

ANNO TRICESIMO & TRICESIMO PRIMO

VICTORIÆ REGINÆ.

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CAP. LII.

An Act to alter and amend the Acts relating to the *British* White Herring Fishery.

[15th *July* 1867.]

Recital of Acts relating to British White Herring Fishery.

WHEREAS the following Acts were passed for the Encouragement and Regulation of the *British* White Herring Fishery; that is to say, the Acts of Forty-eighth of *George* the Third, Chapter One hundred and ten; Fifty-first of *George* the Third, Chapter One hundred and one; Fifty-second of *George* the Third, Chapter One hundred and fifty-three; Fifty-fourth of *George* the Third, Chapter One hundred and two; Fifty-fifth of *George* the Third, Chapter Ninety-four; First of *George* the Fourth, Chapter One hundred and three; First and Second of *George* the Fourth, Chapter Seventy-nine; Fifth of *George* the Fourth, Chapter Sixty-four; Seventh of *George* the Fourth, Chapter Thirty-four; First of *William* the Fourth, Chapter Fifty-four; Fourteen and Fifteenth of *Victoria*, Chapter Twenty-six; Twenty-third and Twenty-fourth of *Victoria*, Chapter Ninety-two; Twenty-fourth and Twenty-fifth of *Victoria*, Chapter Seventy-two; Twenty-eighth and Twenty-ninth *Victoria*, Chapter Twenty-two:

And whereas it is expedient that certain of the Restrictions imposed by the recited Acts as to the Description of Net, or Mode

of fishing for and taking Herrings and Herring Fry on the Coasts of *Scotland* should be removed, and that the recited Acts should be amended in certain other respects:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

After passing of Act Restrictions on Mode of fishing for Herrings removed.

1. From and after the passing of this Act, notwithstanding anything in the recited Acts or any of them to the contrary, it shall be lawful to fish for and take Herrings and Herring Fry at all Places on the Coasts of *Scotland*, in any manner of way, and by means of any Kind of Net having Meshes of a Size not less than that now permitted or required by Law, and to sell, buy, or have in possession Herrings or Herring Fry so fished for and taken; and in lieu of the larger Penalties imposed by the recited Acts or any of them upon Persons using Nets having Meshes of a Size less than that now permitted or required by Law, every Person who shall fish for Herrings or Herring Fry with a Net having Meshes of a Size less than that now permitted or required by Law shall for every such Offence be liable in a Penalty of not less than Five Pounds and not exceeding Twenty Pounds, together with the Forfeiture of the Net.

Section 5. of 23 & 24 Vict. c. 92. repealed.

2. The Fifth Section of the Act passed in the Twenty-third and Twenty-fourth Years of Her present Majesty, Chapter Ninety-two, is hereby repealed, and in lieu thereof it is enacted as follows:

Commissioners may make Regulations for Preservation of Order.

It shall be lawful for the Commissioners of the *British* White Herring Fishery from Time to Time to make such Regulations as they shall think fit for the Preservation of Order among the Persons engaged in the Herring Fisheries on the Coasts of *Scotland*, and for preventing such Persons from destroying, injuring, or carrying off each other's Nets, or the Fish therein, or Floats, Buoys, or other Fishing Implements or Apparatus; and every Person who commits any Breach or Contravention of any such Regulations shall be liable to a Penalty of not less than Five and not exceeding Twenty Pounds for every such Offence; and the Boat in or from which such Person shall commit such Breach or Contravention, and all sailing, rowing, or steering Gear connected therewith, may be seized and detained by any Superintendent appointed under the Authority of the recited Acts or any of them, or by any Person acting under his Orders, or by any Officer of the Fishery or by any Person acting under his Orders, or by Order of any Sheriff, Justice of the Peace, or Magistrate having Jurisdiction under the recited Acts or any of them, or under this Act, for such Period, not exceeding Thirty Days, as the Commissioners shall determine. And

Penalties for Contravention of Regulations.

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the Herrings or Herring Fry in the Possession of the Person committing such Breach or Contravention, and the Nets, Floats, Buoys, and other Fishing Implements or Apparatus used by him, may be seized by any Superintendent appointed under the Authority of the recited Acts or any of them, or by any Person acting under his Orders, or by any Officer of the Fishery or by any Person acting under his Orders, or by Order of any Sheriff, Justice of the Peace, or Magistrate having Jurisdiction under the recited Acts or any of them, or under this Act, and may be forfeited.

Regulations may be rescinded or altered.

3. The Commissioners may from Time to Time rescind, alter, or amend any Regulation or Regulations made by them under the Authority of this Act.

Regulations to be submitted to and approved by Treasury, and published.

4. All Regulations made by the Commissioners under the Authority of this Act, or Amendments or Alterations thereof, shall, before taking effect, be submitted to and approved by the Commissioners of Her Majesty's Treasury, and shall thereafter be published by printed Copies thereof being posted up in conspicuous Positions near the Harbours or other Places frequented by Fishermen, in the Districts or Places to which the Regulations shall apply, and by printed Copies thereof being deposited with every Officer of the Fishery in such Districts or Places, and in the Office of the Sheriff Clerk or Sheriff Clerks of the County or Counties within which such Districts or Places are situated, and also by Advertisement inserted once in each of Two Newspapers published or circulated in such Districts or Places, either setting forth such Regulations in full, or intimating that such Regulations have been made, and that Copies thereof have been deposited with the Officers of the Fishery as aforesaid, all in such Manner as the Commissioners shall direct; and after such Regulations shall have been so published it shall not be any Defence against Proceedings for the Enforcement of any Penalty or Forfeiture incurred by any Breach or Contravention thereof that the Person charged with such Breach or Contravention was or alleged himself to be ignorant of such Regulations: Provided always, that such Regulations shall have been so published at least One Week before the same can be enforced; and a printed Copy of any Regulation, signed by the Secretary of the Commissioners for the Time being, shall be Evidence of the Terms of such Regulation, and that the same has been duly published, reserving to any Person having Interest the Right to prove that the same was not so published.

