbour or roadstead, where fishing is carried on, or the remains of offal of fish, in any such river, or within three miles of the coast of the mainland, or of any island, or on any fishing bank, shall incur a fine not exceeding twenty pounds, and the Master or Owner of such Vessel or Boat, from which such ballast or offal of fish shall have been thrown, shall be held liable for every such offence; provided always that it shall be lawful for any person to bury such offal of fish on the mainland or any island at a distance of not less than an acre from the beach thereof. Throwing ballast, offal, &c., prohibited.
- 12.** No one shall anchor near the shore in such a manner as to impede the throwing and hauling of seines, or the setting of standing nets. Impeding fishing.
- 13.** No one shall set standing nets in such a manner so to impede the throwing or the hauling of seines. The same.
- 14.** No one shall set seines or nets in such a manner as to impede the navigation or anchorage in any bay, harbour or roadstead, or other place required for navigation. Impeding navigation.
- 15.** Any person contravening any of the three next preceding sections, shall for each offence incur a fine not exceeding five pounds, and shall nevertheless remain liable for any damage which the party injured by such contravention may recover against him by Law. Penalty for contravening sects. 12, 13, 14.
- 16.** Any person who shall for fishing purposes have placed in any river, or in the sea, near the shore, any stake or other timber whatever, shall, on pain of a fine not exceeding five pounds, remove the same within eight days from that on which it shall have been last used. Penalty for removing fishing stakes.
- 17.** No one shall between the first of May, and the first of November in any year, seize or attach any boat or vessel, tackle, net, seine or other fishing utensils, or any provisions belonging to any fisherman, or necessary for his subsistence, or his fishing operations, except for the recovery of penalties or fines imposed under this Act. Exemption of fishing tackle from seizure, &c.
- 18.** Any person, who, having been engaged by any written agreement to fish on any conditions, or assist in any fishing, shall Exception. Penalty for deserting fishing service.

shall refuse to fulfill any such engagement, or shall abandon his employer's service, during the term of his engagement, shall thereby incur a fine not exceeding ten pounds, or imprisonment for not more than one month.

Or seducing
away persons
engaged there-
from.

19. Whoever shall engage or endeavour to engage any person then engaged as aforesaid in any way to fish, or assist in any fishery, shall thereby incur a penalty not exceeding ten pounds, or imprisonment for not more than one month.

Lien in favor
of fishermen.

20. Any person engaged to fish, or assist in any fishery, shall, for securing his wages, or share, have a first lien, preferable to that of any other creditor, upon the produce of his employer's fishery, and may recover the sum or share due to him before the nearest competent tribunal.

Penalty for
disturbing
oyster beds,
except at
times permit-
ted by order
of the Com-
missioner of
Crown Lands.

21. With a view to protect the Oyster Beds to be formed on the different parts of the Canadian bays and coasts, it shall not be lawful for any person to take Oysters, or in any way to injure or disturb such Oyster beds, until permitted to do so, by an order from the Commissioner of Crown Lands, which order shall be published in the Official Gazette and in such other newspapers as the Commissioner may direct, under a penalty of not more than twenty-five pounds, nor less than ten pounds, together with the forfeiture of the vessel and all the apparatus employed therein.

Meshes of cod
seines not to
be under a
certain size.

22. It shall not be lawful to use Mackerel, Herring, nor Caplin seines, for the taking of Codfish; and no Codfish seine shall be of a less sized mesh than three inches in extension in the arms, and two and a half inches in the bunt or bottom of the seine, under penalty, and on pain of the forfeiture of the seine.

Nets not to be
used in Bur-
lington Bay,
&c.

23. It shall not be lawful to fish with any kind of net or seine in Burlington Bay nor Dundas Marsh.

Period for sal-
mon fishing
limited.
Exception as
to fly-fishing.

24. It shall not be lawful to fish for, catch or kill salmon in any way whatever, between the first day of August, and the first day of March in any year; Except only, that it shall be lawful to fish for salmon, with a rod and line, in the manner known as fly-surface-fishing, from the first of March to the first of September in any year, in Upper or Lower Canada.

Also killing at
certain places.

25. It shall not be lawful to use any net, or to take salmon in any way whatever, at any salmon-leap, or where any artificial salmon pass shall have been constructed, nor in any pools or ponds where salmon are wont to spawn.

