



(Continued from our last Page.)

second Section of an Act made and passed in the fourth year of the reign of his present Majesty, intituled "An Act to establish and regulate a summary practice in the Supreme Court," the Court or a Judge thereof may let in the defendant to appear and defend in like manner and upon such terms as in actions not summary, by the practice of the said Court, may be done after interlocutory judgment, any thing in the said second Section of the said Act to the contrary notwithstanding.

II. And be it enacted, That in such summary actions the Defendant may file a demurrer to the writ in lieu of the General Issue, and give a copy thereof to the Plaintiff's Attorney; which demurrer shall be in a brief and summary form, and notice in writing of the grounds thereof shall be given to the Plaintiff's Attorney at the same time with such copy; and upon such demurrer the Court shall give judgment according as the very right of the cause shall require, without regarding any imperfection, defect or want of form in the writ; and if Judgment be given for the Plaintiff the Court may proceed to assess the amount to be recovered in like manner as in the case of Judgment by default, and no arrest of Judgment shall be allowed in such summary action.

III. And be it enacted, That in such summary actions any matters in bar to the action, which in actions not summary ought to be pleaded specially, may be given in evidence under the General Issue; provided that notice in writing of such matters be given to the Plaintiff's Attorney at the same time with the Plea; and infancy or coverture of the Defendant shall not in any summary action be given in evidence unless such notice thereof be given.

CAP. XL.

An Act to continue an Act, intituled "An Act for regulating the Salmon Fisheries in the County of Gloucester."

Passed 17th March 1835.

BE it enacted by the Lieutenant Governor, Council and Assembly, That an Act made and passed in the third year of the reign of his present Majesty, intituled "An Act for regulating the Salmon Fisheries in the County of Gloucester," be and the same is hereby continued and declared to be in full force and effect until the first day of May which will be in the year of our Lord one thousand eight hundred and forty.

CAP. XLI.

An Act relating to the Navigation of the Inner Bay of Passamaquoddy.

Passed 17th March 1835.

BE it enacted by the Lieutenant Governor, Council and Assembly, That it shall and may be lawful for such Commissioners as His Excellency the Lieutenant Governor or Commander in Chief for the time being may hereafter appoint, or the major part of them, to build, rebuild, replace and support such Beacons or Buoys on the different reefs of Rocks, sand Reefs and Bars in the Inner Bay of Passamaquoddy, and make such other erections and improvements for the better securing of the Navigation and improving the several Harbours within the same, as they may deem necessary and expedient.

II. And be it enacted, That from and after the passing of this Act, there be and are hereby granted to His Majesty, His Heirs and Successors, for the purposes hereinafter mentioned, the following duties of tonnage on all inward bound Vessels entering Passamaquoddy Bay within Deer Island, of the following description, and at the following rate, namely: on all Vessels (coasting craft excepted), one Halfpenny per ton, for every ton they respectively measure agreeable to Register, for each time they shall so arrive in Passamaquoddy Bay within Deer Island aforesaid.

III. And be it enacted, That the master or commander of every ship or vessel inward bound and entering the Bay of Passamaquoddy within Deer Island shall, within twenty four hours after such arrival and before any part of the cargo (if any) be discharged, or before any cargo be taken on board, make report at the office of the nearest Deputy Treasurer or other person legally authorised to receive the same, and pay him the tonnage duty imposed by the preceding Section of this Act; and in case any master or commander of any ship or vessel so entering as aforesaid shall neglect to make such report and also neglect to pay such duty within twenty-four hours as aforesaid, he shall forfeit and pay the sum of five pounds, to be sued for with costs of suit and recovered by the Deputy Treasurer before any one of His Majesty's Justices of the Peace for the County of Charlotte, and applied to the purposes aforesaid.

IV. And be it enacted, That the Commissioners so to be appointed as aforesaid or the major part of them shall have power and authority to call upon each and every of the said Deputy Treasurers, or other persons legally authorised resident within the said County, for such sum or sums of money as they or either of them may from time to time have collected under and by virtue of this Act, excepting the amount of five per centum, which it shall be lawful for such Deputy Treasurers respectively, or other persons legally authorised, to retain for the trouble of collecting the same.

V. And be it enacted, That the said Commissioners shall at the first court of General Sessions of the Peace in the County of Charlotte yearly render an account to the Justices of the said Sessions, of the monies from time to time received and expended by them under this Act.

