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6 William IV – Chapter 57

An Act for the better regulation of the Fisheries in the Inferior District of Gaspé. (21st March, 1836.)

Whereas the Fisheries in the Inferior District of Gaspé are of great importance to the Trade of this Province:—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 all and every His Majesty's subjects, shall peaceably have, use and enjoy the freedom of taking bait, and of fishing in any river, creek, harbour or road, with liberty to go on shore on any part within the Inferior District of Gaspé, between Cape Chat, on the south side of the River Saint Lawrence, and the first rapid of the River Ristigouche [Restigouche River], within the said District, and on the Island of Bonaventure, opposite to Perce, 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 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 be 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 in virtue of any title derived under any Act of the Legislature of this Province.

II. And be it further enacted by the authority aforesaid, that the Master or Commander of any Vessel fitted out from the United Kingdom of Great-Britain and Ireland, or the Dominions thereunto belonging, may take possession of so much of the unoccupied beach, within the aforesaid Inferior District of Gaspé, as may be necessary for curing his fish, and preparing it for exportation; and to retain and enjoy the same, so long as he shall not leave it unoccupied, for the space of twelve calendar months; in which case it shall be lawful for any other person or persons to take possession thereof, in part or the whole, for the same purposes, and on the same condition. Provided that such beach be not private property, by grant from His Majesty, or other title proceeding therefrom, or by grant prior to the year one thousand seven hundred and sixty, or held under and by virtue of any location

certificate or title derived therefrom, or in virtue of any title derived under any Act of the Legislature of this Province. Provided also, that such new occupier shall, when thereunto required by the preceding possessor, or his lawful Attorney, the demand being made within one year after possession taken, pay him for such parts of the flakes and stages as such new occupier shall take possession of. And provided further, that the said preceding possessor, not having been paid as aforesaid, may remove any building, or other improvement erected or made by him on the unoccupied beach as aforesaid, so that such removal be not made during and before the close of the fishing season, in which the new occupier shall have taken possession.

III. And be it further enacted by the authority aforesaid, that no ballast, or anything else injurious or hurtful to any of the rivers, harbours or roads within the said Inferior District of Gaspé, shall be thrown out of any vessel, or discharged into any stream, bason or road in the said Inferior District; but that the same shall be carried on shore, and deposited where no public or private injury may be sustained thereby. Nor shall any person or persons throw any fish guts, offals or gurry overboard, within the distance of six leagues from the shore and Islands of the Inferior District of Gaspé aforesaid, nor on any bank, under the penalty of twenty- pounds current money of this Province.

IV. And be it further enacted by the authority aforesaid, that no person or persons shall cast anchor near the shore, or do any thing within the aforesaid limits, so as to annoy or obstruct the hauling of Seines, or to obstruct or prevent the setting of Nets, nor shall any Nets, be set or placed so as to prevent or obstruct the hauling of Seines, under the penalty of five pounds, current money of this Province, for every such offence, exclusive of such damages as may be recovered at law by the proprietor or proprietors of the Seines or Nets which may be thereby injured or destroyed.

V. And be it further enacted by the authority aforesaid, that all pickets, building timber, or other timber of any description whatsoever, placed or used in the several Rivers in the Inferior District of Gaspé, or in the sea along the beach, in any part of the said Inferior District, whether for the use of fisheries, or for the purpose of building, repairing, or launching any vessel or vessels, barge or boats, or for any other purpose whatsoever, shall be removed and carried by the person or persons who shall have so placed them, or caused them to be so placed, to some part of the beach above high water mark, within the space of eight days from the day on which such person or persons shall have ceased to use said pickets, building timber, or other timber of whatever description, under a penalty of five pounds, currency of this Province, for every offence against this section.

VI. And be it further enacted by the authority aforesaid, that it shall not be lawful under any pretext whatsoever, during the fishing season in the said Inferior District of Gaspé, that is to say, between the first day of April and the first day of November, inclusively, to seize or attach any boat, or boats tackle, nets, rigging, or implements of fishing of any kind whatsoever, or any provisions whatever belonging to any fisherman in the said Inferior

District, and being necessary for his subsistence, or to enable him to follow his customary occupation in fishing for the Cod, Mackerel, Herring, Salmon, Whale, Seal Fisheries, or any other kind of fish, and every person herein offending, shall be liable to a penalty of not more than ten pounds, currency, nor less than two pounds ten shillings, currency, to be recovered by the person who shall sue for the same, without prejudice to such damages as the party injured may lawfully demand and prove.

VII. And be it further enacted by the authority aforesaid, that every person hired to assist in any fishery, who shall leave the service of his employer; without just cause, before the end of the term for which he shall have been so hired, may, on complaint and legal proof thereof made by such employer before one Justice of the Peace, at a Special Session, be condemned to pay a fine not exceeding five pounds, currency, and in default of payment, may be imprisoned in the Common Gaol of the said Inferior District of Gaspé, for a term not exceeding one month.

VIII. And be it further enacted by the authority aforesaid, that every person so hired to assist in any fishing', shall, for the payment of his wages or salary, have a privilege in preference to every other creditor, on the produce of the fishery belonging to the Merchant, or other person who shall have so hired him, and that all proceedings had under or in execution of this clause, shall be had before the Provincial Court of the Inferior District of Gaspé.

