

An Act for continuing an Act made and passed in the Thirty third Year of His late Majesty's Reign, intituled, An Act for the summary Trial of Actions.

WHEREAS an Act made and passed in the Thirty third Year of His late Majesty's Reign, Intitied " An Act for the summary Trial of Actions," is near expiring, and it is thought expedient that the same should be continued for a further Time, Be it therefore Enacted by the Lieutenant-Governor, the Council and Assembly, That the said Act be and the same is hereby continued for Two Years from the Publication of this Act.

An Act for regulating the Exportation of Fish, and the Assize of Barrels, Staves, Hoops, Boards, and all other Kind of Lumber; and for appointing Officers to survey the same.

BE it enacted by the Lieutenant-Governor, Council and Assembly, That from and after the end of this present Session of the General Assembly, all pickled Fish for Exportation shall be put in none but Barrels of thirty-one Gallons and a half at least, and that the Fish be all of one Kind, well saved, sweet, free from Rust, and close packt, the Barrels tight, and full of sweet and strong Pickle.

That Herrings be free from Oil.

That merchantable Cod-Fish have the Qualities that make them so in Newfoundland.

That

That all Hoghead Staves be six Inches broad, three quarters of an Inch thick at the thin Edge, and forty Inches long.

That Barrel Staves be four Inches broad, and half an Inch thick at the thin Edge, and thirty Inches long.

That Barrel Staves for the *Irish* Market be thirty Inches long, five Inches broad, clear of Sap, and three quarters of an Inch thick at the thin Edge.

That Hoghead Hoops be fifteen Feet long, substantial and well shaved, and three quarters of an Inch broad at the small End.

That Barrel Hoops be nine Feet long, and half an Inch broad at the small End.

That Boards shall be full one Inch thick,

That Shingles be eighteen Inches long at least, four Inches broad, and half an Inch thick at the thick End.

That Clapboards be five Inches broad, half an Inch thick at the Back, and four Feet four Inches long.

That Chord-Wood be full four Feet long each Stick, accounting half the Carf, the Pile to be solid, four Feet high, or an Allowance for Wants of eight Feet long, and each Chord sound hard Wood.

And be it further enacted, That all Barrels used for Fish within this Province, shall be made of sound well seasoned Timber and free of Sap, and that fit Persons be appointed from Time to Time in all Places needfull, to view and gauge all such Barrels; and such as shall be found tight and of the Affize beforementioned, shall be marked with the Gauger's Mark, who shall have for his Pains *Eight Pence* per Ton; and every Cooper shall make his Barrels of the Affize aforesaid, and shall set his distinct Brand Mark on all Barrels so made by him, on Penalty of *Forty Shillings* for each Offence.

And Be it also enacted, And whosoever shall put to sale any Barrels new made up from old Stuff, being deficient either in Workmanship or Timber, upon Proof thereof made by one sufficient Witness, before any one of His Majesty's Justices of the Peace, he shall forfeit such Barrels, and be fined and pay the Sum of *Ten Shillings* for every Barrel that shall be so found defective, or shall suffer *Ten Days* Imprisonment for every such defective Barrel. *Provided* the said Imprisonment do not in the whole exceed the Term of three Months.

And be it enacted, That the Grand Jury for each County within the Province, shall annually at the *First General Quarter Sessions* in the Year, and before the Rising of the Court, nominate and appoint fit Persons to serve in such Towns or Places where the same shall be necessary, as Gaugers of Casks or Barrels, Cullers and Surveyors of dry and pickled Fish, Boards, Staves, Shingles, Clapboards, Hoops, and Chord-Wood, and shall report to the said Court the Names of the several Persons by them so nominated and appointed for the Service aforesaid, that they may be sworn by the said Court to the due Execution of their several Offices, which if any so nominated and appointed shall refuse, he shall pay the Sum of *Forty Shillings*, and another shall be nominated and appointed in the like Manner in his stead; and failing of any of these by Misbehaviour, Death, or leaving the Province, or changing the Town of his Residence, their Places shall be filled up, by a new Nomination and appointment in the same Manner at the next *Quarter Sessions*, or *Special Sessions* to be called for that Purpose, under the like Penalty for Refusal.

And be it further enacted, That every Gauger of Cask or Barrels appointed as aforesaid, shall take Care that such Cask or Barrels by him viewed and marked as aforesaid, be agreeable to the Directions of this Act; and that he mark no Cask or Barrels whatsoever defective in any of the above Particulars, on Penalty of *Ten Shillings* for every Cask so by him marked that shall be found defective in any of the aforesaid Respects.

And be it enacted, for preventing of Fraud and Deceit in the packing of pickled Fish to be put to Sale, That in every Town within this Province where such pickled Fish are packed for Sale, the Surveyor or Surveyors of Fish of such Town, or of the Town where they are put to sale or shipped, shall see that it be well and orderly performed, and that the said Fish be packed all of one Kind, and that all Cask or Barrels so packed be full, and in all other Respects answerable to the Regulations herein specified in that behalf, setting his Brand or Mark on all Casks or Barrels so by him examined and surveyed, and he shall receive of the Owner or Seller of such Fish, for surveying and marking, *Two Pence* per Barrel and *Four Pence* per Mile for his Travel; and if any such pickled Fish be put to Sale or shipped off without the Surveyor's Brand or Mark, they shall be forfeited, or the Value thereof, by the Seller or Shipper of the same.

