

Bill No. 41 of 1950.

A BILL TO PROVIDE FOR THE REGULATION OF
FISHING AND DEALING IN FISH.

NOTE.

This Bill enacts a new Act to be known as "*The Fishery Act*".

It consolidates into one Act the provisions formerly contained in *The Alberta Fishery Act*, chapter 71 of the Revised Statutes of Alberta, 1942; *The Fish Dealers Act*, chapter 12 of the Statutes of Alberta, 1944; and *The Alberta Fish Inspection Act*, chapter 13 of the Statutes of Alberta, 1944. These Acts are repealed by this Bill.

The Bill applies to all fish, fishing and rights of fishing and to the sale of fish and to all other matters relating thereto which are within the legislative competence of the Province.

The Bill is to be administered under the supervision of the Fish and Game Commissioner. The Lieutenant Governor in Council is empowered to appoint such fishery officers and other persons as are necessary in connection with the administration of the Bill. Fishery guardians may be appointed by the Minister of Lands and Forests. Members of the Royal Canadian Mounted Police, forest officers and game officers are *ex officio* fishery guardians.

The Lieutenant Governor in Council is given a broad authority to make regulations. Regulations may be made governing the issue of licenses, fixing the fees for licenses and prescribing returns. Regulations may also be made governing the packing, handling, processing and storage of fish and providing for the inspection of fish. The regulations may require the payment of royalties on any fish or class of fish and may prescribe the amount of these royalties. They may also authorize the seizure of unsound fish.

Licenses may be issued to operate a fishing station or to buy or sell fish or to process fish or to engage in the business of exporting fish or operating a cold storage plant. Each license designates the class of business the licensee is permitted to carry on.

Fishing station operators, fish dealers and operators of cold storage plants are required to keep records, the nature of which is set out in the Act.

Fishing station operators, fish dealers and persons engaged in the business of processing, exporting or retailing fish are required to send monthly statements to the Fish and Game Commissioner.

The provisions of the *Fish Inspection Act* as enacted by the Parliament of Canada are enacted by reference and have the force of law in this Province.

The powers of officers under the Act are set out in some detail. The term "officer" is defined as meaning any fishery officer, fishery inspector, fishery guardian, game guardian, game officer or forest officer, and also officers authorized under the *Fisheries Act* of the Dominion of Canada. Any officer may examine and take extracts from records required to be kept by this Act. An officer is authorized to stop and search without a search warrant any vehicle or other means of transportation in any case where he has reason to believe that it contains fish subject to inspection or fish that has been dealt with contrary to the provisions of the Act. In carrying out his duties under the Act an officer can enter any building or premises other than a private dwelling and search without a warrant and may enter and pass over private property. If the officer in the course of the search finds fish which are being dealt with contrary to the provisions of the Act he is empowered to seize the fish as well as any documents relating thereto or any vehicle or other mode of transportation by which the fish were being conveyed. If an officer finds any person committing an offence he may arrest such person without a warrant and may seize any fish or other articles in the possession of such a person.

Every carrier before transporting any fish is required to obtain from the shipper a statement in duplicate containing certain information which is set out in the Act. One copy of the statement accompanies the shipment at all times and the other is to be delivered to the consignee. No buyer or consignee can accept the fish unless it is accompanied by the statement. If a vehicle transports fish which is not accompanied or covered by the required statement both the vehicle and the fish are subject to seizure.

Penalties are prescribed for the commission of offences against the Act. The Act also contains provisions relating to procedure in prosecutions and the admission of evidence in such prosecutions. Every prosecution must be commenced within a year after the commission of the offence, except in the case of a prosecution for an omission to keep records required to be kept. In that case the information may be laid at any time after the offence is alleged to have been committed.

Where any fish or vehicle is under seizure in connection with an offence against this Act confiscation of it automatically follows conviction for the offence. The confiscated property is disposed of in accordance with the directions of the Minister. However, in the case of fish which are subject to spoilage the justice before whom the information is laid or, if he is not readily available, any officer may sell or otherwise dispose of the fish. The proceeds of the sale of any property seized are transmitted to the Provincial Treasurer and form part of the General Revenue Fund.

