

The Provincial Statutes of Lower-Canada, Being the fourth session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, fourteenth day of February, 1839. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1839.

2 Victoria – Chapter 65 (Session 4)

An Ordinance to provide for the Inspection of Fish and Oil.

Whereas the Trade of this Province would be essentially prompted, if means were provided for distinguishing such Fish and Oil as are well cured and prepared and fit for foreign markets, from such as may be imperfectly cured and unmerchantable:—Be it therefore Ordained and Enacted by His Excellency the Governor of the Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said Province, constituted and assembled by virtue of, and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, “An Act to make temporary provision for the Government of Lower Canada;” And it is hereby Ordained and Enacted by the authority of the same, that it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government, by a Commission under his hand and seal to appoint one or more fit and proper persons to be Inspector or Inspectors of Fish and Oil, in and for each of the Cities of Quebec and Montreal, for the purposes of this Ordinance.

II. And be it further Ordained and Enacted by the authority aforesaid, that each person so appointed an Inspector of Fish and Oil, shall before entering upon the duties of his office, give security by bond to Her Majesty, and to the satisfaction of the Governor, Lieutenant Governor, or person administering the Government, in the sum of five hundred pounds currency, for the due performance of his said duties, and shall take and subscribe the following oath before one of the Justices of the Court of King's Bench for the District, “I, A. B., Inspector of Fish and Oil in and for the City of do solemnly swear that to the best of my judgment, skill and understanding, I will faithfully, honestly and impartially fulfil, execute and perform the office and duty of such Inspector, according to the true intent and meaning of the Ordinance passed in the second year of Her Majesty's Reign, intituled, ‘An Ordinance to provide for the Inspection of Fish and Oil,’” and such oath shall remain of record with the Prothonotary of such Court, who shall, if so required, furnish a certificate thereof to the Inspector taking the same, on payment of two shillings and sixpence currency and no more: and any person requiring such Inspector to inspect any Fish or Oil may require him to produce such certificate, and a certificate from some Law Officer of the Crown that he has given the security hereby required, before he shall be entitled to any fee for the Inspection of such Fish or Oil.

III. And be it further Ordained and Enacted by the authority aforesaid that each Inspector appointed under the authority of this Ordinance, shall provide himself sufficient branding

irons, for the purpose of branding such casks and boxes as may by him be inspected in pursuance of this Ordinance.

IV. And be it further Ordained and Enacted by; the authority aforesaid that it shall be the duty of each such Inspector to see that all Salmon, Mackerel, Shad, Herring, and all kinds of split, pickled, or salted fish, of any kind, intended for barrelling and submitted to him for inspection, have been well struck with salt, or pickle in the first instance, and preserved sweet, free from taint, rust, oil and damage of every kind, and no other Fish shall be branded by him as “inspected” and “merchantable.”

V. And be it further Ordained and Enacted by the authority aforesaid, that no Fish of the description herein abovementioned, intended for exportation, shall be branded as “inspected” and “merchantable,” unless it be well and properly packed in good, tight and substantial tierces, half tierces, barrels or half barrels, nor shall any pickled or salted salmon be so branded, except in tierces containing three hundred pounds, exclusive of salt and pickle: or in half tierces containing one hundred and fifty pounds, exclusive of salt and pickle; or in barrels containing two hundred pounds, exclusive of salt and pickle; or in half barrels containing one hundred pounds, exclusive of salt and pickle, avoirdupois weight; nor shall any other pickled or salted Fish be so branded, if packed in barrels containing less than twenty-eight gallons, or in half barrels less than fourteen gallons wine measure.

VI. And be it further Ordained and Enacted by the authority aforesaid, that no small fish which are usually packed whole with dry salt, shall be so branded as aforesaid, unless they are packed in good casks as herein above mentioned, packed close edgewise in the cask, and well salted with good coarse wholesome salt; nor unless the casks are filled full of fish and salt, no more salt being put with the fish than may be necessary for their preservation.

