

The Provincial Statutes of Lower-Canada, Being the second session of the thirteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1829.

9 George IV – Chapter 42

An Act relating to the Fisheries in the County of Gaspé. (14th March, 1829.)

Whereas an Act passed in the fourth year of His Majesty's Reign, chapter first, for regulating the Fisheries in the Inferior District of Gaspé, and in the counties of Cornwallis and Northumberland, will expire on the first of May next, and whereas it is expedient that certain provisions to take effect immediately after the expiration of the said Act, should again be made to be in force for a limited time thereafter, for the preservation and promotion of the Fisheries in the said county of Gaspé: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America,' and to make further provision for the Government of the said Province;" And it is hereby enacted by the authority of the same, that from and after the first day of May next, the following provisions and enactments shall for and during the time hereinafter limited, be in force in the County of Gaspé, that is to say: all channels or main water courses of the several rivers within the said county shall, to the end that the salmon Fisheries may be preserved, by affording to salmon ascending the said rivers to their spawning places, a free passage along the said channels or main water courses of the said rivers respectively, at all times remain, and be left open, free and unobstructed, and where no channel can be ascertained, then one third at least of the breadth of the river, comprising the deepest water thereof, shall be so left open, free and unobstructed, under a penalty not exceeding five pounds currency, recoverable as hereinafter mentioned, against any and every person who in disobedience to this Act, or contrary to the true intent and meaning thereof, shall set any net or place any obstruction, in any channel of the said rivers, whereby salmon maybe turned aside or prevented or deterred from ascending the channels or main water courses aforesaid.

II. And be it further enacted by the authority aforesaid, that the use of weirs or Nishagans, as practised by the Indians in the river Ristigouche [Restigouche], and other rivers in the said county, shall not be lawful; and that the same are hereby strictly prohibited, under penalty of the seizure and confiscation of the fishing tackle and furniture found in possession of any Indian or Indians, or other person or persons killing salmon by means of such weirs or Nishagans.

III. And be it further enacted by the authority aforesaid, that it shall be the duty of each and every Justice of the Peace, Officer of Militia or Peace Officer, in the said county, on view or

on complaint to him made, that any net, or other obstruction hath been placed, and is in any river in his neighbourhood, contrary to this Act, or in a manner manifestly prejudicial to the salmon Fishery in such river, forthwith to remove or cause to be removed such net or other obstruction, and this at the proper cost and charge of the person offending.

IV. And be it further enacted by the authority aforesaid, that it shall be lawful for the several Grand Juries in the said County, at the general Sessions of the Peace, upon the recommendation and with the concurrence of the Justices of the Peace, or a majority of them, to make for the temporary and local regulation of the Fisheries, and of the fishermen and persons employed about the same, such rules and regulations, not contrary to this Act, or to any law in force in this Province, as to them shall appear conducive to the advantage of the said Fisheries; Provided always, that no fine, penalty or forfeiture imposed by any rule or regulation so made shall exceed in amount twenty shillings, currency, nor have force or effect beyond the duration of this Act: And provided also that no rule or regulation so made shall be binding or have force or effect, until the same shall have been publicly posted up at the door of the church or chapel, and where there is no church or chapel, then at the most public place of the settlement where the rule or regulation is intended to have effect, nor until such other requisites as the Justices of the Peace in Session aforesaid, for the full information of the public, may order, have been duly complied with, and certified as such by the Clerk of the Peace. Provided nevertheless, that all rules and regulations which shall be so made by virtue of this Act shall be laid before the three Branches of the Provincial Legislature, within one year after making of the same, and that such only of the said rules and regulations shall afterwards remain in force as shall be approved and confirmed by Act of the Provincial Parliament, and all other of the said rules and regulations not so approved and confirmed shall cease and determine at the close of the Session of the Legislature during which the same shall have been laid before the three Branches thereof.

V. And be it further enacted by the authority aforesaid, that no pickled mackarel, or pickled or smoked herring shall be shipped for exportation, nor be exported from the said County, but in barrels of the contents or capacity of twenty-eight gallons each, or in half barrels of the contents or capacity of fourteen gallons wine measure, under penalty of the seizure and forfeiture of every barrel or half barrel of mackarel or herring shipped in disobedience hereof.

VI. And be it further enacted by the authority aforesaid, that no pickled Salmon shall be shipped for exportation, from the said County, under penalty of seizure and forfeiture thereof, in case of disobedience hereunto, but in tierces, or in half tierces, in barrels or in half barrels containing respectively the following quantities exclusive of salt and pickle, that is to say; a tierce shall contain three hundred pounds, a half tierce, one hundred and fifty pounds, a barrel two hundred pounds, and a half barrel, one hundred pounds.

VII. And be it further enacted by the authority aforesaid, that no pickled salmon, mackarel or herring shall be shipped in the said County, for exportation, or be exported therefrom, unless the name of the shipper or owner be marked, or branded in legible letters, on the

tierce, or barrel, half tierce, or half barrel in which such salmon, mackarel or herring is contained, under a penalty of ten shillings currency for every barrel so shipped, or exported from the said County, in disobedience to this Act, which penalty may be recovered from the shipper or owner aforesaid, or from the master or owner of the ship or vessel receiving such salmon or other such fish aforesaid on board his ship or vessel for exportation from the said County.