If any person is convicted of an offence against the Act a license held by him is automatically forfeited upon conviction.

In any case of undue hardship or injustice the Minister may grant relief against the seizure, sale or forfeiture by directing the return of the article seized or by directing the payment of the proceeds of the sale to the person from whom the articles were seized.

KENNETH A. MCKENZIE,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 41 of 1950.

An Act to provide for the Regulation of Fishing and
Dealing in Fish.

(Assented to _____, 1950.)

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Alberta,
enacts as follows:

Short Title.

1. This Act may be cited as "*The Fishery Act*".

Interpretation.

2. In this Act, unless the context otherwise requires,—
 - (a) "Commissioner" means the Fish and Game Commissioner appointed under the provisions of *The Game Act, 1946*;
 - (b) "cold storage plant" means any cold storage plant which as part of its business receives fish for cold storage or processing;
 - (c) "fish" means any species of fish found in the waters of the Province;
 - (d) "fish dealer" means any person, other than a retailer, who buys fish for the purpose of resale;
 - (e) "fishery guardian" means any person appointed by the Minister for the purpose of enforcing the provisions of this Act and those persons designated in section 4, subsections (3) and (4);
 - (f) "fishery officer" means any fishery officer appointed under the provisions of *The Public Service Act, 1947*, for the purpose of enforcing the provisions of this Act;
 - (g) "fishing station" means any building or place where fish are received from fishermen, or packed, or received and packed;
 - (h) "fishing station operator" includes any person who in any manner or place receives or packs fish;
 - (i) "justice" has the same meaning as ascribed to that word in *The Summary Convictions Act*;
 - (j) "Minister" means the Minister of Lands and Forests;
 - (k) "officer" means any fishery officer or fishery guardian appointed for the purpose of enforcing the provisions of this Act, or any officer or person author-

ized by the Minister to assist in the enforcement of the *Fisheries Act* (Canada) and regulations made thereunder;

- (l) "process" means to smoke, to fillet, to salt or to otherwise prepare fish or fish products for market;
- (m) "retailer" includes in addition to its ordinary meaning a pedlar and any other person who sells fish by retail sale;
- (n) "transaction" includes a purchase or sale of and a contract or agreement with respect to fish.

Application of Act.

3. This Act applies to all fish, fishing and rights of fishing and to the sale of fish and to all matters relating thereto which are within the legislative competence of the Province, and is subject to the exercise by the Parliament of Canada of its legislative jurisdiction as to sea-coast and inland fisheries.

Administration.

4.—(1) The Fish and Game Commissioner appointed under the provisions of *The Game Act, 1946*, shall supervise,—

- (a) the administration of this Act; and
- (b) all officers and employees of the Fisheries Division and such other persons as may be appointed to enforce the provisions of this Act.

(2) Subject to the provisions of *The Public Service Act, 1947*, the Lieutenant Governor in Council may appoint such fishery officers and other officers as are necessary for carrying out the provisions of this Act.

(3) The Minister may,—

- (a) appoint such other persons as he may deem proper as fishery guardians who shall enforce the provisions of this Act under the direction of the Fish and Game Commissioner; and
- (b) provide for the remuneration of such fishery guardians in any case in which he deems it proper.

(4) All members of the Royal Canadian Mounted Police, all forest officers and all game officers shall be *ex officio* fishery guardians and shall have the same powers and duties as are conferred or imposed upon a fishery guardian appointed by the Minister pursuant to this Act.

5.—(1) The Lieutenant Governor in Council may make such regulations not inconsistent with this Act as are necessary to carry out the provisions of this Act according to their obvious intent or to meet any cases which arise for which no provision or insufficient provision is made in this Act.