IX. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, it shall not be lawful for any person or persons to catch or kill any salmon in the said Inferior District, by any means or in any manner whatsoever, from and after the twentieth of July in every year, nor to buy or receive from the Indians in the said Inferior District, any salmon, under the pretence of salting it for them, or under any other pretence, after the said twentieth day of July in every year, nor to buy any such fish after the said twentieth day of July from any other person or persons whomsoever in the said Inferior District, under the penalty of five pounds, current money of this Province, for every offence in disobedience to the true intent and meaning of this Act, and one month's imprisonment in case of a repetition of the offence. Provided always, that nothing in this Act contained, shall extend or be construed to extend to prevent Indians from catching salmon for their own or their families use, by means of day spears, and in the day time only, the use of flambeaux or any and every other mode of fishing or killing salmon, whether by day or night, being hereby strictly prohibited after the aforesaid period, under the penalty as relates to Indians of the forfeiture of the fishing tackle and furniture found in possession of the offender, and of one month's imprisonment in case of a repetition of the like offence.

X. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, it shall not be lawful for any person or persons to trade with the Indians at any place on the River Ristigouche, on the River Cascapedia, or on any other River in the Inferior District of Gaspé, nor to purchase or receive from them under any pretence whatever, any

salmon or other fish above the first rapid, on the said River Ristigouche, or on the said River Cascapedia, or on any other River in the said Inferior District, under the penalty of ten pounds, currency, for the first offence, and for every subsequent offence, a penalty of twenty pounds, currency Provided always, that the provisions in this clause contained, as far as relates to the River Ristigouche, shall not have force or effect unless a corresponding provision shall in like manner be made in the Province of New Brunswick, with respect to the said River Ristigouche, nor until the same shall have been published by a Proclamation in this Province, by the Governor, Lieutenant Governor, or person ad-ministering the Government thereof for the time being.

XI. And be it further enacted by the authority aforesaid, that the use of Weirs or Nishagans, as practised by the Indians in the said River Ristigouche and in other Rivers in the said Inferior District, to the manifest prejudice and destruction of the salmon fisheries, shall be and the same is hereby strictly prohibited, under the penalty of the seizure and confiscation of the fishing tackle and furniture found in possession of the Indian or Indians, or other person or persons, killing salmon by means of Weirs or Nishagans as aforesaid, and of one month's imprisonment in the Common Goal, in case of repetition of the offence.

XII. And whereas the practice of using Seines for taking salmon, tends to the entire destruction of the salmon fisheries: Be it further enacted by the authority aforesaid, that from and after the passing of this Act, it shall not be lawful for any person or persons to make use of seines for taking salmon in any part of the Inferior District of Gaspé, under the penalty of twenty-five pounds, currency, and of being committed to Goal until such penalty be paid.

XIII. And whereas it is necessary for the preservation and improvement of the salmon fisheries, that salmon be not prevented from passing freely and without obstruction up the different rivers in the said Inferior District of Gaspé to their spawning recesses: Be it therefore further enacted by the authority aforesaid, that from and after the passing of this Act, the channels or main water courses of the several rivers within the said Inferior District of Gaspé, shall at all times be left open and free of every obstruction whatever; and where no channel can be ascertained or described, then one-third of the breadth of the river, comprising the deepest water thereof, or main water course, shall be so left open and free, under the penalty of ten pounds, current money of this Province, payable by the person or persons who shall cause such obstruction; and the main channel of the river Ristigouche, from the Indian New Mission Point up to and at the Pointe a Bourdon, shall at all times be left open and clear of every kind of obstruction, calculating from the deepest water in the said channel, the full distance of twenty-five fathoms on each side, forming on the whole a main and clear channel or passage of fifty fathoms in width; and all the smaller channels in the said river Ristigouche to the south of the said main channel, within the aforesaid space or limits, shall in like manner be left open and clear of every kind of obstruction, whether by bar-nets, swing-nets, or otherwise, counting twenty fathoms from the deepest water on either side, from the beginning of such smaller channels to the main channel, whether such

smaller channels join the main channel or not, making in the whole a clear passage of forty fathoms, under a penalty of ten pounds, current money aforesaid, payable by each and every person or persons who shall lay down such bar or swing-net, or nets, or make or cause any other obstruction as aforesaid to be made in any of the said channels in the aforesaid River Ristigouche.

XIV. And be it further enacted by the authority aforesaid, that all stands or sets of salmon nets hereafter to be placed in the river Ristigouche, within the limits hereinafter mentioned, or in any other river in the aforesaid Inferior District of Gaspé, or in any part of the Bay of Chaleurs, or of Gaspé Bay, or of the River Saint Lawrence, below Cape Chat in the said Inferior District, shall be placed and fixed apart at the distance of eighty rods at least, of sixteen feet and a half each English measure, that is to say, in such part of the said river Ristigouche as lies between a point or place at the distance of twenty-five fathoms below the west end of the first Island above Pointe a Bourdon, commonly called and known by the name of First North Island, and the New-Mission Point; nor shall any net or nets that may hereafter be placed in the said River Ristigouche, between Pointe a Bourdon and the lower end of the said First North Island and the Islands opposite thereto, extend across the said river more than one-third the distance that may be between high-water mark and the bar running in the middle of the said river, commonly considered as a part of the division line between the Province of Lower Canada and New Brunswick, leaving the north main course of water open at least fifty fathoms as aforesaid, from Pointe a Bourdon to and at the said First North Island; and also the main course of water from the south channel opposite Pointed Bourdon, open to and between the two First North Islands in like manner, at least fifty fathoms, and the north channel from above the said First North Island upwards to the first rapids, shall be left open and free of nets, or any other obstruction, one-third of the breadth of the river; and all passages between Islands above the said First North Island, shall be left open in the same proportion as herein last mentioned of one-third of the breadth of the passage; nor shall any stand or set or sets of bar-nets, placed or fixed between Point Maguasha [Miguasha], at the mouth of the said river Ristigouche, and the First North Island above mentioned inclusively, exceed one hundred and fifty fathoms in length, nor shall the same be placed nearer to each other than eighty rods, nor shall any swing-nets appended to or connected with a bar-net in any part of the said river Ristigouche, within the aforesaid limits, extend below the bar-net to which the same may be appended or connected beyond the distance of twenty fathoms in a straight line; nor shall any such swing-nets be placed in any manner above such bar-nets to which the same may be appended or connected on any pretence whatever, under a forfeiture and penalty of ten pounds, current money of this Province, for every offence in contravention to any of the provisions or enactments of this Clause.

