

*Acts of the General Assembly of His Majesty's Province of Lower Canada passed in the year 1795.* Quebec: William Vondenvelden, Printer to the King's Most Excellent Majesty, 1795.

35 George III – Chapter 2

**An Act for the appointment of Inspectors to ascertain the quality of Pot and Pearl-ashes for exportation.**

Whereas Pot and Pearl-ashes are articles of increasing consequence in the exports from this Province, and it would tend to the improvement of the quality thereof, and have other beneficial effects that the same should be ascertained previous to their being shipped for exportation; 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 to make further provision for the Government of the said Province.*" And it is hereby enacted by the authority of the same, that it shall and may be lawful for the Governor, Lieutenant Governor or Person administering the Government from time to time, as to him may seem reasonable, to appoint one or more capable person or persons in such of the cities, towns or places in this Province, where it is or shall be necessary to be Inspector or Inspectors of Pot and Pearl-ashes who shall thereupon be the Inspector or Inspectors for putting this Act in execution, with all the powers and subjects to all the penalties herein after described, and each of the Inspectors before he enters upon the execution of his Office, shall take and subscribe an oath before one of his Majesty's Justices of the court of King's Bench of this Province in the words following Videlicet.

"I A. B. do solemnly swear, that I will faithfully, truly and impartially, to the best of my judgment, skill and understanding execute, do and perform the Office and duty of an Inspector and Examiner of Pot and Pearl-ashes, according to the true intent and meaning of an Act of this Province" intituled "*An Act for the appointment of Inspectors to ascertain the quality of Pot and Pearl-ashes for "exportation"*" and that I will not directly or indirectly by myself or by any other person or persons for me, buy or sell any Pot or Pearl-ashes during the time I shall continue Inspector of the same on my own account or upon the account of any other person or persons whomsoever. So help me God"

Which oath he shall file or cause to be filed in the Office of the clerk or clerks of the court of King's Bench or provincial court of the district in which he resides.

II. And be it further enacted by the authority aforesaid, that no person or persons whatsoever shall after the first day of September next ship any Pot or Pearl ashes for exportation from this Province, before he shall submit the same to the view and examination of an inspector to be appointed as aforesaid for that purpose, who shall empty the same out of the casks and carefully examine, try and inspect and sort the same, if necessary, into three different sorts, that the said

Inspector shall put each sort separate into watertight casks, well hooped and coopered, which he shall distinguish by the words First sort, Second sort or Third sort, with the words Pot or Pearl ashes branded in plain legible letters, together with the letters of his name and the place where such Pot or Pearl ashes are so inspected. at full length on each of the casks, for which services and also for the additional service of repacking the said Pot or Pearl ashes and putting the casks in such condition as they were in when submitted to him for inspection and for weighing the same, and delivering to the proprietors thereof an invoice or weigh-note under his hand, of the weight of each cask with the tare or weight of each cask when empty, which tare shall be marked on the head of each cask with a marking iron, the said Inspector shall have and receive six-pence current money for every hundred weight of Pot or Pearl ashes so inspected, which shall be paid by the person or persons applying to the Inspector to make such inspection ; provided always, that if any such cask or casks shall, in the judgment of the Inspector be unfit for shipping such further cooperage or such new casks as may be necessary, shall be made or done at the expence of the proprietor.

III. Provided also and be it further enacted, that if any dispute shall arise between such Inspector and any possessor of such Pot or Pearl ashes, concerning the quality thereof, upon application to any of his Majesty's Justices of the Peace within the city, town or place where the same may happen, such Justice of the Peace shall and is hereby required to issue a warrant to three indifferent persons of skill and integrity to be viewers, to view and search the said Pot or Pearl ashes as the case may be, one of the said persons to be named by the Inspector, another of them to be named by the possessor of such Pot or Pearl ashes, and the third to be named by the said Justice, which three persons shall be duly sworn carefully to re-examine the said Pot or Pearl ashes, as the case may be, and make report as soon as conveniently may be of the qua- lity thereof as they shall find the same. And the said Justice is hereby empowered and required to give judgment agreeable to the report of the said three viewers or any two of them, which judgment shall be final; and in case the said Pot or Pearl ashes or any part thereof are adjudged to be of the quality or qualities as distinguished by the Inspector, the said Justice is hereby authorized to direct the said Pot or Pearl ashes to be branded by the said Inspector agreeable to such distinction, and shall also award and order the owner or possessor thereof to pay to such Inspector six-pence current money for each hundred weight of all such Pot or Pearl ashes as shall be adjudged as aforesaid, with reasonable costs and charges of re-examination. But in case the said Pot or Pearl ashes or any part thereof shall, upon such trial be found to differ in quality from the said Inspector's judgment thereon, the same shall be branded according to the report of the said viewers so approved as aforesaid, and the costs of such re-examination, so far as the same may be found to differ from the survey and opinion of the Inspector, shall be paid by the Inspector.