(2) Without restricting the generality of subsection (1) the Lieutenant Governor in Council may make regulations,—

- (a) governing the issue of licenses and the terms, conditions and limitations subject to which the same shall be issued;
- (b) prescribing the forms of the licenses to be issued and of the records to be kept and of the statements to be furnished as required herein;
- (c) fixing the fees to be paid for licenses;
- (d) governing the cancellation of licenses;
- (e) prescribing information, in addition to that herein required, which shall be furnished in any statement sent to the Commissioner;
- (f) governing the packing, handling, processing and storage of fish and the sanitation of buildings and premises where the same is carried on;
- (g) respecting inspection and quality of fish;
- (h) fixing the rates of royalties and requiring the payment of the same on any fish or class of fish taken for commercial purposes and prescribing the amount of the royalties which may vary according to the class of fish taken and governing the payment and recovery of the royalties;
- (i) authorizing the seizure and confiscation of unsound fish;
- (j) prescribing generally anything that may be necessary for the proper management and regulation of fisheries.

Licenses and Prohibitions.

6.—(1) Unless he has obtained and is in possession of a subsisting license therefor, no person shall,—

- (a) operate a fishing station; or
- (b) sell fish; or
- (c) buy fish by other than a retail purchase; or
- (d) process fish; or
- (e) engage in the business of exporting fish; or
- (f) operate a cold storage plant other than a plant licensed under *The Frozen Food Locker Act*.

(2) Every license shall designate the class or classes of business mentioned in subsection (1) in which the licensee is permitted to engage.

(3) In the case of a license to sell fish the license shall specifically state whether fish may be sold by wholesale only or by retail sale only or as otherwise stated in the license, as the case may be.

(4) Every person to whom a license is issued shall comply with the terms, conditions and limitations thereof.

7. Subject to any regulation in respect thereof made by the Lieutenant Governor in Council, the Minister, in his discretion, may issue, cause to be issued or refuse to issue any license required or permitted by this Act.

8.—(1) No person shall purchase fish except from a fisherman holding a subsisting commercial fishing license or from any person holding a subsisting license under this Act to sell fish.

(2) This section shall not apply to any person who purchases fish for consumption by himself or his family.

Records.

9.—(1) Every fishing station operator, every fish dealer and every person engaged in the business of processing or exporting fish shall keep an accurate and complete record of each individual transaction made or entered into by him.

(2) Without restricting the generality of subsection (1) the record shall show,—

- (a) the date of each transaction; and
- (b) the name, address and license number of the fisherman, fishing station operator, fish dealer or other person from whom the fish were purchased or received; and
- (c) the name, address and license number of the fish dealer, operator of a cold storage plant, person engaged in the business of processing or exporting fish, retailer or other person, to whom the fish were sold or delivered; and
- (d) the various species of fish and the quantity of each species included in, referred to or affected by each transaction; and
- (e) such other information as the Lieutenant Governor in Council may prescribe by regulations.

10.—(1) Every operator of a cold storage plant other than a plant licensed under *The Frozen Food Locker Act* shall issue duplicate receipts for all fish received by him showing,—

- (a) the date of receipt of such fish; and
- (b) the name, address and license number of the fisherman, fishing station operator, fish dealer or other person from whom the fish were received; and
- (c) the various species of fish and the quantity of each species included in, referred to or affected by each transaction; and
- (d) such other information as the Lieutenant Governor in Council may prescribe by regulation.

(2) A copy of each duplicate receipt shall be forthwith forwarded to the Commissioner.

Statements.

11.—(1) Every fishing station operator, every fish dealer and every person engaged in the business of processing or exporting fish shall send to the Commissioner on or before

the fifteenth day of each month a statement verified by the statutory declaration of a person having knowledge of the facts.

(2) The statement shall contain the information required to be recorded by section 9, subsection (2), clauses (a), (b), (d) and (e) in respect of each transaction made or entered into subsequent to the last transaction shown in the immediately preceding statement furnished as required by this section, or in the case of the first statement furnished, made or entered into during the thirty days immediately preceding the date of the statement.

12.—(1) On the request of the Commissioner, every person licensed to sell fish by retail shall send to the Commissioner, on or before the fifteenth day of each month, a statement verified by the statutory declaration of a person having knowledge of the facts.

