

The Provincial Statutes of Lower-Canada, Being the second session of the thirteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1829.

9 George IV – Chapter 36

An Act to suspend, for a limited time, certain Acts therein-mentioned, and to regulate in a better manner the Inspection of Pot and Pearl Ashes. (14th March, 1829.)

Whereas the Regulations heretofore existing, concerning the Inspection of Pot and Pearl Ashes, have been found insufficient, and that it would be advantageous to the trade of this Province, that more ample and better provisions were made concerning the same: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and for making further provision for the Government of the said Province;" And it is hereby enacted by the authority of the same, that from and after the passing of this Act, the Act made and passed in the thirty-fifth year of his said late Majesty's Reign, intituled, "An Act for the appointment of Inspectors to ascertain the quality of Pot and Pearl Ashes, for exportation," and the Act made and passed in the second year of the Reign of His present Majesty, intituled, "An Act to extend the provisions of a certain Act therein-mentioned, and to provide for the better Inspection of Pot and Pearl Ashes," and all other Acts relating to the inspection, Storing and branding of Ashes, and the appointment and compensation of Inspectors, shall be and the same and every part thereof are hereby suspended for and during the continuance of this Act.

II. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, no Pot or Pearl Ashes shall be inspected in barrels of any other size or description than the following, that is to say: in water-tight barrels of not more than thirty-two inches in length by twenty-two inches in diameter on either head, nor less than thirty inches in length by twenty inches in diameter on either head, and the chime whereof shall not exceed one inch, which barrels shall be made of the best seasoned white oak or ash timber, well and completely hooped, with at least fourteen good white ash, hickory or oak hoops, the staves to be of such thickness as to tare as nearly as possible fourteen pounds to every one hundred and twelve pounds of the gross weight of such barrel, for which tare a corresponding allowance, in no instance less than fourteen pounds for every one hundred and twelve pounds, shall in all cases be made by the seller of Pot or Pearl Ashes to the purchaser thereof.

III. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, all Licenses or Commissions heretofore issued for the appointment of any Inspector

or Inspectors of Pot or Pearl Ashes in this Province, shall be and the same are hereby revoked and rendered null and void.

IV. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, it shall be lawful for the Governor, Lieutenant Governor, or person administering the government of this Province for the time being, by a Commission under his hand and seal, to constitute and appoint at least five skilful persons, resident in each of the cities of Quebec and Montreal, or in the vicinity thereof, to be and constitute a Board of Examiners of applicants for the situation of Inspector of Pot and Pearl Ashes, who, before acting as such, shall severally take and subscribe the following oath before one of His Majesty's Justices of the Court of King's Bench, "I, A. B. do swear that I will not directly or indirectly, personally or by means of any person or persons on my behalf, receive any fee, reward, or gratuity whatever, by reason of any function of my office of Examiner, and that I will therein, well and truly in all things, act without partiality, favour, or affection, and to the best of my knowledge and understanding,—So help me God."

V. And be it further enacted by the authority aforesaid, that the Governor, Lieutenant Governor, or person administering the Government for the time being, shall and may from time to time, by an instrument under his hand and seal at arms, nominate and appoint an Inspector of Pot and Pearl Ashes for each of the cities of Quebec and Montreal, which Inspector shall, previously to his appointment as such, undergo an examination before the aforesaid Board of Examiners, as to fitness, character and capacity, in the manner as hereinafter provided, nor shall any person or persons be appointed as Inspectors of Pot and Pearl Ashes at Quebec or Montreal, unless approved of and recommended as such by such Board of Examiners, or a majority of them, pursuant to such examination.—And before the appointment, of either of the said Inspectors as aforesaid, he or they shall be required to furnish securities for the fulfilment of the duties of their office respectively, that is to say:—The Inspector to be appointed for Montreal in the sum of three thousand pounds currency, and the Inspector to be appointed for Quebec in the sum of two hundred and fifty pounds currency, the said securities to be approved of by the Board of Examiners, and bonds executed to His Majesty, his Heirs and Successors in the forms used in exacting securities from officers of trust in this Province. And such bonds or securities shall avail to the King, and all persons whomsoever, who shall or may be aggrieved by any breach of the conditions of the said bond or security.

VI. And be it further enacted by the authority aforesaid, that the bond or suretyship which shall be made or executed by such Inspector by virtue of this Act, shall be made double, and shall be taken and received by the Board of Examiners, and one part thereof shall be transmitted to and received at the Office of the Prothonotary or Clerk of the Court of King's Bench of the district for which such Inspector shall have been appointed, and the other shall remain with the said Board of Examiners; and every person shall be entitled to have communication and copy of any such Act at such Prothonotary's office, upon payment of one shifting currency for every communication, and two shillings and sixpence currency for each copy.