And be it likewise enacted, That all Sorts of green or pickled Fish that shall be put up for Exportation to a Foreign Market, shall be searched, surveyed, and approved by the sworn Surveyor, who shall take strict Care that the same be in all Respects agreeable to the Regulations herein before specified, and shall and may open the Head of any one Barrel the Buyer shall chuse for that Purpose, and such as shall be found good and merchantable the Surveyor shall mark with such Brand Mark as shall be assigned to him by the said Court, and such other Cut-Mark as may denote the Kind of Fish and Time when packed. And if any Master of any Ship or Vessel, or any Officers or Mariners belonging thereto, shall receive such pickled Fish not marked and branded as aforesaid, on board any of their
Ships

Ships or Vessels, he or they who shall offend therein, shall forfeit double the Value of all such Fish; and he or they who shall own such Fish shall forfeit the same, or the Value thereof. And if any Cooper or other Person shall shift any Fish, either on board or on Shore, after the same hath been so marked and branded by the Surveyor, and ship and export the same, the Surveyor not having allowed thereof, and marked the Casks or Barrels a new whereinto such Fish shall be shifted; all Persons acting, ordering, or assisting therein, upon Conviction thereof before any one of his Majesty's Justices of the Peace, by the Oath of one credible Witness, for the first Offence shall suffer Six Months Imprisonment; for the second nine Months Imprisonment; and for the third twelve Months Imprisonment without Bail or Mainprize; and shall likewise pay double Damages to the Person wronged thereby. And if any Person or Persons shall presume to counterfeit the Brand-Mark of any Surveyor or Gauger; or Certificate of any Culler, upon due Proof or Conviction, he or they shall incur, forfeit, and pay the Sum of *Ten Pounds*, and suffer one Month's Imprisonment.

And be it further enacted, That the Culler of dry Cod-Fish thereto appointed as aforesaid, shall cull all such dry Cod-Fish that shall be sold or exported, and shall have *One Penny* per Quintal for every Quintal of Fish by him culled, and *Four Pence per Mile* for his Travel, to be paid by the Owner or Seller; and such Culler shall give a Certificate under his Hand specifying the Quantity of Fish so by him culled, and the Name of the Owner, Seller, or Shipper thereof, and of the Time or Place where culled, and if any dry Cod-Fish shall be put to Sale, or shipped for Exportation, without having been so culled by the Culler, or without such Certificate thereof as before directed, the same shall be forfeited, or the Value thereof, by the Seller or Shipper of the same.

And be it also enacted, That all Boards, Plank, Timber and Slit-work, that shall be imported or brought for Sale to any Town within this Province, or exported from thence to any Foreign Market, before their Delivery on Sale, shall be viewed, surveyed and also measured, by one of the Surveyors thereto appointed, (where he shall have any Doubt of the Measure) having Consideration for drying and shrinking; also shall mark a-new all such to the just Contents, making Allowance for Rotts, Splits and Wains, the Seller to pay the Officer *Four Pence per thousand Feet* for viewing only, and *six Pence per thousand Feet* more for measuring and marking; and so in Proportion for a lesser Quantity than a thousand Feet, and *four Pence per Mile* for his Travel as aforesaid: And no Boards, Plank, Timber, or Slit-work, shall be delivered upon Sale, or shipped for Exportation beyond Sea, before they have been viewed and surveyed by the Surveyor, and by him found answerable to the Description in this Act mentioned; and also measured (if Occasion be) and marked a new by one of the Officers thereto appointed; on Pain of being forfeited, or the Value thereof, by the Seller or Shipper thereof.

And

And be it enacted, That all Shingles and Clapboards exposed to Sale by Quantities in Bundles, that do not hold out the Number they are marked for, unless it shall appear that some have been drawn or shaken out of the Bundles after packing, shall be forfeited; the Charge of searching and telling to be paid thereout. That every Bundle of Shingles and Clapboards that, according to the Judgment of the Surveyor, will hold out eighteen Inches long, four Inches broad, and half an Inch thick, agreeable to the Dimensions by this Act prescribed for Shingles, and if Clapboards, five Inches broad, half an Inch thick at the Back, and four Feet four Inches long, being the Dimensions by this Act prescribed for Clapboards; shall be accounted merchantable, all that are otherwise to be culled out and burnt, 'till what be left of said Bundles will bear the same Proportions before prescribed, according to the Judgment of the said Surveyor, who shall have for his Service, if Shingles, Twopence per Thousand; if Clapboards, Two pence per Thousand surveying, and One Penny more per Thousand telling; to be paid by the owner or Seller, where no Forfeiture is found for want of Tale to satisfy such Charge, and for every Thousand he culls and binds up again, Six Pence per Thousand, and proportionably for a lesser Quantity, to be paid by the Owner or Seller of the said Shingles or Clapboards, returning the Remainder to the Owner, if any be, after the Charges are paid.