(2) The statement shall contain the information mentioned in section 9, subsection (2), clauses (a), (b), (d) and (e), in respect of each purchase of fish made subsequent to the last purchase shown in the immediately preceding statement furnished as required by this section, or in the case of the first statement furnished, made or entered into during the thirty days immediately preceding the date of the statement.

Inspection.

13. The provisions of the *Fish Inspection Act*, as enacted by the Parliament of Canada and the amendments made thereto on or before the thirty-first day of March, 1950, in so far as any of them are within the legislative competence of this Legislature, dealing with the inspection of certain pickled, salted and other kinds of fish, shall have the force of law in the Province as if enacted by this Legislature and shall remain in full force and effect in this Province until otherwise enacted by this Legislature.

14.—(1) The Lieutenant Governor in Council may declare any amendments made to the *Fish Inspection Act* after the thirty-first day of March, 1950, and any order made under the Act either before or after that date in so far as any of them are within the legislative competence of this Legislature, to have the force of law in the Province as if enacted by this Legislature and such amendments or orders shall remain in full force and effect in the Province until otherwise enacted by this Legislature.

(2) The Lieutenant Governor in Council may declare any regulations under the *Fish Inspection Act*, made either before or after the thirty-first day of March, 1950, in so far as they are within the legislative competence of this Legislature, to have the force of law in the Province as if enacted by this Legislature and may rescind or revoke any such declaration.

Powers of Officers.

15.—(1) Any officer may examine and take extracts from any records required by this Act to be kept and for the purpose of verifying the same may also examine and take extracts from any other records, books and documents kept by or in possession of any person required by this Act to keep records.

(2) On request, every person required by this Act to keep records shall make available to any officer all such records and any other records, books and documents kept by him or in his possession.

16.—(1) An officer may stop and search, without a search warrant, any vehicle, aircraft, vessel, launch, boat, or canoe or any railway car including a caboose and a baggage or express car, in any case where the officer has reasonable grounds to believe that the vehicle, aircraft, launch, boat or canoe or railway car contains any fish that are subject to inspection or that have been or are intended to be bought, sold, received, stored, processed or otherwise dealt with contrary to the provisions of this Act.

(2) An officer, for the purpose of preventing or of detecting the violation of any of the provisions of this Act or the regulations, at any time and from time to time without warrant, may enter into any and every part of any place, other than a private dwelling house, and make searches in every part thereof and of the premises connected therewith as he may think necessary for the purpose aforesaid and may use all necessary force including the breaking of any lock or fastening in case the owner or person in charge obstructs or refuses to facilitate his search.

(3) In the discharge of his duties every officer and every person accompanied by him and every person authorized for that purpose may enter upon and pass through or over private property without being liable for trespass.

17.—(1) Where an officer in making or attempting to make a search under or pursuant to section 16, subsection (1) finds in any vehicle, aircraft, vessel, launch, boat, canoe or railway car any fish which in his opinion have been or are intended to be bought, sold, received, stored, processed or otherwise dealt with contrary to the provisions of this Act he shall forthwith seize the fish and the containers in which they are contained and any papers, books, documents or records therein or upon the person of any person found therein or connected therewith which may afford evidence of the commission of an offence against this Act or the regulations and he may also forthwith seize the vehicle, aircraft, vessel, launch, boat or canoe and any animal hitched to or drawing such vehicle.

(2) Where an officer in making or attempting to make a search under or pursuant to section 16, subsection (2) finds in any premises any fish which in his opinion have been

or are intended to be bought, sold, received, stored, processed or otherwise dealt with contrary to the provisions of this Act, he shall forthwith seize the fish and the containers in which the same are contained together with any papers, books, documents and records in the premises or upon the person of any person found therein or connected therewith which may afford evidence of the commission of an offence against this Act or the regulations.