Main channel
of Rivers not

26. Whoever shall obstruct the main channel or course of any river, either by placing therein nets or fishing apparatus
of

of any kind, or any obstacle of any kind whatever, for the purpose of taking salmon or any other species of fish, shall thereby incur for each offence, a fine not exceeding Five Pounds, and the forfeiture of his fishing apparatus; and in no case shall the said channel or course so left open be less than one third of the whole breadth of such river.

to be obstructed.

Penalty.

27. The owner of any dam or slide where fish may ascend, shall, for the purpose of affording a passage to the fish, attach and maintain to each dam or slide, a fishway of such form and dimensions as shall be determined by the Superintendent of Fisheries, under a penalty of One Pound for each day on which he shall fail so to do after two months' notice by the Superintendent.

Fishways to be attached to dams.

Penalty.

28. Any Salmon taken in contravention of the twenty-fourth section of this Act, shall subject all parties concerned in the breach of the said section, whether the actual transgressors or accessories, to a penalty of not more than ten pounds, nor less than five pounds, together with the forfeiture of the fish, canoe, boat or other vessel in which the fish may have been placed, or to imprisonment for a period of not more than six months, nor less than three months.

Penalty for taking salmon in contravention of sect. 24.

Penalty.

29. The meshes of any net used for the taking of Salmon, shall not be less than five inches in extension, knot to knot, under penalty and on pain of forfeiture of the nets.

Size of meshes of salmon nets.

30. It shall not be lawful to fish with any net or seine whatever, of a less sized mesh than one and a half inches on the square in any Lake, River or Bay or in any of the waters of Upper Canada.

No net to be less than two inches mesh.

31. It shall not be lawful to fish for, catch or kill any kind of trout in any way whatever, between the twentieth of October, and the first of February in any year, in Lower Canada.

Period for killing trout;

32. It shall not be lawful to kill any kind of speckled trout, in any way whatever between the twentieth of October and the first of April in any year; nor shall any Speckled Trout be killed at any time by means of nets or seines in any Inland Lake, River nor Stream in Upper Canada.

And for killing speckled trout. Not to be taken with nets in U. C.

33. It shall not be lawful to catch trout, by means of nets, or seines, in any lake or river, or at the outlet or inlet of any lake, or in any river except the River St. Lawrence, in Lower Canada.

Nor in L. C., at certain places.

34. It shall not be lawful to catch Salmon trout, between the fifteenth day of November, and the first day of February.

Time for killing salmon-trout, &c.

And for certain other fish.

35. It shall not be lawful to catch Maskinongé, Pickerel, nor Black Bass, between the fifteenth of March and the fifteenth day of May.

Fish not to be bought or sold in the close season.

36. It shall not be lawful for any person, to buy, sell or have in possession any Salmon, Salmon Trout, nor any kind of Trout, Bass, nor Maskinongé, taken in contravention of this Act; and any fish so taken, may be declared forfeited, by any Magistrate whomsoever, and any person so found in possession of any of the aforementioned fish, or of any part or portion thereof, shall be held to have obtained the same, in violation of the provisions of this Act, except only upon legal proof to the contrary, which proof shall devolve wholly upon the person accused.

Proof.

Fish-pounds.

37. It shall not be lawful to construct any fish pound in any river.

Permission may be given to take fish for spawn in the close season, &c.

38. The Superintendent of Fisheries may grant written permission to any person or persons who may be desirous of obtaining spawn for *bonâ fide* artificial or scientific purposes, to fish for that purpose, during the close season. And any person who may wilfully injure or destroy any place set apart for the artificial propagation of fish, shall incur a fine of not less than five pounds nor more than ten pounds.

Right of possession in fishing stations.

39. Every subject of Her Majesty, who shall be in peaceable possession of any fishing Station at the time of the passing of this Act, shall be deemed the owner thereof, for the purposes of this Act and he shall be deemed so to be when he shall not have abandoned it during twelve consecutive months; and it shall not be lawful for any other person to set therein any apparatus for catching fish so as to injure his fishery.

Lime and drugs not to be used to catch fish.

40. It shall not be lawful to throw lime, or any chemical substance or drug, into any water frequented by any one of the kind of Fish mentioned in this Act, and any person found guilty of having thrown lime or any other chemical substance or drug in such waters shall be subjected to penalty of not less than five pounds and not more than ten pounds for each offence.

Penalty.

Recovery of penalties.

41. 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, upon the oath of one credible witness; and the proceedings and the costs to be recovered shall be the same as provided by law in either Section of the Province in other cases where summary jurisdiction is given to Magistrates, except in so far as it may be otherwise herein provided.