XV. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, it shall not at any time be lawful for any person or persons to set any net or nets above the shoalest water at the head of the first rapid in the river Ristigouche, or above the shoalest water in the first rapid in the great river Cascapedia, within the said Inferior District

of Gaspé, or above the shoalest water at the head of the first rapid in any other river in the said Inferior District, other than such persons as may, in virtue of a proper authority from His Majesty's Government, be located, and actually settled and domiciliated, bona fide, on lands situated above the shoalest waters on the rivers aforesaid, who it is hereby provided, may, agreeably to the regulations and provisions of this Act, place their nets opposite their respective lots only, and not elsewhere, leaving the channels or main course of water at all times free, at least one-third of the whole breadth of the river, as by this Act provided; nor shall any person or persons assist the Indians, directly or indirectly, to set any net or nets, or haul any seine or seines, under the penalty, in either of the aforesaid cases, of five pounds, current money of this Province, for every offence in disobedience to the true intent and meaning of this Clause.

XVI. And whereas it is ascertained, that practices highly prejudicial to the salmon fisheries in the said Inferior District of Gaspé, have recently been resorted to, such as placing or fastening sunken floats, shingles or billets of wood or branches of trees in the main channels of the rivers, so as to turn the salmon from their ordinary course, up the several channels of the aforesaid river, and by that means drive them from thence into the nets, thus defeating the purpose of affording a clear passage for the salmon to their spawning recesses; Be it therefore further enacted by the authority aforesaid, that any person or persons placing or causing to be placed any description of sunken floats, shingles or billets of wood or branches of trees, fastened or moored to the bottom, with lines or otherwise, in any of the channels of the aforesaid rivers, in the aforesaid Inferior District of Gaspé, hereinbefore directed to be left open and undisturbed, shall, upon being thereof convicted, incur a forfeiture and penalty for the first offence of five pounds, current money of this Province; and for every subsequent offence, a further forfeiture and penalty of ten pounds, current money aforesaid, and be committed to the Common Gaol of the Inferior District of Gaspé, for and during the term of one calendar month.

XVII. 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 and for the said Inferior District of Gaspé, on view, or on complaint, or information to him given or made by any person whomsoever, forthwith to remove any net, seine or other obstruction that shall be found in any of the aforesaid rivers, contrary to this Act, and any person who shall neglect, delay or refuse to be aiding and assisting when thereunto required, any Justice of the Peace, Officer of Militia or Peace Officer, in the execution of the duty by this Act imposed, shall incur and pay a forfeiture and penalty of twenty shillings, currency, for every such offence, or be committed to prison, for the term of fifteen days.

XVIII. And be it further enacted by the authority aforesaid, that the Justice of the Peace, Officer of Militia or Peace Officer, who shall have removed such net, seine or other obstruction, shall have power and authority to keep and retain the same in his custody or possession (using all due precautions necessary for the preservation thereof) until payment

or tender of the penalty incurred, with all lawful charges and. expenses, shall have been made.

XIX. And be it further enacted by the authority aforesaid, that if the owner of any such net, seine or other obstruction be not known or cannot be found, the Justice of the Peace, Officer of Militia or Peace Officer, having removed 'the same, shall by an advertisement, posted up in the most public place nearest to that where such removal shall have been made, require the owner or owners of the net, seine or other obstruction so as aforesaid removed, to appear within ten days next after the day of publication, and pay the penalty and charges incurred, and that in default thereof, such net, seine or other obstruction as aforesaid removed, will be thereafter sold in satisfaction of the penalty and charges incurred.

XX. And be it further enacted by the authority aforesaid, that in case no person appear to claim such net, seine or other obstruction within ten days after such public notice, the said net, seine or other obstruction shall be sold at public auction, by any Justice of the Peace, Officer of Militia or Peace Officer, (public notice of the time and place of sale being as aforesaid given by at least ten days next before the day of the sale) to satisfy the penalty incurred, and the cost and charges of removal and notification as aforesaid, and the surplus, if any there be, shall be deposited in the hands of the Clerk of the Peace, for the said Inferior District of Gaspé, as the case may be, to be returned to the owner of such seine or net, provided he appear to claim the same within one year after such sale; and should he not so appear and claim such surplus, the same shall go to His Majesty.