(3) Where an officer finds any person committing or any person he has reason to believe has committed a violation of any of the provisions of this Act or the regulations, he shall forthwith seize all fish in the possession or control of the person together with any papers, books, documents or records which may afford evidence of the commission of an offence against this Act or the regulations.

(4) Where an officer at or in any place, whether in the possession or control of any person or not finds,—

(a) any fish which he has reason to believe have been or are intended to be bought, sold, received, stored, processed or otherwise dealt with contrary to the provisions of this Act or the regulations; or

(b) any vehicle, aircraft, vessel, launch, boat or canoe which he has reason to believe is kept or used for or in connection with the violation of this Act or the regulations, or any animal hitched to or drawing such vehicle;

he shall forthwith seize the fish and their containers and he may also forthwith seize the vehicle, aircraft, vessel, launch, boat, canoe or animal.

18. An officer on finding any person committing a violation of this Act or the regulations may arrest the person committing the same without a warrant and may bring him before a competent court to be dealt with according to law.

Carriers of Fish.

19.—(1) Every carrier, whether a common carrier or not including the owner or driver of any motor vehicle, before transporting or accepting for transport or buying any fish, shall obtain from the shipper or seller thereof a statement in duplicate signed by the shipper or seller.

(2) The statement shall set forth,—

(a) the various species of fish and the quantity of each species included in the shipment; and

(b) the name, address and license number of the shipper or seller thereof; and

(c) the name and address of the consignee or buyer thereof.

(3) A copy of the statement shall accompany the shipment and shall be delivered by the carrier to the consignee and one copy thereof shall be retained by the carrier or the owner or driver of the motor vehicle.

(4) No buyer or consignee and no carrier, including the owner or driver of a motor vehicle, shall buy or transport or accept fish or a shipment of fish unless it is accompanied by such a statement.

20. Any vehicle, aircraft, vessel, launch, boat or canoe used for transporting fish in respect of which no statement has been obtained by the carrier from the shipper or seller thereof, or that is otherwise used for transporting fish contrary to the provisions of this Act and any animal hitched to or drawing such vehicle shall be liable to seizure.

Offences and Penalties.

21. Every person who,—

- (a) fails to keep any record which by this Act he is required to keep; or
- (b) falsifies any record; or
- (c) fails to comply with the terms, conditions or limitations of any license issued pursuant to this Act; or
- (d) contravenes or fails to observe any other provision of this Act or of any regulation made pursuant to this Act;

shall be guilty of an offence under this Act.

22.—(1) No person without lawful excuse, the proof whereof shall lie on him, shall buy, sell, ship, transport or have in his possession any fish or any portion of any fish during a time when fishing for such fish is prohibited by law.

(2) A person shall be deemed to have a lawful excuse within the meaning of this section if he proves that,—

- (a) such fish or portion of any fish was caught, bought, sold, shipped, transported or had in possession during a time when commercial fishing for such fish was not prohibited by law in the Province; or
- (b) such fish or portion thereof was lawfully caught, bought or obtained possession of in another jurisdiction.

23. No person shall buy or sell any fish taken or caught under authority of a domestic fishing license within the meaning of special fishery regulations for the Province issued by order of the Governor General in Council pursuant to the *Fisheries Act* (Canada) or buy or sell any fish caught by angling.

24.—(1) Every person, not a corporation, who is convicted of an offence under this Act shall be liable on summary conviction,—

- (a) if the conviction is for a first offence, to a fine of not more than two hundred dollars and in default of immediate payment to imprisonment for not more than one month; and

(b) if the conviction is for a second or subsequent offence, to a fine of not less than fifty dollars and not more than five hundred dollars and in default of immediate payment to imprisonment for not more than three months.

(2) Every corporation which is convicted of an offence under this Act shall be liable to a fine of not less than fifty dollars and not more than one thousand dollars.

(3) Where a corporation is convicted of an offence under this Act, every director of the corporation, unless he satisfies the court that the offence for which the corporation was convicted was committed without his knowledge and consent, shall be deemed to be a party to the offence so committed.