42. In every case of contravention of this Act, or of the regulations to be made under it, for which no other penalty is provided, the offender shall incur a fine of not less than two pounds nor more than five pounds. Penalty where no other is provided.

43. All penalties incurred under this Act, must be sued for within twelve months from the commission of the offence. Limitation of suits.

44. 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. Committal for non-payment.

45. There shall not be less than three days between the service and the return of the 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 where it is served. Delay between service and return.

46. The Superintendent of Fisheries, or any Stipendiary or other Magistrate, may convict upon view, of any of the offences punishable under the provisions of this Act. Conviction on view.

47. When the defendant shall not be a resident in the Province, and it shall be expedient to proceed against him without delay, the Superintendent of Fisheries, or any Stipendiary or other Magistrate may, upon complaint, issue a Summons returnable immediately, to compel the defendant to appear before him without delay, or he may issue a Warrant for the apprehension of such defendant simultaneously with the Summons. Defendant compellable to appear immediately in certain cases.

48. The Superintendent of Fisheries, or any Stipendiary or other Magistrate, may search, or grant a warrant to have searched, any vessel or place where he may have cause to believe that any fish taken in contravention of this Act, may have been concealed. Searches and search-warrants in certain cases.

49. One moiety of the pecuniary fines and of the forfeitures under this Act, or under the regulations to be made by virtue thereof, shall belong to Her Majesty, and the other moiety to the complainant. Application of fines and forfeitures.

50. The powers heretofore vested in the Municipalities by the Seventh sub-section of the Nineteenth Section of the Act Eighteenth Victoria, Chapter One hundred, and by the Eighteenth sub-section of the Sixtieth section of the Act Twelfth Victoria, Chapter Eighty-one, as the said sub-section is extended by the Sixty-seventh and One hundred and Sixth Sections of the said Act, are hereby transferred to and vested in the Governor in Council. Power to make regulations transferred to Governor in Council.

Forms under
this Act.

51. Complaints under this Act may be in the form A;—Summonses in the form B;—Suppcenas in the form C;—Convictions in the form D,—and Warrants in the form E., of the Schedule hereunto annexed, or in any other form; and in other respects the Acts relative to Summary Convictions by Justices of the Peace shall apply to cases under this Act, and the Superintendent of Fisheries shall, as regards such cases, be deemed a Justice of the Peace for that section of the Province for which he is appointed, whether otherwise qualified or not; and in any proceeding under this Act, an offence against any regulation made under this Act may be stated as an offence against this Act.

DEVELOPEMENT AND ENCOURAGEMENT OF FISHERIES.

And for the further developement of the fisheries of the Province, and for the encouragement of all parties, residents of Canada, who may engage therein, it is further enacted, that—

Bounty to
Canadian
fishing ves-
sels.

52. The owner or owners of a vessel built in Canada, when employed in the following fisheries, viz: Seals, Codfish, Mackarel, Herring or Whale, for at least three consecutive months, shall be entitled to a bounty of—

1. Three dollars per ton, for three months consecutive fishing;

2. Three dollars and a half per ton for three months and a half, consecutive fishing;

3. And four dollars per ton for four months consecutive fishing. But no vessel shall receive the bounty for more than one voyage.

How such ves-
sels must be
named;

53. All vessels, to be entitled to the bounty, must be manned in accordance with the following rates, viz:

Vessels from 20 to 40 tons, to carry 8 men.

Vessels from 40 to 60 tons, to carry 10 men.

Vessels from 60 to 80 tons, to carry 12 men.

And register-
ed;

And such vessel or vessels must be registered in the Office of the Collector of Customs in accordance with the provisions of this Act and of the Law, and the tonnage for the purposes of this Act shall be calculated as provided by the Act eighth Victoria, chapter five.

And licensed.

54. The owner or owners of all vessels about to be employed in the Fisheries having conformed to the regulations of this Act, must obtain a license from the Superintendent of Fisheries or from the nearest Collector of Customs.

