



ANNO SEXTO

GULIELMI IV. REGIS.

CAP. III.

An ACT to prevent the encroachments of Aliens on the Fisheries of this Island, and for the further protection of the said Fisheries.

[6th May, 1836.]

WHEREAS Foreigners have of late years been in the practice of unlawfully resorting in great numbers to the various Harbours and Coves of Fortune Bay and other places adjacent thereto, Eastward of Cape Ray, for the purpose of cutting down and carrying away Timber and Brushwood and of procuring Caplin and other Bait for the use of their Fishery, to the great injury and detriment of the Trade and Fisheries of His Majesty's Subjects carried on in this Colony: And whereas it is necessary to adopt prompt and effectual measures for suppressing the unlawful practices abovementioned, and for preventing similar encroachments in future:

Preamble.

I.—*Be it therefore enacted*, by the Governor, Council and Assembly of Newfoundland, that no Alien or Stranger whatsoever shall at any time hereafter take Bait or use any sort of Fishing whatsoever in Newfoundland or the Coasts, Bays or Rivers thereof, or on the Coast of Labrador, or in any of the Islands or Places within or dependant on the Government of the said Colony; always excepting the rights and privileges granted by Treaty to the Subjects or Citizens of any Foreign State or Power in amity with His Majesty.

No Alien to take Bait or Fish on any part of the coast of Newfoundland or Labrador

—except such as are allowed by Treaty.

II.—*And be it further enacted*, That if any such Alien or Aliens shall take Caplin, Herring, Mackerel, Lance, Clams, or other Bait, or use any such Fishery as aforesaid, or shall cut down or carry away any Timber or Brushwood upon or from any part of this Island or its Dependencies (excepting as before excepted) such Alien or Aliens, and all and every Person or Persons aiding or assisting them, shall, on conviction thereof in any Court of Record in this Island, forfeit and pay to Our Lord the King a Fine not exceeding One Hundred Pounds, nor less than Ten Pounds, at the discretion of such Court, to be disposed of in manner hereinafter mentioned; and that all and every the Ships, Vessels, Boats or other Craft, with the Tackle, Apparel and Furniture thereof, and all Seines, Nets, Lines, Hooks or other Fish-

Penalty

—to be recovered on conviction, in any Court of Record

—with forfeiture of Vessels, Boats, Tackle, &c.

ing Craft used or employed in the taking, receiving or transporting of such Bait or Timber, or other materials aforesaid, together with such Bait or Timber, shall be forfeited to His Majesty, and the same shall be sold at Public Auction, and the proceeds thereof applied, in the manner hereinafter directed.

Sale of Bait to Foreigners prohibited.

III.—And whereas it is of the utmost importance to protect and encourage the Fishery carried on by His Majesty's Subjects in this Colony, at present greatly depressed by the injurious privilege enjoyed by Foreigners of taking and curing Fish on the Shores thereof, and to preserve, for the use of His Majesty's Subjects, the shoals of Bait which visit the coasts of this Island and its Dependencies; and to that end it is above all things necessary to prohibit the selling and disposing of Bait to Foreigners, who are thereby enabled to prosecute their Fisheries much more advantageously than they otherwise might, to the great detriment of the Trade and Fisheries carried on by His Majesty's Subjects in this Colony—*Be it therefore further enacted*, That from and after the passing of this Act, it shall not be lawful for any Person or Persons to sell or dispose of any such Caplin or other Bait as aforesaid, to any Alien, or Aliens, or to any Person or Persons for their use, and that it shall not be lawful for any Person or Persons to export from this Island or its Dependencies, or knowingly sell or dispose of to the end that the same may be exported from this Island, for the purpose of being used or employed in any Fishery or Fisheries carried on by Aliens or any other persons other than liege Subjects of His Majesty, any such Caplin or other Bait whatsoever.

Penalty.

IV.—*And be it further enacted*, That if any Person or Persons shall so sell or dispose of to any Alien or Aliens, or so export or cause to be exported from this Island or its Dependencies, or knowingly sell or dispose of to the end that the same may be exported from this Island or its Dependencies, other than for the purpose of being used and employed in the Fisheries so carried on by His Majesty's Subjects as aforesaid, any such Caplin or other Bait whatsoever, he or they so offending shall, on conviction thereof, in any Court of Record in this Colony, forfeit and pay to our Lord the King a fine not exceeding One Hundred Pounds, nor less than Ten Pounds, at the discretion of such Court, and shall also forfeit all and every of the Ships, Vessels, Boats or other Craft used or employed in such exportation, with the Tackle, Apparel and Furniture thereto belonging, together with the Bait or the Money, Goods, or Effects for which the same shall have been sold or exchanged, or which may be found on board any such Ship, Vessel, Boat or other Craft, belonging to the Owners, Master or Crew of such Ship, Vessel, Boat or other Craft as aforesaid, to His Majesty, and the proceeds thereof shall be applied in the manner hereinafter directed.