(4) Unless the fine imposed on a corporation is paid within three months after the conviction every director deemed to be a party to the offence may be prosecuted as a principal offender and shall be liable on summary conviction to imprisonment for a term not exceeding three months.

25. Every person shall be guilty of an offence who resists or wilfully obstructs any officer in the execution of his duty or any person acting in aid of such an officer.

Procedure and Evidence.

26.—(1) Any information or complaint as to an offence under the provisions of this Act shall be laid within one year after the commission of the offence, except in the case of a prosecution for omission to keep any record or send any statement required by this Act or the regulations, in which case it may be laid at any time after the offence is alleged to have been committed.

(2) A contravention of this Act or of the regulations or of the terms or conditions of a license shall constitute an offence against this Act.

(3) The description of an offence in the words either of this Act or of the regulations or in any similar words shall be sufficient and any information or complaint may be for one or more offences.

(4) In any prosecution or proceeding under this Act in which proof is required,—

- (a) as to the issue or cancellation of any license; or
- (b) as to the person who is the licensee named in a license; or
- (c) as to the delivery, serving, mailing or giving any notice or document by the Department of Lands and Forests;

a certificate signed by the Commissioner certifying as to the same shall be *prima facie* proof of the facts stated in the certificate and of the authority of the Commissioner without any proof of the appointment or signature.

(5) The fact that the person charged in the information or complaint laid under this Act has the same name as the person who is certified as being the license holder in any certificate signed by the Commissioner shall constitute *prima facie* proof that the person so charged is the holder of the license.

27.—(1) In any case where any fish, container, vehicle, aircraft, vessel, launch, boat or canoe is under seizure, confiscation thereof shall automatically follow conviction for an offence under this Act and the same shall become the property of His Majesty in the right of the Province to be disposed of as the Minister may direct.

(2) Notwithstanding subsection (1), in the case of fish which are subject to spoilage the justice before whom the information is laid, may order immediate disposal of such fish as he may see fit and if the justice is not readily available any officer may sell or otherwise dispose of such fish as he may see fit.

(3) In any case where any fish, container, vehicle, aircraft, vessel, launch, boat or canoe is under seizure and the owner is unknown, or where no legal action has been taken regarding any seizure where an alleged violation of this Act or the regulations has occurred, the Minister may direct the disposal thereof or in the case of fish which are subject to spoilage, any officer may sell or otherwise dispose of such fish as he may see fit.

(4) The proceeds of the sale of any seizure made under this section shall be transmitted to the Provincial Treasurer forthwith and shall form part of the General Revenue Fund.

28.—(1) A license held by any person convicted of an offence against this Act or the regulations shall be deemed to be cancelled upon conviction without further action or notice but the Minister may authorize the reinstatement of any such license.

(2) Where the Minister is satisfied that the seizure, sale or confiscation of any article or thing would work undue hardship or injustice upon any person he may grant relief against the seizure, sale or forfeiture and,—

- (a) direct the return of the article or thing to the person from whom it has been taken; or
- (b) in case the article or thing has been sold, he may direct the whole or part of the proceeds of the sale, after payment of the costs of sale, to be paid to such person or persons as may be entitled thereto if application for payment is made in writing to the Minister within one month after the date of sale.

Costs.

29. In every case where a penalty is authorized by this Act the justice shall have the power to order costs to be paid in addition to the amount of the penalty.

30. The following enactments are hereby repealed:

- (a) *The Alberta Fishery Act*, being chapter 71 of the Revised Statutes of Alberta, 1942;
- (b) *The Fish Dealers Act*, being chapter 12 of the Statutes of Alberta, 1944; and
- (c) *The Alberta Fish Inspection Act*, being chapter 13 of the Statutes of Alberta, 1944.

31. This Act shall come into force on the day upon which it is assented to.

No. 41

FIRST SESSION
TWELFTH LEGISLATURE

14 GEORGE VI

1950

BILL

An Act to provide for the Regulation
of Fishing and Dealing in Fish.

Received and read the

First time

Second time

Third time

HON. MR. TANNER.