VI. And be it enacted, That if any person or persons shall take away, cut down, destroy or deface any of the said Beacons or Buoys, or any ship or other erection already erected or hereafter to be erected for the purposes of this Act, such offender or offenders shall, on due conviction thereof by the oath of one or more credible witness or witnesses before any two of His Majesty's Justices of the Peace, forfeit and pay a sum not exceeding twenty pounds, to be applied as aforesaid, and on failure of payment thereof or for want of goods and chattels whereon to levy, such offender or offenders shall be committed by the said Justices to the County Gaol for a space of time not exceeding three months.

VII. And be it enacted, That this Act shall continue and be in force until the first day of April which will be in the year of our Lord one thousand eight hundred and forty.

CAP. XLII.

An Act to authorise the Rector, Church Wardens and Vestry of Trinity Church in the Parish of Saint John in the City of Saint John to sell and dispose of certain Lands in the said City.

Passed 17th March 1835.

WHEREAS the Rector, Church Wardens and Vestry of Trinity Church in the Parish of Saint John in the City of Saint John are now seized and possessed of certain Lands situate and being in the City aforesaid, bounded and described as follows, that is to say: all that certain lot, piece or parcel of Land, situate, lying and being in King's Ward in the City aforesaid, on the eastern side of Wellington Row, bounded on the north by land belonging to Charles Ward, Esquire, on the east by the lot of Land hereinafter described, south by property at present in the occupation of John T. Smith, and west by Wellington Row aforesaid, the same being thirty-seven feet and six inches in front on Wellington Row aforesaid and extending back or easterly, preserving the same breadth, one hundred feet more or less; and also all that certain other lot, piece or parcel of Land situate, lying and being in the Ward aforesaid, beginning at a point on the western line of Dorchester street at the north eastern corner of a Lot of Land heretofore sold and conveyed by Ward Chipman, Administrator of the Estate and Effects of the Honorable William Hazen, deceased, Intestate, to Nehemiah Merritt, thence running northerly on the same line of Dorchester Street forty feet, thence at right angles westerly eighty feet to the rear line of a Lot formerly owned by James White, Esquire, thence southerly on the line last mentioned forty feet to the north western corner of the said Nehemiah Merritt's Lot, thence easterly on the line of the Lot last mentioned to the place of beginning. And Whereas it would tend much to the advantage of the said Rector, Church Wardens and Vestry of Trinity Church in the Parish of Saint John, if the said several Lots of Land above described were sold and disposed of, and the proceeds thereof applied towards the payment of the debt now due by them:

BE it therefore enacted by the Lieutenant Governor, Council and Assembly, That the said Rector, Church Wardens and Vestry of Trinity Church in the Parish of Saint John, be and they are hereby authorized and empowered to make sale and dispose of the said Lots of Land and Premises with the appurtenances, or any part or parts thereof, for such price or prices as they may be able to get therefor, and thereupon to make and execute good, legal and sufficient conveyances of the same in fee, any former Law to the contrary notwithstanding: Provided always, that no

sale and disposition of the said Lots of Land and Premises, or of any part thereof, shall be made without the consent and approbation of the Bishop of the Diocese, being thereto first had and obtained; which consent and approbation shall be manifested by the Archdeacon or Ecclesiastical Commissary of this Province becoming a party to every deed of conveyance made under this Act, and by and with the direction of such Bishop, signing and sealing the same.

II. And be it enacted, That the monies arising from the sale and disposal of the said Lots of Land and Premises with the appurtenances shall be paid and applied by the said Rector, Church Wardens and Vestry towards the payment of the debts due by them.

CAP. XLIII.

An Act to regulate the Inspection of Dry and Pickled Fish for Home Consumption and for Exportation.

Passed 17th March 1835.

BE it enacted by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, all Tierces, Barrels and Half Barrels, in which Pickled Fish are packed for sale, either for Exportation or Home Consumption, shall be made of sound, well seasoned timber, free from sap, and constructed of staves of the thickness of not less than half an inch in the thinnest part, if made of hard wood, and five eighths of an inch, if made of soft wood, with heading well seasoned and planed or shaved, and free from sap, and to be in all cases of split or rift wood; the casks to be fully bound or closely hooped for nine inches from the chimbs on the barrels, and in the same proportion on tierces and half barrels: the barrel staves to be twenty eight inches in length, and the heads to be seventeen inches between the chimbs, and to contain not less than twenty eight nor over twenty nine Gallons: the half barrels to contain not less than fourteen Gallons, and the Tierces to contain not less than forty two nor more than forty four Gallons.