And be it also enacted, That if any Boards, Plank, Timber, or Slit-work, or any Shingles or Clapboards, shall be exposed for Sale, or shipped for Exportation, without such Survey as above directed, had before the Delivery thereof; the whole of such Boards, Plank, Timber, Slit-work, Shingles or Clapboards, or the Value thereof, shall be forfeited by the Seller or Shipper.

And be it further enacted, That all Hoghead Staves, Barrel Staves, Hoghead Hoops, and Barrel Hoops that shall be imported or brought for Sale to any Town within this Province, or exported from thence to any foreign Market, before their Delivery on Sale shall be viewed and Surveyed by one of the Surveyors thereto appointed, who shall take strict Care that the same be severally conformable to the Directions of this Act; and that all Staves and Hoops, that according to the Judgment of the said Surveyor, shall be agreeable to the Directions of this Act, and none other, shall be accounted Merchantable; and all that shall be found otherwise to be culled out and burnt, till what be left will bear the several Proportions by this Act prescribed, according to the Judgment of the said Surveyor, who shall have for his Service, if Staves, Six Pence per Thousand, if Hoops Three Pence per Thousand to be paid by the Seller.

And be it also enacted, That all Hoops exposed to Sale by Quantities in Bundles that do not hold out the Number that they are so exposed to sale for, unless it appears that some are drawn or shaken out of the Bundle after packing, shall be forfeited; the Charge of surveying Three Pence per Thousand, and Three Pence per thousand telling, and so in Proportion

Proportion for a lesser Quantity, being paid thereout. And if any Staves or Hoops shall be delivered upon sale or shipped for exportation to any Foreign Market, before they have been surveyed by the Surveyor, and by him found to answer the Descriptions in this Act mentioned, the same shall be forfeited, or the Value thereof, by the Seller or Shipper thereof.

And be it further enacted, That all Chord-Wood exposed to sale, shall on the Sale, and before the Delivery thereof, be surveyed by the Officer for that Purpose appointed, who shall measure the same, and take Care that each Chord do answer the Qualifications by this Act required; and he shall receive of the the Seller for each Survey and Examination, *Two Pence* per Chord and no more; and if any Chord-wood shall be sold and delivered without such Survey, the same shall be forfeited, or the Value thereof, by the Seller.

And be it further enacted, That if any Person shall refuse to satisfy the Officer or Officers by this Act appointed, his Fees beforementioned, he shall have Power to detain so much of the Commodity as will make him Satisfaction for his Fees and Travel aforesaid: *Provided* that such Fees do not exceed the Sum of *Twenty Shillings*, and in Case the same shall exceed the Sum of *Twenty Shillings*, then to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of any one of His Majesty's Justices of the Peace, the Surplus, if any be, after paying the Officer's Fees and Charges of Distress and Sale, to be returned to the Owner of the said Goods.

And be it further enacted, That an Oath shall be administered to the several Officers that shall be chosen to gauge, survey and search the several Articles in this Act mentioned, in the following Form, *Viz.*

*Y*O U swear, That you will from Time to Time diligently and faithfully discharge and execute the Office of-----within the Limits whereto you are appointed for the ensuing Year, and until another be chosen in your Place; and that in and by all the Particulars mentioned in the Laws whereto your Office hath Relation; and that you will do therein impartially according to Law, without Fear or Favour.

So help you G O D,

And be it likewise enacted, That all Fines, Penalties, and Forfeitures arising by Force and Virtue of this Act, shall be one Half to His Majesty, towards the Support of His Majesty's Government of this Province, and the other Half to him or them that shall inform or sue for the same; to be recovered in Manner following, *That is to say,* Where the Forfeiture or Value thereof shall not exceed the Sum of *Twenty Shillings*, the same to be recoverable before any one of His Majesty's Justices of the Peace, by Oath of one credible Witness, to be levied by Warrant of Distress and Sale of the offender's Goods and Chattels, under the Hand and Seal of such Justice, and for want of sufficient Distress, such Offender to suffer twenty Days Imprisonment; and where the Forfeiture or Value shall amount to

Above

above *Twenty Shillings*, but shall not exceed the Sum of *Three Pounds*, then the same to be recoverable before any two of his Majesty's said *Justices* of the Peace upon the like Proof as above, and to be levied by like *Warrant* under the Hands and Seals of such *Justices*, and for want of sufficient *Distress* the Offender to suffer sixty Days *Imprisonment*; and in case such *Forfeiture* or the Value thereof shall exceed *Three Pounds*, the same to be recoverable by him or them who shall inform or sue for the same, in any of His Majesty's Courts of Record in this Province.

And be it enacted, That this Act be read and published once every Year, at the opening of the first Courts of General Quarter Sessions of the Peace for the several Counties within this Province.