IV. And be it further enacted by the authority aforesaid, that upon any such Inspector making oath before any of his Majesty's Justices of the Peace, which oath the said Justice is hereby authorized to administer, that he has reason to believe that Pot or Pearl ashes are shipped or shipping on board any vessel or vessels for exportation out of this Province without having been inspected, such Justice shall, and he is hereby required immediately to grant a warrant to the said Inspector under his hand and seal, authorizing the said Inspector to take a constable or other peace officer, and in the day time to enter on board any such vessel or vessels whatsoever lying or

being in the harbour or harbours of the city, town or place, where such Inspector is authorized to inspect, and if the said ship or vessel may not then be regularly cleared out by the Collector or other proper Officer of his Majesty's Customs; to search for and make discovery of any Pot or Pearl ashes shipped or shipping on board any such vessel or vessels for exportation out of this Province without having been inspected, and if such Inspector shall, on search, discover any cask or casks of Pot or Pearl ashes not branded, as herein before directed; he shall and may seize and bring the same on shore, and the person and persons so shipping or having shipped the same, shall forfeit all and every such cask or casks of pot or pearl ashes so shipped or shipping and not branded in the manner herein before directed. And the master or commander of any such vessel who shall receive any such casks of Pot or Pearl ashes not branded as aforesaid, shall forfeit the sum of five pounds current money. And if any master of any vessel or any of his seamen or servants shall obstruct or hinder the said Inspector, on producing such warrant. from making search as aforesaid, every person so offending shall for every such offence forfeit the sum of ten pounds current money over and above every other penalty and punishment, he or they may be adjudged to bear and suffer, by reason of his or their resisting or obstructing the legal execution of any warrant or search as aforesaid. And in case any person shall wilfully make any false oath touching the matters aforesaid, and be thereof lawfully convicted, he shall be liable to the pains and penalties inflicted on the crime of wilful and corrupt perjury by the statute passed in the fifth year of the reign of Queen Elizabeth.

V. And be it further enacted by the authority aforesaid, that any Inspector of any Pot or Pearl ashes, not then employed in the inspection and examination of Pot or Pearl ashes, (according to the duties prescribed by this Act) shall on application, on lawful days and at reasonable hours to him made for the examination of any Pot or Pearl ashes as aforesaid, 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 so refusing, neglecting or delaying to make such examination and inspection, shall, for each offence, forfeit the sum of twenty shillings current money to the use of the person or persons so delayed.

VI. And be it further enacted by the authority aforesaid, that if any person or persons shall counterfeit any of the aforesaid brandmarks or impress or brand the same on any cask or casks of Pot or Pearl ashes, he, she or they, being thereof legally convicted, shall forfeit the sum of fifty pounds current money, and if any person shall empty any cask or casks of Pot or Pearl ashes branded as aforesaid, in order to put into the same other Pot or Pearl ashes for sale or exportation, without first cutting out the said brandmarks, the person or persons so offending shall, respectively forfeit the sum of fifty pounds current money.

VII. And be it farther enacted by the authority aforesaid that all the fines and forfeitures by this Act imposed, shall be recoverable with costs in the same manner as other debts of the same value are recoverable in this Province by suit, bill, plaint or information, the one moiety of all which fines and forfeitures (except such as are herein before otherwise applied) when recovered shall be immediately paid into the hands of the Receiver General for the use of his Majesty towards the support of the Government of this Province, and shall be accounted for to his Majesty through the 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 officer or other person who shall sue for the same.

VIII. And be it further enacted by the authority aforesaid, that if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this Act, such action or suit shall be commenced within the space of six months next after the offence shall have been committed and not afterwards, and the defendant or defendants in such action or suit may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and that the same was done in pursuance and by authority of this Act. and if it shall appear so to have been done, then the court shall find for the defendant or defendants and if the plaintiff shall be non-suited or discontinue his action after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff, the defendant or defendants shall and may recover treble costs and have the like remedy for the same as defendants have in other cases by law.