VII. Provided nevertheless and be it further enacted by the authority aforesaid, that the Board of Examiners to be constituted as aforesaid shall be, and they are hereby authorised and required, before proceeding to the examination of any person or persons who may hereafter be desirous of being appointed an Inspector or Inspectors of Pot and Pearl Ashes as aforesaid, to require the attendance of two or more persons of the greatest experience and practice in the manufacture or inspection of Pot and Pearl Ashes, and the said Board in their discretion are also hereby further authorised to permit any other person or persons to be also present, at the said examination, and each and every of the said persons so required or permitted to attend in the presence of the said Board, may propose questions to the person or persons then under examination, touching and respecting his or their knowledge as to the properties and qualities of Pot and Pearl Ashes.

VIII. And be it further enacted by the authority aforesaid, that the person or persons examined, approved, and recommended as aforesaid, shall, if appointed an Inspector or Inspectors respectively, of Pot and Pearl Ashes at Quebec or Montreal as aforesaid, previous to receiving a Licence or Commission as such, take and subscribe an oath before one of His Majesty's Justices of the Court of King's Bench for the district in which he shall be appointed, in the words following, that is to say, "I, A. B. do solemnly swear that I will faithfully, truly, and impartially, to the best of my judgment, skill, and understanding, do and perform the office and duty of an Inspector of Pot and Pearl Ashes, according to the true intent and meaning of an Act of this Province, intituled, an Act to repeal certain Acts therein-mentioned, and to regulate in a better manner, the inspection of Pot and Pearl Ashes; and that I will not, directly nor indirectly, by myself or by any other person or persons for me, manufacture, buy, or sell any Pot or Pearl Ashes on my own account, or upon the account of any other person or persons whomsoever, during the time I shall continue such Inspector, — So help me God," — which oath shall be recorded in the office of the Prothonotaries of the Court of King's Bench where the same shall be taken, for recording which oath and for a certificate thereof, the Prothonotaries shall be entitled to demand and have the sum of two shillings and six pence currency, and no more.

IX. And be it further enacted by the authority aforesaid, that no person or persons whatsoever, shall, after the passing of this Act, ship any Pot or Pearl Ashes for exportation from this Province, before the same shall have been submitted to the view and examination of one of the Inspectors, to be appointed as aforesaid, under a penalty of twenty pounds currency, for each and every barrel of such Ashes, for such offence in contravention to this Act, and that it shall be the duty of the Inspector to empty the whole of the Pot and Pearl Ashes out of the barrels, and if necessary to scrape the barrels and the cakes of Ashes, and carefully to examine, try, inspect, and sort the same into three different sorts or qualities, to be denominated "first sort," "second sort," and "third sort." and he shall repack the same, putting the Ashes of each quality into a separate barrel, of the size and description already specified, to be properly coopered and nailed, that he shall weigh each barrel and mark with a marking iron on the branded head, the weight thereof including tare, and the weight of the tare under the same, that he shall brand in plain letters and figures on each and every barrel by him inspected, containing Ashes of the first quality, the words "first sort"; of the second

quality the words "second sort," and of the third quality the words "third sort," together with the words "Potash" or "Pearl ash," as the case may be, with his own name and that of the place where the Ashes are inspected, and the year when such inspection is made; that he shall collect the crustings or scrapings of the barrels and cakes of Pot and Pearl Ashes of each separate mark, and weight and put the same in some suitable barrel, and deliver the same to the order of the Proprietor or his agent; that he shall brand the word "condemned" on every cask which he shall discover to contain Ashes fraudulently adulterated with stone, sand, lime or any other improper substance; that he shall make and deliver to the owner or his agent an Invoice or weigh note under his hand of the Ashes by him so inspected, containing the original mark and number of each barrel, the weight thereof and tare, and distinguishing each separate quality thereof as aforesaid, which invoice or weigh note shall be dated on the day when such Ashes are ready for delivery or shipment; the weight of the crustings or scrapings obtained from each separate mark to be given at the foot or on the back of such invoice or weigh note, and that he shall enter all these particulars in a book to be by him kept for that purpose; and further that he shall put all barrels of Pot and Pearl Ashes by him inspected in proper shipping order and condition, when called upon to deliver the same.