- 55.** The vessel to be entitled to the bounty, must be manned by at least three-fourths British Canadian subjects. Crew to be three-fourths Canadian.
- 56.** No vessel shall be entitled to the bounty, that is not the property of a Canadian British subject. And the vessel Canadian owned.
- 57.** No vessel under twenty tons register, shall be entitled to receive the bounty. Not under 20 tons.
- 58.** The bounty shall not be given for more than eighty tons, even should the vessel exceed that tonnage. No bounty for more than 80 tons.
- 59.** No owner of a vessel shall be entitled to receive the bounty, unless the fish taken shall have been inspected in accordance with the Act for the Inspection of Fish. Fish must be inspected.
- 60.** No vessel, employed as aforesaid shall be entitled to the allowance granted by this Act, unless the master or owner thereof shall, before he proceeds on any fishing voyage, make an agreement in writing or print with every fisherman employed therein. Fishermen must be under articles.
- 61.** If any duly licensed vessel be wrecked on her homeward voyage, upon its being proved (under oath) that she has been engaged in the fisheries, the owner thereof shall receive such portion of the bounty as it shall be proved he is legally entitled to. As to fishing vessels wrecked.
- 62.** No trading vessel or vessels engaged in carrying cargoes during the fishing season, shall be entitled to receive the bounty. Fishing vessels not to carry cargoes.
- 63.** One-third of such bounty shall be distributed between the crew of the fishing vessel in equal proportions, and the remaining two-thirds to the owner thereof—or the bounty may be distributed, as it may be agreed upon by an instrument or declaration to be made in writing by the parties. Bounty divided between crew and owner.
- 64.** When any vessel shall have ended her fishing voyage, the owner thereof must report to the Superintendent of Fisheries or to the nearest Collector of Customs who, upon proof given under oath, may grant a certificate that the owner of such vessel is entitled to the bounty. Report when the voyage is ended.
- 65.** Any company who may form an association for the purpose of carrying on the fisheries, shall receive such portions of the bounty, as accords with the number of shares, which individually may be held by the members of such association. As to Fishing Companies.
- 66.** All parties who may be entitled to a bounty shall transmit or cause to be transmitted to the Superintendent of Fisheries, the certificate shewing that they are entitled to a bounty ; By whom and on what proof, &c., the bounty ;

ty shall be paid.

bounty; and upon the receipt of such certificate, the Superintendent of Fisheries is authorised to pay to such party, or his representatives, the sum to which he is entitled, after having obtained the approval of the Commissioner of Crown Lands.

Out of what funds.

67. The said bounty shall be paid out of the revenue arising or that may arise from the lease or license of any Salmon or other fishery, but the amount of bounty to be paid not exceed three thousand five hundred pounds per annum.

False swearing, &c., to be perjury.

68. Any person who shall make a false oath or affirmation, with intent to obtain the bounty fraudulently, upon being duly convicted thereof, in any Court of Justice having jurisdiction of such offence, shall be deemed guilty of wilful and corrupt perjury, and shall be punished accordingly.

Licensed vessels found with foreign goods on board to be forfeited, &c.

69. If any Vessel licensed to carry on the fishery be found within three miles of the coast with any goods, wares or merchandise of foreign produce or manufacture, except such as are necessary for the maintenance and use of the crew, such vessel together with such goods, wares or merchandise shall be subject to seizure and forfeiture.

Customs Officers, &c., to be found in provisions, &c.

70. Any Custom House, or other officer, while performing duty on board of any such vessel shall be entitled to receive from the master thereof, such provision and other accommodation, free of expense, as are usually supplied to passengers, or as the state and condition of the vessel will admit.

Special registry of fishing vessels, &c.

71. A special registry of all vessels licensed for the Fisheries, shall be kept by the Collectors of Customs, who shall cause correct copies of the same to be sent to the Superintendent of Fisheries, on or before the first day of January in each year.

Formation of oysters beds.

72. The sum of one hundred and fifty pounds per annum (for three years) may be applied for the formation of Oyster beds in the various bays and waters of the Province that may be found best adapted for that purpose.

Sects. 34 and 35 not to apply to certain waters.

73. Nothing in the thirty-fourth or thirty-fifth sections of this Act shall extend to lake Huron or lake Superior.

SCHEDULE A.

Form of Complaint.

Upper (or Lower) Canada, }
 County (or District of) . }

This day of 18 .

To J. S. Superintendent of Fisheries,
 (or a Justice of the Peace for the said County or District.)

A. B., of , complains that C. D. of hath (*state the offence briefly in any intelligible terms, with the time and place at which it was committed,*) in contravention of the Fishery Act ; wherefore the complainant prays that judgment may be given against the said C. D. as by the said Act provided.

(*Signature*) A. B.

SCHEDULE B.

Summons to Defendant.

Upper (or Lower) Canada, }
 County (or District) of . }

To C. D., of , &c.