VII. And be it further Ordained and Enacted by the authority aforesaid, that no red and smoked Herrings, shall be so branded, unless they be well and sufficiently cured and saved, and carefully and properly packed in good and substantial barrels, half barrels, kegs or boxes.

VIII. And be it further Ordained and Enacted by the authority aforesaid, that it shall be the duty of each Inspector, when called upon to inspect any fish of the descriptions above mentioned, carefully and attentively to examine each and every cask submitted to him for inspection and if such fish be of a good quality, in wholesome pickle and clean salt, and in every way in good order, free from taint, rust, oil, and damage, well and properly packed in good, tight, and substantial tierces, half tierces, barrels or half barrels, kegs or boxes, as herein above provided, the Inspector shall, brand on the heads or butts of each cask or box so by him inspected, in large and legible letters, the words “salmon,” “mackerel,” or “herrings,” (as the case may be,) “Quebec,” or Montreal,” (as the case may be,) “inspected,” “merchantable,” with the initials of the Christian name, and the surname at full length, of the Inspector, and the year and month of the inspection; and such as shall be found of an inferior or second quality, or carelessly or badly packed, or in insufficient casks, kegs, or

boxes, or not in every respect as hereinabove required, shall by such Inspector be branded forthwith on the head or butt of the cask, keg or box, with the word "rejected," in large and legible letters, (instead of the words "inspected," "merchantable" as herein abovementioned,) and with the initials of the Christian name, and the surname at full length of the Inspector, and the place, year and month of inspection as above mentioned.

IX. And be it further Ordained and Enacted by the authority aforesaid, that each of the said Inspectors shall in like manner, when called upon, carefully inspect all the sorts of oil hereinafter mentioned, and shall brand the casks in which such Oil may be contained with the words "Seal Oil," "Whale Oil" or "Fish Oil," as the case may be, the initials of the Christian name and the surname at full length of the Inspector, the place, year and month of inspection, and the word "merchantable," or the word "rejected" as the case may be, in large and legible letters: Provided always that no cask shall be so branded "merchantable," which shall contain any thing but clear Oil, of good quality, free from soot or grounds.

X. And be it further Ordained and Enacted by the authority aforesaid, that in case of any dispute between an Inspector and the person who shall have required him to inspect any Fish or Oil, as aforesaid, concerning the inspection thereof, such dispute shall be determined as follows, that is to say: any two Justices of the Peace, on request to them made by the parties, or either of them, shall issue a summons under their hands to any three disinterested persons of skill and integrity (one of whom shall be named by the Inspector, another by the person who shall have required the inspection of such Fish or Oil, and the third by such Justices of the Peace,) requiring the said persons immediately to examine such Fish or Oil, and to report their opinion of the quality and condition thereof, under oath, (which oath either of the said Justices of the Peace is hereby authorized and required to administer,) and their determination shall be final and conclusive, whether approving or disapproving the judgment of such Inspector, who shall immediately, conform to such determination, and brand each and every cask or box accordingly, and if the opinion of the Inspector be confirmed by such determination, the reasonable costs and charges of obtaining the same, to be taxed by such Justices of the Peace, shall be paid by the party requiring the inspection, otherwise by the Inspector: Provided always, that all Fish and Oil submitted to any Inspector for inspection, shall be branded by him according to his judgment thereof, or such determination as aforesaid, and shall not (either with or without the consent of the Inspector) be withdrawn from inspection in any case, without being so branded, under a penalty of twenty shillings currency for each cask, box, or keg so withdrawn without being branded, to be paid by the person so withdrawing the same.

XI. And be it further Ordained and Enacted by the authority aforesaid, that if any Inspector shall brand any cask, keg, or box of any description of Fish or Oil mentioned in this Ordinance, the contents of which he has not inspected according to the true intent and meaning of this Ordinance; or if he shall knowingly permit any other person or persons to use his brands, or to withdraw any fish or oil submitted for inspection, before it shall have been branded, he shall, on being thereof convicted, incur a penalty of five shillings currency

for each cask, keg, or box so branded or so withdrawn, contrary to the provisions of this Ordinance, and shall forthwith be removed from office.