X. And be it further enacted by the authority aforesaid, that it shall be further the duty of each of the said Inspectors, to provide himself with suitable and convenient premises for the storage and inspection of Ashes, and to keep all barrels of Ashes, delivered to him or them for inspection, whilst they remain in his or their possession, in some dry place safe from the injuries of the weather (or of floods,) and under a tight roof, and if in sheds, the same to be good and sufficient, and inclosed on every side; and either of the said Inspectors violating this provision, shall forfeit and pay to the owner the sum of ten shillings currency for every barrel not stored as aforesaid, besides the actual damages that may be sustained by such owner.

XI. And be it further enacted by the authority aforesaid, that for all the services to be performed, as aforesaid, each of the said Inspectors shall be entitled to receive six pence currency, for every hundredweight of Pot or Pearl Ashes; by him or them inspected as aforesaid, together with the actual cost or charge of any barrel by him or them furnished or for cooerage or repairs done, to barrels containing Pot or Pearl Ashes by him or them inspected and no more, which charges shall be paid by the person or persons offering the said Pot or Pearl Ashes for Inspection, or his or their agents; and the said Inspector or Inspectors shall further be entitled to receive six pence currency per barrel storage for each and every barrel of Ashes, which shall remain stored with him as aforesaid, more than ten days after the date of the Invoice or weigh note, and three pence currency per barrel further for each and every subsequent month that they shall so remain, (reckoning the second to commence forty days from the date of the Invoice or weigh note,) which storage shall be paid by the person or persons receiving or shipping the said Ashes or his or their Agent, but in no case shall any storage be paid or received where the said Ashes do not remain stored as aforesaid for ten days from the date of the Invoice or weigh note.

XII. And be it further enacted by the authority aforesaid, that each of the said Inspectors of Pot and Pearl Ashes for Quebec and Montreal may appoint one or more assistants as they shall deem necessary (for whose acts, they shall be and hereby are declared to be respectively responsible) which number of assistants he shall be bound to increase from time to time by a requisition in writing to that effect from the aforesaid board of examiners or a majority of them, and each of the said assistants shall be subject to the approbation of the said board of examiners, and before entering upon the duties of his office shall give good and sufficient security to the Inspector in a sum of Five hundred pounds currency for the District of Montreal and one hundred pounds currency for the District of Quebec for the due performance of his Duties, and shall take and subscribe the following oath before any one of His Majesty's Justices of the Peace for the District for which he may be appointed, which Justice is hereby required and authorised to administer the same; "I. A. B. do swear that I will diligently, faithfully and impartially execute the office of assistant to the Inspector of Pot and Pearl Ashes, according to the true intent and meaning of an Act of this Province, entitled 'An Act to repeal certain Acts therein mentioned, and to regulate in a better manner the inspection of Pot and Pearl Ashes' and that I will not directly or indirectly, personally or by means of any person or persons on my behalf, receive any fee, reward or gratuity whatever by reason of my office of assistant to the Inspector (except my salary from said Inspector) and that I will not directly or indirectly trade in the article of Pot and Pearl Ashes, or be in any manner concerned in the purchase or sale of Pot or Pearl Ashes, So help me God."

XIII. And be it further enacted by the authority aforesaid, that whensoever a vacancy shall occur in the office of Inspector of Pot and Pearl Ashes, by the death, resignation or removal of such Inspector, an Inspector of Pot and Pearl shall, by the Governor, Lieutenant Governor or person administering the Government, be appointed in his room, from among the Assistant Inspectors. Provided that no such Assistant Inspector shall be so appointed Inspector, until he shall have undergone an examination before the Board of Examiners, and by them have been deemed competent to the duties required of such Inspector, and shall not enter upon the duties of his office until he shall have given the security required by this Act.

XIV. And be it further enacted by the authority aforesaid, that any Inspector or his Assistant, who during his continuance in office, shall directly or indirectly be concerned in the buying or selling of any Pot or Pearl Ashes, or the scrapings or crustings thereof, or participate in any transaction or profit arising therefrom (further than the fees or emoluments granted by this Act for inspection or storage,) or who shall permit any cooper or other person by such Inspector employed to retain or keep any Pot or Pearl Ashes, or the scrapings or crustings thereof, or who shall brand any barrel or barrels of Ashes of any description or size other than is prescribed by this Act, or who shall date any weigh note or bill of Inspection, differently from the time when the Ashes were actually inspected; or shall deliver out of his possession any such weight note or bill of inspection without any date, or who shall not conform to the provisions of this Act, shall, upon being legally convicted thereof, for every such offence, incur a forfeiture and penalty not exceeding one hundred pounds, currency,

and be for ever thereafter disqualified and disabled from holding and exercising the duty or office of Inspector of Pot and Pearl Ashes in this Province or of Assistant to such Inspector.