Whereas complaint hath (*this day*) been made before me that you (*state the offence in the words of the complaint, or to like effect*) in contravention of the Fisheries Act ; Therefore you are hereby commanded to come before me, at , on the day of , at o'clock in the , to answer the said complaint and be dealt with according to Law.

Witness my hand and seal, this day of 185 .

J. S., Superintendent of
 Fisheries for Lower Canada, (or
 Justice of the Peace for)
as the case may be.

[L. S.]

SCHEDULE C.

Subpœna to a Witness.

Upper (or Lower) Canada, }
 County (or District) of . }

To E. F., of , &c.

Whereas complaint has been made before me that C. D. did (*state the offence as in the Summons*), and I am informed that you can give material evidence in the case; Therefore you are commanded to appear before me, at , on the day of , at o'clock in the to testify what you know concerning the matter of the said complaint.

Witness my hand and seal, this day of 185 .

J. S., Superintendent, &c.,
(as in Summons.)
 [L. S.]

SCHEDULE D.

Form of conviction.

Upper (or Lower) Canada, }
 District (or County) of . }

Be it remembered, that on this day of 18 , at , in the said County (or District,) C. D. of , is convicted before me, for that he did, &c., (*stating the offence briefly, and the time and place where committed,*) in contravention of the Fisheries Act; And I adjudge the said C. D., to forfeit (and pay) the sum of (*or mention the thing forfeited under this Act,*) to be applied according to law, and also to pay to A. B. (*the complainant*) the sum of for costs:

*If the penalty be not forthwith paid, add,—*and the said C. D. having failed to pay the said penalty and costs forthwith after the said conviction, I adjudge him to be committed to and imprisoned in the Common Goal of the County (or District) of for the period of

Witness my hand and seal, this day of 185 .

J. S.
(as in Summons)
 [L. S.]

SCHEDULE

SCHEDULE E.

Form of Warrant of Commitment for non-payment of penalty or forfeiture, and costs.

Upper (or Lower) Canada, }
District (or County) of . }

To the Constables and Peace Officers of the District (or County) of _____, and the Keeper of the Common Gaol of the said District (or County), at _____ :

Whereas C. D. of _____ was on the _____ day of _____ 18____, convicted before me, for that he, &c. (*as in Conviction*.) and I did thereupon adjudge the said C. D. to forfeit and pay to A. B. &c., (*as in Conviction*;) And whereas the said C. D. hath not paid the said penalty or forfeiture, and costs. Therefore, I command you the said Constables and Peace Officers, or any of you, to convey the said C. D. to the Common Gaol for the _____ of _____ at _____ and deliver him to the keeper thereof with this warrant; And I command you the said keeper of this said Gaol, to receive the said C. D. into your custody, and keep him safely imprisoned in the said Gaol for the space of _____, and for so doing this shall be your sufficient warrant.

Witness my hand and seal, this _____ day of _____ 18____.

J. S.

(*as in Summons.*)

[L. S.]

SCHEDULE F.

No. 1.

FORM OF APPLICATION FOR FISHING LICENSE.

A. B., _____ owner of the _____, built at _____, Tons register, and carrying _____ men, being about to engage in the Fisheries of the Province, requests that you will grant him a License under the Act 22nd Vict., chap. —

To C. D.,

Collector of Customs.

No.

No. 2.

FORM OF FISHING LICENSE.

Your application for a License being in accordance with the requirements of the Act 22nd Vict., chap. _____ in virtue of the authority given me. I, hereby grant you the said License to fish in conformity therewith.

To A. B.

Owner of the

C. D.

Collector of Customs.

—

No. 3.

FORM OF CERTIFICATE.

A. B., owner of the _____ of _____ Tons register, and carrying _____ men, having conformed in every respect to the requirements of the law relating to bounties, and having been engaged _____ months constant fishing, is entitled to the sum of _____ dollars in accordance with the Act 22nd Vict., chap. _____

FORM OF RETURN.

No 4.

NAME OF VESSEL.	OWNER'S NAME.	Tonnage.	Men.	Months.	Quantity of Fish.	Species.	Quality.	By whom inspected	REMARKS.



EXTRACT of Acts vesting certain powers in Municipalities transferred to Governor in Council, by the Fishery Act 22 Vic. Chap. 86.

12 VIC. CHAP. 81.

SECTION LX.—And be it enacted, That the Municipality of each Village, which shall be or remain incorporated under the authority of this Act, shall moreover have power and authority to make By-laws for each or any of the following purposes, that is to say.