Penalty for resisting Persons acting under the

5. Every Person who shall resist or obstruct any Person acting under the Orders of the Naval Superintendent appointed under

Orders of Naval Superintendent.

the Authority of the recited Acts or any of them, in the Execution of the Powers or Duties conferred on or intrusted to him by or under any of the recited Acts or by or under this Act, shall be liable to a Penalty not exceeding Fifty Pounds, or, failing Payment thereof, to Imprisonment for any Period not exceeding Sixty Days.

Penalty for resisting Superintendents, Fishery Officers, &c.

6. Every Person who resists or obstructs any Superintendent appointed under the Authority of the recited Act of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter Ninety-two, or any Person acting under his Orders, or any Officer of the Fishery or any Person acting under his Orders, in the Exercise of any of the Powers conferred on, or in the Execution of any of the Duties entrusted to, such Superintendent or Officer or the Persons acting under their Orders respectively, by or under any of the recited Acts, or by or under this Act, shall be liable to a Penalty not exceeding Fifty Pounds, and, failing Payment thereof, to Imprisonment for any Period not exceeding Sixty Days.

Powers, &c. of 23 & 24 Vict. c. 92. and 24 & 25 Vict. c. 72. extended to this Act.

7. All the Powers, Jurisdictions, and Authorities given, created, or conferred by the recited Acts of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter Ninety-two, and the Twenty-fourth and Twenty-fifth Years of the Reign of Her present Majesty, Chapter Seventy-two, or either of them, for carrying into effect the Purposes of those Acts respectively, shall, in so far as consistent with the Provisions hereof, be held to extend to and be incorporated with this Act; and all Forfeitures and Penalties imposed by or incurred under the Provisions of this Act may be prosecuted, declared, and enforced after the Forms and according to the Rules and Procedure prescribed by the said recited Act of the Twenty-third and Twenty-fourth Years of the Reign of Her present Majesty, Chapter Ninety-two; Provided always, that where any Herrings or Herring Fry shall have been seized as being liable to Forfeiture under the Provisions of the recited Acts or any of them, or of this Act, or of any Regulations made or to be made by the Commissioners as therein or herein provided, it shall be lawful for any Superintendent or any Officer of the Fishery, or any Person acting under their Orders respectively, to destroy such Herrings or Herring Fry, or to sell them as soon as may be by open Sale, as he shall think fit; and, if sold, the Proceeds, after deducting Expenses, shall, in the event of a Forfeiture being obtained, be accounted for to the Commissioners of Her Majesty's Treasury, or if the Sheriff, Justice, or Magistrate declaring the Forfeiture shall so direct, One Half thereof shall be paid to the Captor or Informer; or, in the event of no Forfeiture being

being obtained, the Proceeds, after deducting as aforesaid, shall be paid over, on Demand, to the Person in whose Possession the said Herrings or Herring Fry were when seized, unless such Person shall have absconded from Justice during the whole or any Part of the Period of Six Months from the Date of such Seizure; and all Penalties imposed and recovered under the Provisions of the recited Acts or any of them, or of this Act, shall be appropriated and disposed of in Terms of the Forty-eighth *George* the Third, Chapter One hundred and ten.

Nothing to affect Provisions of 6 & 7 Vict. c. 79. or of French Convention.

8. Nothing contained in this Act shall affect the Provisions of an Act passed in the Sixth and Seventh Years of the Reign of Her present Majesty, intituled *An Act to carry into effect a Convention between Her Majesty and the King of the* French *concerning the Fisheries in the Seas between the* British *Islands and* France, or the Provisions of the Convention therein referred to, or the Provisions of any Act passed or to be passed for altering, amending, or repealing the said Act, or for carrying into effect a new Fishery Convention recently made between Her Majesty and the Emperor of the *French*.

Partial Repeal of recited Acts.

9. The recited Acts, and all other Laws, Statutes, and Usages, shall be and the same are hereby repealed, in so far as necessary to give Effect to the Provisions of this Act, but in all other respects they shall remain in full Force and Effect.

Sect. 6. of 23 & 24 Vict. c. 92. repealed.

10. The Sixth Section of the "Herring Fisheries (*Scotland*) Act, 1860," shall be and the same is hereby repealed.

Interpretation of Terms.

11. Unless there is anything in the Context repugnant to such Construction, the following Words in this Act shall have the Meanings hereby assigned to them:

The Words "the Commissioners" shall mean the Commissioners of the *British* White Herring Fishery:

The Word "Superintendent" shall mean and include the Naval Superintendent or any Superintendent appointed under the Authority of the recited Acts or any of them:

The Words "Officer of the Fishery" shall mean an Officer of the *British* White Herring Fishery appointed under the Authority of the recited Acts or any of them:

The Words "the Coasts of *Scotland*" shall mean and include all Bays, Estuaries, Arms of the Sea, and all Tidal Waters within the Distance of Three Miles from the Mainland or adjacent Islands.

12. This

Short Title.

12. This Act may be cited for all Purposes as "The Herring Fisheries (*Scotland*) Act, 1867."

Commencement of Act.

13. This Act shall take effect from and after the passing thereof.

Only to apply to Scotland.

14. This Act shall only apply to *Scotland* and the Coasts thereof.

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