VIII. And be it declared and further enacted by the authority aforesaid, that all and every His Majesty's Subjects shall peaceably have use and enjoy the freedom of taking bail and of fishing in any river, creek, harbor or road, with liberty to go on shore on any part within the said County for the purpose of salting, curing and drying their fish, to cut wood for making and repairing stages, flakes, hurdles, cook rooms and other purposes necessary for preparing their fish for exportation, or that may be useful to their fishing trade without the hindrance, interruption, denial or molestation from any person or persons whomsoever. Provided such river, creek, harbour or road or the land upon which such wood may be cut doth not lie within the bounds of any private property by grant from His Majesty or other title proceeding from such grant by His Majesty, or by grant made prior to the year one thousand seven hundred and sixty, or held under and by virtue of any location certificate, or title derived from any such location certificate, or by virtue of any title derived under any Act of the Legislature of this Province.

IX. And whereas codfish pickled in hogsheads, butts or casks, and afterwards dried and cured as and for merchantable fish, are not of that quality and description, although they may so appear to the Person employed as Culler, and in this respect grievous frauds may be and are practised, to the great prejudice of traders resorting to the said County, and purchasing codfish for exportation; for the preventing of which abuse, Be it therefore further enacted by the authority aforesaid, that no dried codfish which may so have been previously pickled in hogsheads, butts or casks, shall be sold or offered for sale nor exported from the said County, and any and every person herein offending shall for every such offence in disobedience hereunto, incur a penalty not exceeding ten pounds currency.

X. And be it further enacted by the authority aforesaid, that in all cases of seizure and sale of any codfish green or dried appertaining to any fisherman in the said County, the dernier equippeur, planter or trader, having that season, that is to say between the first of April, and the first of December inclusively, furnished the fisherman with the fishing gear, necessary outfits and supplies to enable him to commence and carry on his fishery, shall for the amount or value of such gear outfits and supplies so furnished, for and during the same season, have a privilege and be paid from the proceeds of the sale of such codfish, in preference to the creditor seizing and selling the same, and to all others.

XI. And be if further enacted by the authority aforesaid, that it shall not be lawful to seize under any pretext whatever, or take in execution during the fishing season in the said County, that is to say between the first of April and the first of December inclusively, any barge or barge equippage, nets, fishing gear, tackle or apparatus of any kind, or provisions of

any kind, appertaining to any fisherman in the said County; and necessary for his subsistence or to enable him to carry on his usual and ordinary business at the codfishery; and any and every person herein offending shall be liable to a penalty not exceeding ten pounds nor less than five pounds currency, recoverable by any person who will prosecute for the same, over and above all damages which the party aggrieved may legally be entitled to, or pretend.

XII. And be it further enacted by the authority aforesaid, that all suits or actions for the recovery of fines penalties and forfeitures, imposed by or in virtue of this Act, shall be heard and determined in a summary manner by any Justice of the Peace, and that any party thinking himself aggrieved by any decision of any such Justice may appeal to the next Court of General Session of the Peace, giving security for the amount of judgment, and costs, in case of failure.

XIII. And be it further enacted by the authority aforesaid, that the testimony on oath of any one credible witness other than the informer or prosecutor, shall be sufficient to convict any person offending against this Act, or against any rule or regulation made under and by virtue thereof.

XIV. And be it further enacted by the authority aforesaid, that all fines, penalties and forfeitures incurred by reason of any thing done contrary to this Act, shall be sued for within three months next, after the commission of the offence and not afterwards.

XV. And be it further enacted by the authority aforesaid, that every conviction under or by virtue of this Act, before any Justice of the Peace, shall be drawn up in the form prescribed in the Appendix to this Act (Letter A.)

XVI. And be it further enacted by the authority aforesaid, that the following and no greater fees, shall be allowed for proceedings under this Act, that is to say, for every summons including the information or plaint one shilling currency for each and every Subpoena including the copy, nine pence currency, and for recording a conviction one shilling currency, and for a warrant of distress nine pence currency, nor shall any Justice of the Peace, claim, exact or receive, any other fee or recompense under any pretext whatever for any thing which he may do under or by virtue of this Act, than such as are hereby specially authorised.

XVII. And be it further enacted by the authority aforesaid, that for the services of any Constable or Peace Officer employed under this Act, the following and no greater compensation shall be allowed, that is to say, for service and the certificate thereof of any summons, nine pence, currency; for the service of every Subpoena and certificate thereof, nine pence, currency; and for levying under a Writ of Distress any penalty not exceeding five pounds, currency, seven shillings and six pence, currency, and exceeding five pounds, currency, ten shillings, currency, exclusive of mileage, (counting always the shortest distance, such Constable or Peace Officer may go from his place of residence for the purpose of levying such penalty,) at the rate of one shilling currency, per league, distance in returning to be computed and included in the charge for such mileage.

XVIII. And be it further enacted by the authority aforesaid, that, one moiety of the fines and forfeitures imposed by this Act, shall go to the informer or prosecutor, and the other moiety to His Majesty, His Heirs and Successors, and remain at the disposal of the Provincial Parliament, for the Public Uses of the Province, and shall be accounted for to His Majesty, His Heirs and Successors through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

XIX. And be it further enacted by the authority aforesaid, that this Act shall be in force until the first day of May, in the year of our Lord, one thousand eight hundred and thirty-three, and no longer.

APPENDIX A

Province of Lower-Canada, }
County of Gaspé. }

Be it remembered that on this _____ day of _____ in the year _____
A. B. is convicted before me _____ one of His Majesty's Justices of the Peace,
(Here set forth the offence) and I do accordingly adjudge him by virtue of an Act passed by
the Legislature of this Province in the _____ year of His Majesty's Reign, entitled,
"An Act to pay and forfeit by reason of the offence aforesaid, whereof he the said A. B.
stands convicted, the sum of _____
Given under my hand at _____ the day and year aforesaid.