SUB-SECTION XVIII.—Eighteenthly.—For regulating or preventing the fishing with nets or seines, the use of fishing lights, or the erection or use of weirs for eels or other fish in any harbour, river or public water within the limits of the jurisdiction of the corporation of such Village.

SECTION LXVII.—And be it enacted, That the Council for such Town shall have all and singular the powers, duties and liabilities within and in respect of such Town which the Municipality of any Village incorporated under this Act may or can lawfully use or exercise therein.

SECTION CVI.—And be it enacted, That the Common Council of such City shall have all and singular the powers and authority within such City and the Liberties thereof, which the Town Council of any Town incorporated under the authority of this Act, may or can lawfully use or exercise therein.

18 VIC. CHAP. 100.

SECTION XIX.—Every County Council shall also have power and authority to make, and from time to time amend or repeal, a By-law or By-laws for all or any of the following purposes, that is to say :

SUB-SECTION VII.—For regulating fisheries carried on, either upon the sea-shore or upon any waters adjacent to, or passing through the County.





ANNO VICESIMO-SECUNDO

VICTORIÆ REGINÆ.

CAP. XXV.

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

[Assented to 24th July, 1858.]

WHEREAS it is expedient to amend and consolidate the laws relative to the 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 :

1. 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.
2 V. c. 65—13,
14 V. c. 43—3
V. c. 24.

2. 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, Districts 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 : and every such regulation, being published in the *Canada Gazette*, shall, so far as it may not be inconsistent with this Act or with law, have the same effect as if it were inserted in this Act.

Appointment of Inspectors; and making regulations.

Regulations to be published in *Canada Gazette*.

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

3. 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 :

The oath.

“ 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, &c.” (insert the title of this Act.)

Where to be kept.

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.

Certificate and fee.

Inspector to have branding irons, &c.

4. 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 quality of fish only shall be branded as merchantable.

5. 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 packed.

6. 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, avoirdupois 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 containing small fish packed whole.

7. Nothing contained in the foregoing sections shall prevent the branding of casks containing any small fish usually packed

packed whole, provided the same shall have been fully packed, close, edgewise, and properly salted with good coarse wholesome dry salt, in quantity sufficient only for their due preservation.

8. 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.

How herrings must be packed.

9. 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 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 words "*Inspected No. 2*," and the third quality of fish shall be marked "*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.

What quality of fish shall be branded as merchantable No. 1;

And what as merchantable No. 2;

And what as inferior No. 3.

Sound and unsound fish to be separated, &c.

10. 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 words "*Inspected, Mixed*," both in large and legible characters.

Mixed fish to be marked as such.

11. 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.

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

12. 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 persons fraudulently effacing or impressing brand, &c.

13. 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.

Inspectors not to deal in fish or oil.

14. It shall not be lawful for any Inspector appointed under the authority of this Act, to trade in, buy or sell directly or 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 of the provisions of this section, and on pain of being dismissed from office.

Fees to Inspectors for services under this Act.

15. 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 him, and no more, that is to say :

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 a half penny currency ;

3. For each barrel of salmon, salmon-trout or sea-trout inspected and branded, seven pence and a 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 ;

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, 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, 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 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 ;
16. For each half barrel of shad so inspected and branded, six pence currency ;
17. For each tierce of white fish so branded and inspected, one shilling and three pence currency ;
18. For each half tierce of white fish so branded and inspected, seven pence and a half penny currency ;
19. For each barrel of white fish so branded and inspected, seven pence and a half penny currency ;
20. For each half barrel of white fish so branded and inspected, six pence currency ;
21. For each box of herring, one penny ;
22. For each cask of oil containing twenty-eight gallons inspected and branded, one shilling currency ;
23. For each tierce of oil, one shilling and one penny currency ;

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

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

Expense of cooperage, &c., to be allowed extra.

26. 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 ;

Allowance for liming heads of barrels.

27. 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.

Dry or green codfish may be inspected.

16. 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.

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

17. 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.

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

18. 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.

Proper timber for fish casks.

19. 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, fir or hardwood, and each barrel or cask, if of soft wood, shall have a hardwood bung stave.

Application of fines, &c.

20. 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.

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

22. 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.

Imprisonment
for non-pay-
ment of fine.

23. 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.

Recovery of
penalties, &c.

24. 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.

Annual returns
by inspectors.

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