XII. And be it further Ordained and Enacted by the authority aforesaid .that any person, other than an Inspector appointed under this Ordinance, who shall wilfully efface or obliterate, or cause to be effaced or obliterated from any cask, keg, or box, having undergone inspection, all or any of the brands or marks thereupon imprinted or branded by any Inspector, or shall fraudulently impress or brand upon any cask, keg or box, any of the brands or marks by this Ordinance required to be branded on casks, kegs, or boxes containing Fish or Oil, so inspected as aforesaid, or shall empty any cask, keg, or box already branded, in order to put other Fish or Oil therein for sale or exportation, shall, for each such offence, incur a penalty not exceeding twenty pounds currency, and may, on conviction, be committed to prison until such penalty be paid.

XIII. And be it further Ordained and Enacted by the authority aforesaid, that it shall not be lawful for any Inspector, appointed under the authority of this Ordinance, to trade in, buy, or sell, directly or indirectly, (otherwise than for the consumption of himself and family,) Fish or Oil, of any kind or description to which this Ordinance relates, under the penalty of one hundred pounds currency, for each act of contravention or disobedience to the provisions of this section, and on pain of being dismissed from office.

XIV. And be it further Ordained and Enacted by the authority aforesaid, that no dried Codfish shall be branded by any Inspector under this Ordinance, unless it shall have been carefully culled by him, nor unless, it shall be well screwed and packed under his direction and in his presence, in good and substantial hogsheads or casks, made of oak, of the dimensions hereinafter specified, with heads and butts of pine, spruce, or other soft wood, proper for the purpose; and such hogsheads or casks as contain dried Codfish of a merchantable quality, or such as are usually termed "Madeira," shall, in addition to the brands above mentioned, be branded in like manner with the word "Madeira," in large and legible letters; and such as contain dried Codfish of a second or inferior quality, shall in like manner be branded with the words "West India," in large and legible letters; but no inferior sort to that last mentioned shall be branded.

XV. And be it further Ordained and Enacted by the authority aforesaid, that no hogshead or cask, in which dried Codfish so inspected shall be screwed and packed shall be so branded as aforesaid, unless it be of the following dimensions and contain the following quantities, that is to say: hogsheads or casks of the first class to be forty-two inches in length of stave, the heads and butts to be thirty-two inches in diameter between the chimes, and to contain at least eight quintals of Fish; casks of the second class to be also forty-two inches in length of stave, the heads or butts to be twenty-two inches in diameter between the chimes, and to contain at least six quintals; casks of the third class to be also forty-two inches in length of stave, the heads or butts twenty-two inches in diameter between the chimes, and to contain at least four quintals: Provided always, that nothing herein contained shall extend to prevent the branding of casks of smaller dimensions than those above mentioned, if the Fish therein

shall have been culled, screwed, and packed in the presence of the Inspector, as aforesaid, but the weight of Fish therein shall be marked on such cask by the Inspector, in addition to the other brand marks.

XVI. Provided also, and be it further Ordained and Enacted by the authority aforesaid, that nothing in this Ordinance shall prevent any dried Codfish, in boxes or in bulk, from being inspected, or the Inspector from giving a certificate stating the quality and quantity thereof culled and inspected, and shipped onboard any vessel.

XVII. And be it further Ordained and Enacted by the authority aforesaid, that if any inspector shall find Fish of two or more kinds or qualities intermixed in the same cask, although the same may be well cured and otherwise in good order, it shall be his duty to brand upon such cask the word "Rejected," as above provided, with the word "Mixed," both in large and legible characters.

XVIII. And be it further Ordained and Enacted by the authority aforesaid, that any Inspector, who shall neglect or refuse on application to him made personally, or in writing left at his dwelling house or office, on lawful days between sunrise and sunset, by any proprietor in possession of Fish or Oil, (unless employed at the time of such application in inspecting Fish or Oil,) immediately, or within two hours thereafter, to proceed to such inspection, shall for every such neglect or refusal, on being thereof convicted, forfeit and pay to such person so applying, the sum of five pounds currency, over and above the damages occasioned by such refusal or neglect, to the party applying as aforesaid.