XXI. And be it further enacted by the authority aforesaid, that any person or persons who shall molest, oppose or disturb any Justice of the Peace, Officer of Militia or Peace Officer, in the execution of the duty hereby imposed on him, shall, on being thereof convicted, for every such offence, forfeit the sum of five pounds, current money of this Province, or stand committed for a time not exceeding fifteen days.

XXII. Provided always, and be it further enacted by the authority aforesaid, that no other or greater sum shall be exacted or received, under any pretext whatever, from the owner of any such net, seine, or other obstruction removed as aforesaid, than the penalty incurred in virtue of this Act, and the expenses really and bona fide incurred in the removal, (the time and trouble of such Justice of the Peace, Officer of Militia, or Peace Officer, not included, no compensation therefor being by this Act allowed) and the Justice of the Peace, Officer of Militia or Peace Officer, having removed as aforesaid, such net, seine, or other obstruction as aforesaid, shall, upon payment or tender of the penalty and expenses incurred as aforesaid, by or on the part or behalf of the owner, be bound forthwith to restore such net, seine, or other obstruction to the owner thereof, or person for him acting, under the penalty of five pounds, current money of this Province, from him recoverable as damages by the owner, in the Provincial Court for the said Inferior District, or in the Court of General Session

of the Peace for the said Inferior District, for each and every day that such net, seine or other obstruction shall thereafter have been wrongfully detained.

XXIII. And be it further enacted by the authority aforesaid, that it shall be lawful for the several Grand Juries for the said Inferior District of Gaspé, at their General Sessions of the Peace, upon the recommendation and with the concurrence of the Justices of the Peace attending the Session, or a majority of them, to make for the temporary and local regulation of the Fisheries in the said Inferior District, such further rules and regulations as to them shall appear most expedient for the general welfare and advantage of the said Fisheries, not being contrary to the intent and meaning of this Act.

XXIV. Provided always, and be it further enacted by the authority aforesaid, that no rule or regulation that may be so as aforesaid made, shall have force or effect until the same shall have been approved and sanctioned by the Provincial Court in and for the Inferior District of Gaspé, duly notified in the Quebec Gazette, and by an advertisement publicly posted up by the Clerk of the Peace in and for the said Inferior District, whose duty it shall be to attend to the same, and see or cause such advertisement to be duly posted up as hereby directed, with the least possible delay, at the Church doors of each and every Church, Chapel, or other place of Divine Service, in the said Inferior District of Gaspé, or at the most public places of each and every settlement in the said Inferior District, where the Fisheries are carried on in case there should be no such Church, Chapel, or other place of Divine Service as aforesaid. And provided also, that no fine to be imposed by such rules and regulations, shall in any case exceed the sum of five pounds, currency, and that no rule or regulation that may at any time be made under and in virtue of this Act, shall have force or effect after the expiration of this Act; and a copy of the rules and regulations that may as aforesaid be made and confirmed, under and in virtue of this Act, shall, at the ensuing Session of the Legislature, be laid before the three branches of the same, in the English and French languages, by the Prothonotaries of the aforesaid Provincial Court, within fifteen days after the opening of the Session.

XXV. And be it further enacted by the authority aforesaid, that the aforesaid river Ristigouche, above the New Mission Point, and the several rivers in the said Inferior District, shall at all times, from sunset on Saturday evening, until sunrise on Monday morning, in each week, be left entirely free, open and unobstructed by nets or seines, or other obstruction of any description, so as to leave a free passage to salmon, at least thirty-six hours every week, to their spawning recesses in the several rivers in the aforesaid Inferior District of Gaspé, and every person who shall contravene this clause, shall incur a penalty of five pounds, currency.

XXVI. And be it further enacted by the authority aforesaid, that all the rivers or branches falling into the aforesaid River Ristigouche, in any part of this Province, as well as the aforesaid River Ristigouche to its source, shall be considered with respect to this Act, and to the provisions of the same, as if they were within the aforesaid Inferior District of Gaspé.

XXVII. And whereas the Fisheries in the aforesaid River Ristigouche which flows between a part of the Province of New-Brunswick and Lower-Canada, are a source of considerable trade, and essentially contribute to the subsistence and prosperity of the Inhabitants, but from the want of uniform and corresponding rules and regulations on both sides of the said River, divers prejudicial and ruinous practices have, of late years, been resorted, in as much, that the Fisheries in the said River have seriously diminished, to the great injury of His Majesty's subjects settled upon the said River, and to the trade in general. And whereas it may be expedient for the common welfare and benefit of the Inhabitants aforesaid, and for the better preservation of the fisheries on the said River Ristigouche, that in concurrence with the Legislature of New Brunswick, or in concurrence with authority derived from the same, further rules and regulations for the Fisheries on the said River be made and provided, common to all His Majesty's subjects carrying on or concerned in the Fisheries on the said River, whether the same be transient traders or domiciliated inhabitants, residing on the New-Brunswick or Canada side of the said River Ristigouche;—Be it therefore further enacted by the authority aforesaid, that it shall be lawful for the Governor, Lieutenant Governor or person administering the Government of this Province for the time being, at any time during the continuance of this Act, by an instrument under the Great Seal of the Province, to constitute or appoint three or more, fit and proper persons, of whom three at least shall be resident in the said Inferior District, and shall constitute a quorum for the transaction of business, pursuant to this Act, with full power and authority to meet, at such place on the said River Ristigouche, or place adjacent thereto, such person or persons as may in like manner for the purpose herein specified be duly appointed on the part of the Province of New-Brunswick, and conjointly with him or them to consult, prepare, digest, determine and finally agree upon such rules and regulations respecting the Fisheries in the said River Ristigouche, as they may deem advisable and necessary to be provided and put in force, for the better preservation and improvement of the same, and such rules and regulations as shall have been so prepared, digested, determined and finally agreed upon, being by the several Commissioners who shall have been as aforesaid appointed, duly signed and executed double, shall be forthwith transmitted to the Governor, Lieutenant Governor, or Person administering the Government of the Province for the time being, for a revision, confirmation or disallowance, and such and so many of the rules and regulations so as aforesaid determined and finally agreed upon as may be approved and confirmed by His Excellency by a Proclamation issued to that effect, shall thereafter be in force, and shall have the effect of Law, and be binding and obligatory as such upon all His Majesty's subjects in this Province, carrying on or concerned in the Fisheries in the said River Ristigouche, or trading thereat, and upon all others whom the same may in any wise concern, for any period that shall have been fixed and agreed upon as aforesaid, not exceeding the duration of this Act; and such rules and regulations so as aforesaid determined and finally agreed upon, as shall be disallowed and rejected by the Governor, Lieutenant Governor, or Person administering the Government of the Province for the time being, shall by wholly and entirely null and of none effect.