II. And be it further enacted, That it shall and may be lawful for the Justices of the Peace in each County, at their first General Sessions, annually, or the Mayor, Aldermen and Commonality of the City of Saint John for the said City and County, to appoint fit and proper persons to be Inspectors of Fish in each County, Town, and place where such may be necessary; and such persons before they enter upon the duties of their Office, shall respectively give Bonds, with two sufficient Sureties to His Majesty, His Heirs and Successors, in such sum not less than fifty pounds in this Province, and the said Mayor, Aldermen and Commonality of the City of Saint John, may direct; which Inspectors shall be sworn to the faithful discharge of their duty; and such persons shall continue in such Office until other fit and proper persons be appointed and sworn in their stead: and each Inspector shall and is hereby required to furnish himself with a copy of this Act, which he shall when required, produce to any person of persons who shall employ him to inspect Fish under this Act; and any person acting as an Inspector of Fish without being first duly appointed and qualified as aforesaid, shall forfeit and pay a sum not less than ten pounds nor more than fifty pounds to be recovered as is hereinafter provided.

III. And be it further enacted, That it shall be the duty of the said several Inspectors to see that Salmon, Mackerel, Shad, Alewives, Herrings, and all other kinds of Pickled Fish to be packed for home consumption or exportation have been well struck with salt and pickle, and preserved sweet, free from rust, taint or damage; and such Fish as are in good order and of a good quality shall be packed in good and sufficient tierces, barrels or half barrels; the tierces shall contain not less than three hundred pounds; the barrels not less than two hundred pounds; and the half-barrels not less than one hundred pounds of Fish each; and the same shall be packed with good and clean salt, suitable for the purpose; and the said casks, after being closely packed full and headed up with the Fish and sufficient salt, not less than in the proportion of one peck and a half of coarse salt to the barrel, or fine salt in proportion to preserve the same, shall be filled with clean strong pickle, and shall be branded on the same, as the case may be; those of the best quality, most approved and free from damage, shall be branded "No. 1;" those of a second quality, after the best have been selected, being sweet and free from taint, rust or damage, shall be branded "No. 2;" and there shall be a third quality of Salmon and Mackerel, which shall consist of the poorest and thinnest of those Fish, which are sweet, wholesome, and free from rust, that shall be branded "No. 3:" Provided always, that no small Herrings, commonly called Sprats or Frys shall be deemed merchantable; and the said Inspectors shall brand in plain and legible letters on the bilge of each and every such cask, across the staves, the initials of his christian name and his surname at length with the letters "N.S.P." for Inspector, and on the head of each and every such cask, and in like manner, the same marks, and also the month and year in which they were inspected, and N. B. for New Brunswick; the brands on the heads to occupy three lines thus or as the case may be—

A. B. Insp.
N. B. Sept. 1835.
Mackerel No. 1.

Each cask shall be filled with Fish of one and the same kind and quality, and if any person shall intermix, take out or shift any inspected Fish which have been packed and branded as aforesaid, or put in other Fish contrary to the true intent and meaning of this Act, he or they shall forfeit and pay the sum of ten pounds for each and every tierce, barrel, or half-barrel so altered; and if any person shall sell or export or cause to be sold or exported within or from this Province, as good or Merchantable, any tainted or damaged Fish, he shall forfeit and pay a sum not less than five shillings nor more than twenty shillings for every hundred pounds weight of such Fish thus sold or exported: Provided always, that it shall and may be lawful to export Herrings without pickle, if the same are in every other respect conformable to this Act.

IV. And be it further enacted, That all pickled Fish that may hereafter be imported into this Province, which shall appear to have been inspected at Halifax Nova Scotia, and are branded accordingly to the Laws of that Province, may be sold in this Province or exported therefrom without any other inspection, unless the purchaser or purchasers of such Fish shall think proper to have the same again inspected, in which case it shall and may be lawful for the buyer and the seller, if he shall think fit, to call an Inspector on behalf of each to reinspect such Fish; and on such reinspection, such Inspectors shall be governed by the provisions of this Act; which Inspectors shall be paid by the persons who shall respectively employ them.

V. And be it further enacted, That if the Master of any vessel, or any other person or persons shall put or receive on board any vessel, or other carriage or conveyance, to transport the same from this Province, any pickled Fish packed in casks which are not inspected and branded in manner by this Act prescribed, he or they on conviction shall forfeit and pay a sum not exceeding twenty shillings nor less than five shillings for each hundred pounds of such uninspected Fish.