XV. And be it further enacted by the authority aforesaid, that if any inspector of Pot and Pearl Ashes, or his Assistant, not then employed in the inspection of any Pot or Pearl Ashes, (according to the duties prescribed by this Act) shall on application on lawful days between sunrise and sunset, to him made, refuse, neglect or delay to proceed to such examination and inspection for the space of four hours after such application so made to him, the Inspector or his Assistant so refusing, neglecting or delaying to make such examination and inspection, shall for each such offence forfeit the sum of five pounds currency, to the use of the person or persons so delayed.

XVI. And be it further enacted by the authority aforesaid, that if any person or persons shall counterfeit any of the aforesaid brandmarks of the Inspector, or shall impress or brand the same, knowing the same to be counterfeit, on any barrel or barrels of Pot or Pearl Ashes, or on any other barrels, or who shall empty any barrel or barrels of Pot or Pearl Ashes branded as aforesaid by an Inspector, in order to put therein other Pot or Pearl Ashes for sale or exportation, without first, cutting out the said brandmarks, or shall put therein any other substance or material than Pot or Pearl Ashes, such person or persons shall for every such offence, forfeit and incur a penalty of fifty pounds, current money of this Province.

XVII. And be it further enacted by the authority aforesaid, that if any dispute shall arise between the Inspectors or their Assistants, and the proprietor or possessor of any Pot or Pearl Ashes with regard to the quality thereof, that upon application to any one of His Majesty's Justices of the Peace, for the District in which such Inspector or his Assistant shall reside, the said Justice of the Peace shall issue a Summons to three persons of skill and integrity, one whereof to be named by the Inspector or his Assistant, another by the proprietor or possessor of the Pot or Pearl Ashes, and the third by the said Justice of the Peace, requiring the said three persons immediately to examine and inspect the same according to the provisions of this Act, and report their opinion of the quality and condition thereof under oath, (which oath the said Justice of the Peace is hereby authorised and required to administer,) and their determination, or that of a majority of them, shall be final and conclusive, whether approving or disapproving of the judgement of the Inspector or his Assistant, who shall immediately attend thereto and brand, or cause to be branded, each and every barrel of the qualities directed by such determination, according to the provisions of this Act, and if the opinion of the Inspector or his Assistant, be thereby confirmed, the reasonable costs and charges of re-examination, to be ascertained and awarded by the said Justice, shall be paid by the proprietor or possessor of the Pot or Pearl Ashes, if otherwise by the Inspector.

XVIII. And be it further enacted by the authority aforesaid, that all fines, penalties and forfeitures imposed by this Act, not exceeding ten pounds sterling, shall be recoverable by the Inspectors, their Assistants or any other person or persons suing for the same, in a summary way before any two of His Majesty's Justices of the Peace of the District, and shall,

on failure of payment, be levied by Warrant of distress, to be issued by such Justices against the goods and chattels of the offender; and when the same shall exceed the sum of ten pounds sterling, it shall be sued for and recovered by bill, plaint or information before the Judges of His Majesty's Court of King's Bench, and levied by execution as in the case of debt; and one moiety of all such fines and forfeitures (except such as are hereinbefore otherwise applied) when recovered, shall be immediately paid into the hands of His Majesty's Receiver General, and shall Remain at the disposal of the Provincial Legislature for the public uses of the Province, and shall be accounted for to His Majesty, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty shall direct, and the other moiety to the person who shall sue for the same.

XIX. And be it further enacted by the authority aforesaid, that if any action or suit be brought or commenced against any person or persons for any thing done in pursuance of this Act, such action or suit shall be commenced within six months next after the matter and thing done, and not afterwards.—And the defendant or defendants in such suit or action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereon, and if afterwards judgment shall be given for the defendant or defendants or the plaintiff or plaintiffs shall be non-suited or discontinue his, her or their action or actions after the defendant or defendants shall have appeared, then such defendant or defendants, shall have treble costs awarded against such plaintiffs, and have the like remedy for the same as any defendant or defendants hath or have in other cases to recover costs at law.

XX. And be it further enacted by the authority aforesaid, that this Act shall be and remain in force until the first day of May, one thousand eight hundred and thirty-two, and no longer.