XXVIII. Provided always, and be it further enacted by the authority aforesaid, that the powers and authorities which by this Act are given to the Commissioners that may be appointed in virtue of the same, shall at the expiration of this Act wholly cease and determine.

XXIX. Provided also and be it further enacted by the authority aforesaid, that no fine, penalty, or forfeiture, that may be imposed for any offence against any rule or regulation that may be so as aforesaid determined and agreed upon by the Commissioners aforesaid, shall in any case exceed ten pounds current money of this Province; nor shall any term of imprisonment exceeding one month be imposed or inflicted for any such offence.

XXX. Provided also, and be it further enacted by the authority aforesaid, that no rule or regulation that may so as aforesaid be determined and agreed upon in virtue of this Act, shall have force or effect in this Province, unless the same have in like manner a corresponding force and effect in the Province of New-Brunswick, with respect to the Fisheries in the aforesaid River Ristigouche.

XXXI. and be it further enacted by the authority aforesaid, that from and after the first day of May, one thousand eight hundred and thirty six, no pickled or salted salmon, mackerel, or herring, of any kind, in tierces, half-tierces, barrels or half-barrels, shall be exported from the said Inferior District, nor shipped for exportation therefrom, to any place beyond the limits of the Province of Lower Canada, unless the name of an Inspector duly appointed in the manner hereinafter specified be branded in large legible letters on the heads or butts of the several tierces, half-tierces, barrels or half-barrels, that may be so as aforesaid shipped for exportation; and when such salmon, cod, mackerel, or herring, in tierces, half-tierces, barrels, or half-barrels, shall be shipped from that part of the said Inferior District, lying in the Baie des Chaleurs, the words Baie des Chaleurs shall also be branded upon the same, respectively, in large and legible letters, immediately under the name of such Inspector, and when shipments of such salmon, cod, mackerel, or herring, as aforesaid, shall be made for exportation as aforesaid, to any place beyond the limits of this Province as aforesaid, from any part of the said Inferior District, east-ward of Point Mackerel, at the entrance of the aforesaid Baie des Chaleurs, the word Gaspé shall, instead of the words Baie des Chaleurs, in like manner be branded on the heads or butts of the several tierces, half-tierces, barrels, or half-barrels, that may be shipped, and also the words "Number one" designating the first quality, or the words "Number two" designating the second quality, under the penalty of seizure and forfeiture of each and every tierce, half-tierce, barrel, or half-barrel of pickled or salted salmon, cod, mackerel or herring, that shall be shipped in disobedience to this Act, for exportation from the said Inferior District of Gaspé, to any place out of this Province as aforesaid.

XXXII. And be it further enacted by the authority aforesaid, that from and after the said first day of May, one thousand eight hundred and thirty-six, no pickled Mackerel, Cod, or pickled or smoked Herring, shall be shipped for exportation, nor exported from the said Inferior

District to any place out of the said Province, but in barrels containing twenty-eight gallons each, or in half barrels containing fourteen gallons each, wine measure.

XXXIII. And be it further enacted by the authority aforesaid, that from and after the said first day of May, one thousand eight hundred and thirty-six, no pickled Salmon shall be shipped for exportation nor exported from the said Inferior District, to any place of the said Province, but in tierces or half-tierces, barrels or half-barrels, containing the quantities hereafter specified, 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, avoirdupois weight.

XXXIV. And be it further enacted by the authority aforesaid, that it shall be the duty of the Collectors of His Majesty's Customs in the said Inferior District, and of their and every of their Deputies or Agents for the time being, previous to clearing out any ship or vessel about to sail or depart from the Inferior District, and the Province aforesaid, having on board any pickled or salted salmon, mackerel or herring in tierces, half-tierces, barrels or half-barrels, for exportation, from the said Inferior District, to read this and the thirty-first, thirty-second and thirty-third clauses of this Act, to the master, owner, supercargo, or other person requiring a clearance for such ship or vessel, and to require of him a declaration under his hand and seal, that the quantity of tierces, half-tierces, barrels or half-barrels, containing pickled or salted salmon, mackerel, or herring, as aforesaid, on board of such ship or vessel, are severally branded according to the true intent and meaning of this Act; and that, to the best of his knowledge and belief, the same respectively contain the weight of fish, exclusive of pickle and salt, as by this Act required.