VI. And be it further enacted, That the said Inspectors shall respectively be paid for inspecting, culling, and branding each and every cask of Fish as directed by this Act, at and after the following rates, viz: for each barrel, when the quantity inspected for any individual at any one time does not exceed one hundred barrels, the sum of sixpence per barrel, and when the quantity inspected for any individual at any one time shall exceed one hundred barrels, five pence per barrel, and for tierces and half-barrels in the like proportion; the said charge for inspecting, culling, and branding to be paid by the person or persons who shall employ such Inspector; and where any such Inspector shall be required to travel any distance not exceeding two miles from his usual place of residence for the purpose of inspecting any Fish, he shall be entitled to receive, in addition to the charge for inspection, six pence per mile for every mile he shall so travel, exceeding the said two miles; the same to be paid by the person employing such Inspector.

VII. And be it further enacted, That if any Inspector shall brand any insufficient or defective cask, or any cask the contents of which he has not inspected and culled according to the true intent and meaning of this Act, or if he shall permit any other person or persons to use his brand or brands in violation or evasion thereof, such Inspector and the person or persons so offending shall each severally forfeit and pay for every cask so branded, not less than five shillings nor more than twenty shillings, and such Inspector shall further be liable to be removed from Office; and if any Inspector when called upon to perform the duties of his Office shall neglect or refuse so to do, without good and sufficient reason, he shall forfeit and pay for each and every offence the sum of ten shillings, and further be liable to be removed from Office.

VIII. And be it further enacted, That in all cases where the person or persons employing any Inspector, shall neglect or refuse to furnish such assistance as may be necessary to enable the said Inspector to weigh and pack at least twenty barrels of Fish per day, it shall and may be lawful for

the said Inspector to employ such persons as he may require to weigh and pack such Fish, for which he shall be entitled to receive from the person or persons who shall employ him, over and above the charge for inspection, the sum of five pence per barrel for any quantity under one hundred barrels, and where the quantity shall exceed one hundred barrels, four pence per barrel.

IX. And be it further enacted, That if any pickled Fish as aforesaid shall be put on board any Boat, Vessel, or Carriage of conveyance, with intent to sell or export the same contrary to the provisions of this Act, it shall be lawful for any Justice of the Peace in the same County or City, or County, upon information given him to issue his Warrant to the Sheriff or his Deputy, or to any Constable of the Town or Parish in which such Boat, Vessel or Carriage of conveyance may be, requiring them respectively to detain such boat, vessel or carriage of conveyance as long as may be necessary, and to seize and secure said Fish, and carry the same to one of the nearest Inspectors, and such Inspector is hereby required to open and inspect, and to cull, pack, and brand the same as is before provided by this Act, and to detain the same until the expense and charges of seizure, inspection, packing and all other charges arising from such seizure shall be paid; and further the owner or person claiming such Fish shall be liable to and forfeit the sum of five shillings for every cask of Fish so seized, and it shall be the duty of every person when required to give his necessary aid to the Officer having such Warrant as aforesaid, on pain of forfeiting twenty shillings for his refusal.

X. And be it further enacted, That if any person or persons shall sell or offer for sale any pickled Fish before being inspected or contrary to the provisions of this Act, he or they shall upon conviction forfeit and pay for every hundred pounds of Fish so sold or offered for sale, the sum of five shillings: Provided always, that no person shall be liable as aforesaid unless information is given, and a prosecution commenced within thirty days from the date of the offence.

XI. And be it further enacted, That all penalties and forfeitures imposed and arising by virtue of this Act, when the same shall not exceed the sum of five pounds, shall be recovered before any Justice of the Peace, or where the same shall be more than five pounds, and shall not exceed fifteen pounds, before any two of His Majesty's Justices of the Peace, together with the costs of prosecution, on the oath of one or more credible Witness or Witnesses, and to be levied by Warrant of Distress under the hand and seal of such Justice or Justices, and sale of the Offender's goods and chattels, and for want of sufficient distress, such offender shall suffer not less than five days nor more than twenty days imprisonment; and in case such fine shall exceed fifteen pounds, the same may be recovered in any of His Majesty's Courts of Record in this Province, by action of debt, together with costs of Suit; one half of all such penalties and forfeitures to be paid to the person or persons who shall sue for the same, and the other half to be paid to the Overseers of the Poor of the Town or Parish, where such offence shall be committed, for the benefit of the Poor of such Town or Parish.

XII. Provided always and be it further enacted, That nothing in this Act shall be construed so as to prevent any pickled Fish from being sold at any of the Ports of this Province by the Fishermen as they may bring them to market in bulk, and that nothing in this Act shall extend to Fish packed in kegs or other packages of less than ten gallons.