XIX. And be it further Ordained and Enacted by the authority aforesaid, that each Inspector, to be appointed under the authority of this Ordinance, shall, for the services which may be by him performed as such, be entitled to the following rates or allowances from the persons employing them and no more, that is to say, for each tierce inspected and branded, one shilling and three pence currency; for each half tierce so inspected and branded, nine pence currency; for each barrel, one shilling currency; for each half barrel, nine pence currency; for each box containing red or smoked herrings, two pence currency; for each quintal of dried Cod Fish, culled and inspected, one penny currency; for each draught of green Fish, three pence currency; for his attendance at the packing and screwing of each hogshead or other cask of dried Cod Fish, and for branding the same in pursuance of this Ordinance, four pence currency, in addition to his allowance for inspecting and culling the Fish therein; for each cask of Oil containing twenty-eight gallons inspected and branded, one shilling currency; for each tierce of Oil, one shilling and one penny currency; for each hogshead of Oil, one shilling and three pence currency; and for each puncheon of Oil, one shilling and six pence currency, and all such rates and allowances shall be over and above the expense of cooperage, and washing, cleaning and repacking any Salmon or Fish, which such Inspector may bona fide incur in the due and faithful execution of his duty, and for liming, or white washing with lime, the heads or butts of any vessel of any description containing Oil, the Inspector having performed such duty, shall be entitled to six pence currency, and no more.

XX. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that it shall be lawful for any person causing his Fish or Oil to be inspected, to employ at his own cost and charges, a Cooper to attend upon, and assist the Inspector in the performance of his duty, in which case the Inspector shall not be allowed any charge for cooperage, and the Cooper so employed shall be governed and guided solely by the directions which he shall receive from the Inspector, with respect to any Fish or Oil by him inspected, and not by any other person whomsoever.

XXI. And be it further Ordained and Enacted by the authority aforesaid, that such fines, forfeitures and penalties by this Ordinance imposed, as do not exceed the sum of ten pounds sterling, may be sued for and recovered in a summary way before the Justices of the Peace in the Cities of Quebec and Montreal respectively, at their weekly sittings, and such as may exceed the said sum, may be recovered in any Court of competent Jurisdiction, and one moiety of all such fines, forfeitures and penalties shall belong to Her Majesty; for the public uses of the Province, and the other moiety shall belong to the informer, prosecutor or person suing for the same.

XXII. And be it further Ordained and Enacted by the authority aforesaid, that such part of such fines, penalties and forfeitures as shall belong to Her Majesty, shall be paid into the hands of the Receiver General, for the public uses of the Province, and shall be accounted for to Her Majesty, her heirs and successors, through the Lords Commissioners of Her Majesty's Treasury, for the time being, in such manner and form as Her Majesty, her heirs and successors, may be pleased to appoint.

XXIII. And be it further Ordained and Enacted by the authority aforesaid, that all suits or prosecutions for fines, penalties and forfeitures under this Ordinance, shall be commenced within three months after the commission of the offence, and not afterwards.

XXIV. And be it further Ordained and Enacted by the authority aforesaid, that if any suit or action shall be brought against any person or persons, for any thing done in pursuance of this Ordinance, such suit or action shall be commenced within three months after the matter or thing done, and not afterwards, and the defendant or defendants in such suit or action, may plead the general issue and give this Ordinance and the special matter in evidence, and if afterwards judgment shall be given for the defendant or defendants, or the plaintiff or plaintiffs shall be nonsuited, or discontinue his or their suit or action after the defendant or defendants shall have appeared, then such defendant or defendants shall have treble costs against such plaintiff or plaintiffs, and have the like remedy to recover the same, as any defendant or defendants hath or have in other cases to recover costs at law.

J. COLBORNE,

Ordained and Enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House in the City of Montreal, the Thirteenth day of April, in the second year of the Reign of Our Sovereign Lady Victoria, by the Grace of

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God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year
of Our Lord, one thousand eight hundred and thirty-nine.

By His Excellency's Command,
W. B. LINDSAY,
Clerk Special Council.