XXXV. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, it shall be lawful for the Governor, Lieutenant Governor, or the person administering the Government of the Province, to appoint one or more Inspectors of fish for the Inferior District of Gaspé, for carrying this Act into effect, who shall be authorised to act as such by a Letter from the Provincial Secretary, informing them that His Excellency has been pleased to appoint them for that purpose, for which Letter he shall be entitled to five shillings currency, and no more.

XXXVI. And be it further enacted by the authority aforesaid, that before entering upon the execution of the duties of his office, each and every such Inspector shall take and subscribe the following oath, before the Provincial Judge of the Inferior District, and the record thereof shall be deposited with the Prothonotary of the said Inferior District, who shall, when thereunto required, give a certificate thereof to such Inspector, and shall for such certificate be entitled to receive from such inspector the sum of nine pence currency, and no more; and every person interested may require such Inspector to produce the said certificate before he proceed to inspect any fish.

FORM OF OATH.

I, A. B., Inspector of fish and oil, for the Inferior District of Gaspé, solemnly swear, that to the best of my judgment, skill, and capacity I will faithfully and impartially perform the duties of an Inspector of fish, according to the true intent and meaning of the said process in that behalf provided.

XXXVII. And be it further enacted by the authority aforesaid, that if any dispute shall arise between the Inspector and the person interested, with respect to any Inspection, such dispute shall be determined in the following manner, that is to say: Any Justice of the Peace, shall, on the requisition of one of the parties, issue a summons under his signature to three disinterested and upright persons, of sufficient skill, (one of whom shall be named by the Inspector, another by the party interested, and the third by the Justice of the Peace himself,) requiring them to examine the said fish without delay, and to report their opinion on oath to be made before such Justice of the Peace, who is hereby authorised to receive the same; and their decision shall be final as regards the Inspector, who shall immediately brand each and every vessel, box, or cask, according to the decision given, and if the opinion of such Inspector shall have been confirmed by such Experts the party who shall have contested the same shall pay such costs as the Justice of the Peace shall declare reasonable, and shall tax; and in the contrary case such costs shall be paid by the Inspector.

XXXVIII. And be it further enacted by the authority aforesaid, that if any Inspector appointed under this Act, shall, after being thereunto required, either personally or by a written requisition left at his domicile, between sunrise and sunset, on any working day, refuse or neglect to proceed immediately to inspect the fish which he shall be so required to inspect, or shall not so proceed within two hours afterwards at farthest, after he shall have finished his inspection, in case he shall at the time be engaged in inspecting other like articles, such Inspector shall forfeit and pay a sum not exceeding fifty pounds, currency, to the person by whom such requisition shall have been made, over and above all damages occasioned by such refusal or neglect.

XXXIX. And be it further enacted by the authority aforesaid, that such Inspector shall be entitled to demand and receive from the person who shall employ him the following fees and allowances, and no more, that is to say;—For every tierce branded, one shilling and six pence, currency; for every half tierce, nine pence, currency; for every barrel, one shilling, currency; for every half barrel, nine pence, currency.

XL. And be it further enacted by the authority aforesaid, that the fines, penal, ties and forfeitures by this Act imposed, and that may be incurred in the said Inferior District of Gaspé, exceeding in amount the sum of five pounds, current money aforesaid, shall be recoverable by suit, before the Provincial Court in and for the said Inferior District, or before the Court of General Sessions of the Peace, in and for the said Inferior District, at the ensuing

term of either of the said Courts, which may be held nearest to the place where the offence may have been committed, and not afterwards.

XLI. And be it further enacted by the authority aforesaid, that such fines, penalties and forfeitures imposed by this Act, or that may hereafter be imposed in virtue of and under the authority of the same, and that may be incurred in the said Inferior District of Gaspé, not exceeding five pounds, current money aforesaid, may be recoverable by suit in a summary manner, before at least two Justices of the Peace of the said Inferior District, at any time within three months next after the commission of the offence and not afterwards.

XLII. And be it further enacted by the authority aforesaid, that the testimony on oath of one credible witness, other than the prosecutor or informer shall be sufficient to convict any person offending against this Act, and that the aforesaid Provincial Court and Court of General Sessions of the Peace, and Justices of the Peace, shall respectively have power to issue subpoenas, and compel the attendance of witnesses, whenever the same may be necessary; who are hereby required and commanded to obey such subpoenas, under the pains and penalties of the Law, in case of disobedience and the subpoenas which it shall be necessary to issue to compel the attendance of witnesses, may be in the form prescribed in the Appendix to this Act, letter (A.)

XLIII. And be it further enacted by the authority aforesaid, that the fines, penalties and forfeitures by this Act imposed, or that may hereafter be imposed in virtue of and under the authority of the same, and that may be incurred in the said Inferior District of Gaspé, shall in cases of non-payment, be levied by distress and sale of the goods and effects of the offender, in virtue of a warrant in the form prescribed in the Appendix to this Act, letter (B.) under the hand of the Provincial Judge for the said Inferior District, or Justice of the Peace, or Senior Justice of the Court of General Sessions of the Peace, before whom or which the conviction may have taken place, directed to any constable or Peace Officer, and the overplus of money raised, after deducting the penalty and costs, shall be returned to the offender.