XIII. And be it further enacted, That if the owner of any pickled Fish inspected as aforesaid, or buyer or seller of any such Fish, shall be dissatisfied with any such inspection, it shall and may be lawful for the said owner to call two other Inspectors, or the said buyer and seller to call one other Inspector each to re-inspect such Fish, and in case the said two Inspectors cannot agree, then they shall be at liberty to call in a third Inspector, and the determination of the said Inspectors, or any two of them, shall be final and conclusive; and in case the inspection shall be confirmed, each of the said Inspectors shall be paid by the persons who shall respectively employ them; and in case the first inspection shall not be confirmed, the owner or purchaser of said Fish shall be entitled to recover the expense of re-inspection, from the person of whom he purchased them, or from the first Inspector thereof, at the option of the said owner or purchaser.

XIV. And be it further enacted, That if any Inspector shall brand or mark any Fish which shall remain in this Province, and which on examination within four months after such inspection, reckoning from the last day of the month branded on the cask, shall prove to be of a quality inferior to the brand on such Fish, such Inspector shall be liable to the person or persons who shall own the said Fish at the time of such examination, for all such damage as he or they may have sustained by reason of the said Fish proving inferior to the brand on such casks; and that such person or persons shall recover from such Inspector all such damage as he or they shall have sustained thereby, where the same does not exceed five pounds, before one of His Majesty's Justices of the Peace, or if the same shall exceed the sum of five pounds and be less than fifteen pounds, then before two of His Majesty's Justices of the Peace, and in all cases where the damage shall exceed the sum of fifteen pounds by action of debt in any Court of Record in this Province, together with costs of suit: Provided always, that no Inspector shall be liable as aforesaid, unless he shall be duly notified of such claim, within six months after he shall have inspected such Fish, reckoning from the last day of the month branded on the cask.

XV. And be it further enacted, That there shall be three qualities of Dry Cod Fish, viz: the first or best to be called, "Merchantable," and to consist of smooth, well split, thoroughly dried, free from break, salt-burn, and not discolored in curing or otherwise, and that no Fish shall be deemed Merchantable but such as are cured in catch; the second quality to be called, "Madeira," and to consist of the next best, being such as are not injured by being salt-burnt, broken or much discolored; and the third quality to be called "West India," and consist of such as may be inferior to the above, but in all respects sound, free from slime, and wholesome; and that Inspectors duly appointed under this Act shall be allowed for their care, diligence and trouble, two pence per Quintal, payable half by the seller, and half by the buyer.

XVI. And be it further enacted, That this Act shall continue and be in force until the first day of April, which will be in the year of our Lord, one thousand eight hundred and forty.

CAP. XLIV.

An Act to authorise an Assessment on the Inhabitants of the County of Charlotte towards paying off the Debts due from the said County.

Passed 17th March 1835.

BE it enacted by the Lieutenant Governor, Council and Assembly, That the Justices of the Peace for the County of Charlotte at any General Sessions of the Peace hereafter to be holden therein, be and they are hereby authorised and empowered to make such rate and assessment of any sum not exceeding five hundred pounds as they in their discretion may think necessary for the purpose of paying off a part of the balance due for the building the Gaol of said County, and also to pay a part of the contingent expenses of the said County, the same to be assessed, levied, collected and paid agreeably to any Acts now or hereafter to be in force for the assessing, collecting and levying of County rates.

CAP. XLV.

An Act to continue an Act relating to the Exportation of Lumber.

Passed 17th March 1835.

BE it enacted by the Lieutenant Governor, Council and Assembly, That an Act made and passed in the first year of the reign of His present Majesty King William the Fourth, intituled "An Act to repeal the Acts now in force regulating the exportation of Lumber and to make other provisions in lieu thereof," be and the same is hereby continued and declared to be in full force until the first day of April which will be in the year of our Lord one thousand eight hundred and thirty-seven.

CAP. XLVI.

An Act to provide for the services of the Clerk of the Circuit Courts in this Province.

Passed 17th March 1835.

WHEREAS very great expense would be incurred by Suitors in the Courts of Justice if the travelling charges formerly paid to the Clerk of the Circuits should be again demanded:

BE it enacted by the Lieutenant Governor, Council and Assembly, That there be allowed to the Clerk of the Circuits for his services in attending the several Circuit Courts the sum of two hundred and fifty pounds per annum in lieu of all travelling charges to which he would be entitled under the Ordinance of Fees established in this Province; to be paid by warrant of the Lieutenant Governor or Commander in Chief, by and with the advice and consent of