

The Provincial Statutes of Lower-Canada, Being the third session of the eleventh Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1823.

3 George IV – Chapter 16

An Act to provide for the Inspection of Fish and Oil Intended for exportation from the Port of Quebec and Montreal. (22d. March, 1823.)

Whereas the trade of this Province would be essentially promoted, if such fish and fish oil, as are well cured and prepared, and fit for foreign markets, were distinguished from such as are imperfectly cured and unmerchantable, by an inspection made in virtue of and under the authority of an Act of the Legislature: May it therefore please Your Majesty that it may be enacted and be it 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 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 appoint one or more Inspector or Inspectors of Fish and Oil, in and for each of the Cities of Quebec and Montreal, for the purposes of this Act.

II. And be it further enacted by the authority aforesaid, that each and every Inspector who shall be appointed under and in virtue of this Act, shall, before entering on the duties of his office, take and subscribe the following oath before one of the Judges of His Majesty's Court of King's Bench for the District in which such person may reside, which oath shall remain of record with the Prothonotary of such Court, who shall, if so required, furnish a certificate thereof to the Inspector having taken the Oath, such Inspector paying therefor the sum of two shillings, currency, to such Prothonotary, who shall not for such Certificate be entitled to exact or receive any greater sum: and each and every Inspector may be called upon by any person or persons, being a proprietor or proprietors, possessor or possessors, shipper or shippers of fish or oil, to produce his certificate previous to his proceeding to inspect such fish or oil.

FORM OF THE OATH.

"I, A. B. Inspector of fish for the City of Quebec (or Montreal) do solemnly swear, that to the best of my judgment, skill, and understanding, I will faithfully, honestly and impartially fulfill, execute and perform the office and duty of an Inspector of fish and oil, according to the true intent and meaning of an Act of the Legislature of this Province, intituled, 'An Act to provide for the Inspection of fish and oil intended for Exportation from the Ports of Quebec and Montreal.'"

III. And be it further enacted by the authority aforesaid, that pickled or salted fish and fish oil, of all descriptions brought to the Port of Quebec or Montreal for sale, shall, at the requisition of the seller or purchaser, be liable to be inspected by the Inspector or Inspectors who may be appointed under and in virtue of this Act.

IV. And be it further enacted by the authority aforesaid, that if any Master of a vessel or other person shall ship or receive on board of any vessel or other carriage of conveyance for exportation by water, from either of the said ports, any pickled salted fish, split or whole, packed in casks or boxes as hereinafter mentioned, or casks of oil which are not inspected and branded in manner as by this Act prescribed, he or they shall, on being thereof convicted, forfeit and pay a sum not exceeding five shillings, currency, for each and every such cask or box.

VI. And be it further enacted by the authority aforesaid, that it shall be the duty of each and every of the Inspectors who shall be named in virtue of this Act, to see that Salmon, Mackerel, Shad, Herring and all kinds of split, pickled or salted fish, or fish of any kind for barrelling, intended for exportation, 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.

VII. And be it further enacted by the authority aforesaid, that all fish of the description herein above mentioned, intended for exportation, shall be well and properly packed in good, tight and substantial tierces, half tierces, barrels or half barrels, and that pickled Salmon shall not be exported or shipped for exportation, at either of the aforesaid ports or Cities, 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, avoir-du-poids, weight, nor shall any other pickled or salted fish intended for exportation, be packed in barrels containing less than twenty-eight gallons, or in half barrels containing less than fourteen gallons each, wine measure.

VIII. And be it further enacted by the authority aforesaid, that all small fish which are usually packed whole, with dry salt, shall be put in good casks, as herein-above mentioned, and shall be packed close, edgewise in the cask, and well salted in good, coarse and wholesome salt; the casks shall be filled full with fish and salt, no more salt being put with the fish than may be necessary for their preservation.

IX. And be it further enacted by the authority aforesaid, that red and smoked herrings, intended for exportation, shall be well and sufficiently cured and saved, and shall also be carefully and properly packed in good and substantial barrels, half barrels, kegs or boxes.

X. And be it further enacted by the authority aforesaid, that it shall be the duty of the several Inspectors who shall be appointed in virtue of this Act, when called to inspect any fish of the description above-mentioned, carefully and attentively to examine each and every cask that may be submitted for inspection, and if such fish are of a good quality, in wholesome pickle and clean salt, and 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 every cask or box, so by him inspected, in large and legible

letters, the words, Salmon, Mackerel or Herring (as the case may be) Quebec or Montreal (as the case may be) Inspected, Merchantable, with the initials of the christian name and surname of the Inspector, at full length, and the year and month of Inspection; and such as shall be found of an inferior or second quality, or carelessly packed, or in insufficient casks, and not in every respect as herein above required, shall by the Inspector who shall have inspected the same, be forthwith branded on the head or but with the word, Rejected, in large and legible letters, instead of the words, Inspected, Merchantable, as herein above mentioned, and with the initials of the christian name and surname, at full length, of the Inspector, and the place, year, and month of Inspection as above-mentioned.