XLIV. And be it further enacted by the authority aforesaid, that in case the offender convicted shall not have sufficient goods or effects whereon to levy the penalty and costs, he shall, if the penalty in which he may have been condemned, exceed ten pounds currency, be liable to be and maybe committed to prison for a term not exceeding thirty days, and in cases where the penalty shall not exceed that sum, for a term not exceeding fifteen days.

XLV. And be it further enacted by the authority aforesaid, that the information or plaint, and the summons, pursuant to the same, which, may at any time be made to and issued by any Justice of the Peace, against any person offending against this Act, in the said Inferior District of Gaspé, shall be in the form prescribed in the Appendix to this Act, letters (C and D,) and when the offence committed may be above the Jurisdiction of two Justices of the Peace as by this Act provided, and cognizable in the aforesaid Provincial Court or Court of General

Sessions of the Peace, such summons shall be according to the course and practice of the said Courts, respectively.

XLVI. And be it further enacted by the authority aforesaid, that between the service and return of every such summons as aforesaid, there shall at least be three intermediate days for the first five leagues, and one additional day for every five leagues there may be between the place of residence of the Justice of the Peace, or place where the Court may be held, and the usual residence or domicile of the defendant.

XLVII. Provided always, and be it further enacted by the authority aforesaid that in cases where the defendant may not be a resident in the said inferior District, and circumstances may render it expedient to enforce, without delay, the penalties by this Act imposed, it shall be lawful for any Justice of the Peace before whom the plaint or information may have been lodged, to issue a summons returnable before him immediately after service thereof, or within such reasonable time as he shall by the said summons appoint, and if, on the return of such summons, or at the time thereby appointed, the defendant shall not appear to answer thereto, the Justice of the Peace who may have issued such summons, on receiving satisfactory proof of the service thereof upon the Defendant, shall proceed in a summary manner to receive evidence of, and concerning the offence alleged against the defendant, and if such evidence be sufficient to warrant a conviction, such Justice of the Peace shall forthwith, after entry of the conviction on a register to be by him kept for the purpose, be authorized and empowered to enforce the same according to the provisions of this Act.

XLVIII. Provided always, and be it further enacted by the authority aforesaid, that in cases circumstanced as last above mentioned, exceeding the jurisdiction of two Justices of the Peace, the Provincial Judge of the said Inferior District shall be authorized, and he is hereby required and empowered to proceed, as last above mentioned and directed to take cognizance of, hear, try and determine, in a summary manner, such offences against this Act as are by the same made cognizable by him, and upon conviction as aforesaid, the penalties by this Act imposed, to enforce and levy according to the provisions thereof.

XLIX. And be it further enacted by the authority aforesaid, that every conviction that may take place in the said Inferior District of Gaspé, under and in virtue of this Act, shall be drawn up in the form prescribed in the Schedule to this Act, letter (E).

L. And be it further enacted by the authority aforesaid, that for each and every summons, including the information or plaint that may at any time issue in virtue of this Act, no greater sum than one shilling current money aforesaid, shall be demanded, charged or paid, and for each and every subpoena that may issue to compel the attendance of any necessary witness, no greater sum than nine pence current money aforesaid, including the copy that may be served upon such witness, shall be demanded, charged or paid; and for each and every conviction, including the entry of the same on the register as aforesaid, no greater sum than one shilling current money aforesaid, shall be demanded,

charged or paid; and for a warrant of distress, no greater sum than nine pence current money aforesaid, shall be demand, cd, charged or paid, nor shall any Justice of the Peace, Clerk or Prothonotary of the said Provincial Court, or Court of General Sessions of the Peace, claim, exact or receive under any cause or pretext whatever, any greater recompence or fee with respect to any such summons, subpoena, or copy of subpoena, conviction and entry thereof as aforesaid, or warrant of distress, or for any service or extra service in relation with the same, than is hereby above allowed and specially authorised.

LI. And be it further enacted by the authority aforesaid, that for the services made by any constable or Peace officer, in and about any prosecution under or in virtue of this Act, no greater recompence or remuneration shall be allowed than is herein specified, that is to say for the service and certificate thereof, of every summons, nine pence current money aforesaid, for the service and certificate thereof, of even –copy of a subpoena, nine pence current money aforesaid, for levying any penalty not sceeding ten pounds currency pursuant to a warrant of distress, seven shillings and six pence current money aforesaid, and for any penalty exceeding ten pounds currency, a sum to be specified in the Warrant, proportionate to the labour, time and trouble of such constable or peace officer, as the Justices of the Peace or Provincial Judge may deem a suitable recompence, not exceeding in the whole forty shillings currency, and these allowances shall be exclusive of mileage at the rate of one shilling currency for each and every league which such constable or peace officer must, in the due execution of such warrant of distress, or of any other duty by him to be performed under this Act, necessarily and unavoidably travel from his home or domicile, (distances in returning from the place oi service, seizure or sale, not counted,) and which mileage shall be in lieu of all travelling expenses.

LII. And be it further enacted by the authority aforesaid, that one moiety of all such fines and forfeitures as are imposed or that may be incurred and paid by reason of any thing done in disobedience to this Act, shall belong to the informer or prosecutor, and the other moiety shall be paid into the hands of the Receiver General of this Province for the use of His Majesty, his heirs and successors, and shall be counted 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 direct.