And forfeiture of Vessels, Boats, &c.

Persons authorized to make seizures under this Act.

V.—*And be it further enacted*, That it shall and may be lawful for any Officer of His Majesty's Navy, or of His Majesty's Customs, or for any Justice of the Peace, Constable or other Peace Officer, to seize and detain all and every such Ships, Vessels or Boats, Nets, Seines or other Fishing Craft, as may be in any manner used or employed in the unlawful taking or exportation of Bait, or the transporting or carrying away of Wood or Timber, in contravention of this Act, together with the Bait, Timber, Brushwood and all other Goods, Chattels, Money and Effects found on board the same, or recently removed therefrom to avoid Seizure, and to detain and keep the same, subject to the Order, Judgment or Decree of any Court having jurisdiction therein.

VI.—*And be it further enacted*, That all Fines and Penalties imposed by this Act shall and may be sued for and recovered in any Court of Record in this Island; and in default of payment thereof, the Offender or Offenders shall be committed by such Court to the nearest Gaol, there to remain for any period not exceeding Six Months: and the Monies arising from all Fines and Forfeitures imposed by this Act shall, as to one moiety thereof, be paid to the Treasurer of this Colony to and for the use of our Sovereign Lord the King, his Heirs and Successors; and as to the other moiety thereof, the same shall be paid to the use of such Person or Persons as shall inform and sue for the same.

Recovery and appropriation of Penalties.

VII.—*And be it further enacted*, That upon an Affidavit being made before any of His Majesty's Justices of the Peace, or before a Commissioner of the Supreme Court appointed by His Majesty's Chief Justice of the Island to take Affidavits in the said Court, setting forth that any Alien or Stranger not residing in this Colony has committed any offence which by the provisions of this Act is subjected to any Penalty imposed by this Act, it shall and may be lawful for any such Justice to issue his Warrant for the apprehension of such Person, and to hold him to bail to appear at the next Term of the Supreme or Circuit Court to answer for such offence; and in default of Bail to commit him to prison, there to remain until delivered by due course of Law.

Offenders against this Act may be apprehended and held to bail, or in default committed to prison.

VIII.—*And be it further enacted*, That all seizures made under this Act, which shall upon the Oath of two competent sworn Appraisers, be valued under Fifty Pounds, may be heard and determined in a summary way before any Court of Sessions of the Peace in the District where the Seizure shall be made.

Seizures under £50 value may be heard and determined, summarily, in any Court of Sessions.

IX.—*And be it further enacted*, That if any Officer of His Majesty's Navy, or of His Majesty's Customs, Justice of the Peace, Constable, or other Peace Officer or Person aiding or assisting them or any of them in the seizure of any Ship, Vessel, Boat, Net, Seines, or other Fishing Craft or Tackle, or of any Bait, Timber, Brushwood, Goods, Chattels, Money or Effects, or other thing whatsoever, shall be sued or prosecuted for any thing done under and by virtue of the powers and authority of this Act, he may plead the General Issue and give this Act and the Special matter in evidence; and if in such Suit the Plaintiff shall be Nonsuited, or Judgment be given against him, the Defendant shall recover double Costs; and in case any Information shall be commenced and brought to Trial on account of the Seizure of any Ship, Vessel, Boat, Net, Seine, Craft, Tackle, Bait, Timber, Brushwood, Goods, Chattels, Money or Effects whatsoever, as seized or forfeited under this Act, wherein Judgment shall be given for the Claimant, and it shall appear to the Court or Justices before whom the same shall be tried that there was a probable cause of seizure, the Court or Justices shall certify on the Record that there was a probable cause of seizing the same, and in such case the Defendant shall not be entitled to any Costs whatsoever, nor shall the person who seized, or those acting in his aid, be liable to any Action or Prosecution on account of such seizure; and in case any Action or Prosecution shall be commenced and brought to Trial against any Person whatsoever, on account of any such seizure as aforesaid, and whether the cause of such seizure shall have been heard and determined or not, if the Court before whom such Action shall be brought shall certify as aforesaid that there was a probable cause for such seizure, then the Plaintiffs (besides the Ship, Vessel, Boat, or other thing seized, or the value thereof when the same shall not have been restored) shall not be entitled to more than One Shilling damages, nor to any Costs of Suit.

Seizing Officers prosecuted for any thing done under this Act may plead the General Issue.

Judge may certify probable cause of seizure.