LIII. And be it farther enacted by the authority aforesaid, that if any action or suit shall be commenced against any person or persons,, for any thing done in pursuance of this Act, such action or suit shall be commenced within six calendar months next after the offence shall have been committed, and not afterwards; and the defendant or defendants in such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance of this Act; and if it shall appear to have been so done, then the Court shall find for the defendant or defendants, and if the plaintiff or plaintiffs shall be non-suited or discontinue his or their action after the defendant or defendants shall have appeared; or if judgement shall be given

against the plaintiff or plaintiffs, the defendant or defendants shall and may recover their costs, and have the like remedy for the same as defendants have in other cases by Law.

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

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

APPENDIX.

(A.)

Province of Lower Canada, }
Inferior District of Gaspé. }

WILLIAM THE FOURTH, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, &c.

To

GREETING:

WE command you and each of you that, all excuses being laid aside, you and each of you be in your proper persons before A. B., Esquire, one of our Justices of the Peace for the Inferior District of Gaspé, at _____ on the _____ day of _____ instant, (or next as the case may be) by _____ o'clock in the forenoon of the same day, to testify all and singular what you or any of you know, concerning a certain Cause or Plaint thereto be tried, and determined by and before our aforesaid Justice, at the suit of _____ against _____ for an alleged disobedience to an Act of the Legislature of this Province, passed in the _____ year of our Reign, intituled, "An Act

and this you nor any of you are by no means to omit, under penalty upon each of you of _____ currency.

Witness, our aforesaid Justice of the Peace, A. B. at _____ day of _____ 18

this

(Signed,)
A.B.
Justice of the Peace

(B.)

Province of Lower Canada, }
Inferior District of Gaspé. }

WILLIAM THE FOURTH, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland King, Defender of the Faith.

To _____ and to all and every the Constables and Peace Officers in and for the Inferior District of Gaspé.

GREETING:

WE command you, that you cause forthwith, by distress and sale of the Goods, Chattles, and moveable effects of _____ to be levied according to Law, the sum of _____ with _____ costs, being the penalty in which he, the _____ hath been convicted before me, (or _____ said _____ hath been convicted before me, (or _____ this Court) on the _____ day of _____ one thousand eight hundred and _____ by reason of disobedience of a certain Act of the Legislature of this Province, passed in the _____ year of our Reign, intituled, "An Act

and which said penalty and costs remain unpaid.

Witness J. G. Esquire, one of cur Justices of the Peace for the said Inferior District, at _____ this _____ day of _____ one thousand eight hundred and _____ and of our Reign the _____

(Signed)
J. G.
Justice of the Peace

(C.)

Province of Lower Canada, }
Inferior District of Gaspe. }

THE INFORMATION and Complaint of C.D. of the
in the Country and Inferior District of Gaspe, who as well for our
Sovereign Lord the King, as for himself in this behalf prosecutes, made before
of his Majesty's Justices of the Peace in and for the Inferior District of
Gaspe, (wherein the offence hereinafter mentioned was committed) the
day of in the year of Our Lord, one thousand eight
hundred and who as well for our Sovereign Lord the King, as for himself giveth
the said Justices to understand and be informed.

That at on the day of in the year (Here state
the particular Act which constitutes the offence complained of, and the day upon which the
same was committed in order that the defendant may be fully and precisely acquainted of
the charge against him, as to time, place and circumstance.)
against the form of the Statute in such case made and provided. Whereby and by force of
the said Statute, the said A.B. hath incurred a penalty of

Wherefore the said C.D. as well for our said Lord the King as for himself prayeth the
adjudication of the said Justice in the premises, and that the said A.B. may be adjudged to
forfeit the said penalty

and that the said C.D. may have one half of the said forfeiture according to the form of the
Statute aforesaid, and the said A.B. may be summoned to make his defence hereto before
the said Justice, with costs.

Dated at this day of 183

(D.)

Province of Lower Canada, }
Inferior District of Gaspe. }

To A.B. of _____ in the Inferior District of Gaspe.

J. G. one of His Majesty's Justices of the Peace, in and for the said Inferior District of Gaspe, hereby gives you notice that C. D. of _____ in the said Inferior District of Gaspe, hath before me, this day, exhibited an Information against you for a Penalty of _____ which hath been incurred by you for having heretofore, to wit: here state the offence, as to time, place and circumstance, as mentioned in the preceding form of the information,} against the form of the Statute in such case made and provided. You are hereby required personally to be and appear before _____ at the House of _____ at the _____ day of _____ one thousand eight hundred and _____ at _____ of the clock in the forenoon, to answer and make Defence to the said Information so exhibited against you, but if you neglect so to do, _____ shall proceed as if you were personally present

Given under _____ hand at _____ in the said Inferior District of Gaspe, on the _____ day of _____ in the _____ year of Our Lord one thousand eight hundred and _____

(E.)

Province of Lower Canada, }
Inferior District of Gaspe. }

Be it remembered, that on this _____ day of
_____ in the _____ year one thousand eight hundred and
_____ A. B. is convicted before me one of His Majesty's Justices of the Peace, for the Inferior
District of Gaspe, (or before this Court, as the case may be) for (Here set forth the offence)
and I do (or, this Court doth) accordingly adjudge him, in virtue of an Act passed by the
Legislature of this Province, in the _____ year of His Majesty's Reign, intituled, "An Act

to pay and forfeit by reason of the offence aforesaid, whereof he the said A. B. stands
convicted, the sum of _____ and if the offence he punished by imprisonment,
and that he the said A. B. be committed to the Common Gaol for and during

Given under my hand and seal, (or, under the order of this Court,) the day and year
aforesaid.