XI. And be it further enacted by the authority aforesaid, that all sorts of fish oil, intended for exportation, shall in like manner be inspected previous to exportation, under the penalty by this Act provided in case of exportation or shipment of fish for exportation without being previously inspected; and the casks in which such oil may be contained shall be branded as herein above mentioned, with the words, Seal Oil, Whale Oil, or Fish Oil, as the case may be; the name of the Inspector, the place, year and month of Inspection, and the word, Merchantable, in large and legible letters, or, Rejected, as the case may be. Provided, that the casks so branded, Merchantable, shall contain nothing but clear oil, free from foot or grounds.

XII. And be it further enacted by the authority aforesaid, that in case of dispute between any inspector and owner, seller, purchaser, possessor or shipper of fish or oil of any kind, concerning the Inspection thereof, the dispute shall be adjusted as follows, that is to say: any Justice of the Peace, on request to him made by the parties or either of them, shall issue a summons under the hand, to any three disinterested persons of skill and integrity, one of whom shall be named by the Inspector, another by the proprietor or possessor, or shipper of the fish or oil in question, and the third by the said Justice of the Peace, requiring the said persons immediately to examine the said fish or oil, and to report their opinion of the quality and condition thereof, under oath (which oath such Justice of the Peace is hereby authorised and required to administer) and their determination shall be dual and conclusive whether approving or disapproving the judgment of the Inspector, who shall immediately attend thereto, and brand each and every cask or box according to the determination aforesaid; and if the opinion of the Inspector be thereby confirmed, the reasonable costs and charges to be assessed by the Justice of the Peace, shall be paid by the proprietor, possessor or shipper, as the case may be, and in the contrary case, such costs and charges shall be borne by the Inspector.

XIII. And be it further enacted by the authority aforesaid, that if any person or persons shall knowingly and wilfully sell, for exportation, or export, or cause to be sold for exportation or cause to be exported, from either of the said ports of Quebec or Montreal, any Salmon, Mackerel, Shad, Herring or other split or pickled fish, or fish barrelled, or oil, unless the same shall have been previously inspected and branded as aforesaid, he or they shall, on being thereof convicted, incur and pay a penalty or fine of five shillings, currency, for each and every cask sold for exportation or exported, or cause it to be.

XIV. And be it further enacted by the authority aforesaid, that if any Inspector shall brand any cask of any description mentioned in this Act, the contents of which he has not inspected according to the directions, true intent and meaning of this Act, or if he shall knowingly permit any other person or persons to use his brands, in violation or evasion thereof, he or they so offending, shall, on being

thereof convicted, forfeit for every cask so branded, the sum of five shillings, currency, and the said Inspector shall be moreover removed from his office, and be incapable of acting as Inspector thereafter, unless he shall be re-appointed to the same.

XV. And be it further enacted by the authority aforesaid, that any person or persons, other than an Inspector, who shall wilfully efface, or cause to be effaced or obliterated from any cask or box, having undergone inspection, all or any of the marks or brands thereupon imprinted or branded by any Inspector, pursuant to this Act, or shall fraudulently impress or brand any cask or box with any of the brands or marks, by this Act required to be branded on fish or oil intended for exportation, or shall empty any cask or box already branded, in order to put other fish or oil therein, for sale or exportation, shall, on being thereof convicted, for every offence forfeit and pay a penalty not exceeding twenty pounds, currency, and stand committed until the penalty be paid.

XVI. And be it further enacted by the authority aforesaid, that it shall be lawful for the Inspectors who shall be appointed under and in virtue of this Act, and for any of them, having previously made oath before a Justice of the Peace that there is reason to believe that fish or oil has been shipped on board of any ship or vessel, for exportation without inspection, and after receiving a Warrant for the purpose from the justice of the Peace before whom such oath shall have been made, to enter on board any such ship or vessel, and the same to search and examine, and if on searching, any fish or oil shall be found, being part of the cargo of such ship or vessel, that shall not have been inspected as provided by this Act, it shall be lawful for such Inspector or Inspectors to seize and detain such fish or oil, which shall thereafter be forfeited and sold according to Law, and one half the proceeds thereof shall go to, and be for the use and benefit of the Inspector or Inspectors seizing, and the other half to His Majesty, and the Master or Commander of any ship or vessel who shall by himself, his servants or seamen, hinder or obstruct any Inspector in making search as aforesaid, shall, for each and every cask so received on board, on being thereof lawfully convicted, forfeit and pay a fine or penalty of five shillings, and for every such hindrance or obstruction, a fine or penalty of Ten pounds, current money of this Province, and stand committed until the same be paid.

XVII. And be it further enacted by the authority aforesaid, that it shall not be lawful for any Inspector who may be appointed under and in virtue of this Act to trade in, buy or sell, directly or indirectly (otherwise than for his own family consumption) fish or oil of any kind or description, under the penalty of one hundred pounds, currency, for every contravention or disobedience to this Act, and of being dismissed from office.

XVIII. And be it further enacted by the authority aforesaid, that any Inspector or Inspectors appointed under and in virtue of this Act, who shall neglect or refuse, on application to him or them made personally or in writing left at his or their dwelling house, on lawful days, between sun-rise and sun-set, by any proprietor or possessor of fish unless employed at the time of such application, in inspecting fish immediately or within two hours thereafter, to proceed to such inspection shall, for every such neglect or refusal, forfeit and pay to such person so applying, on being thereof convicted, the sum of five pounds, currency, over and above, the damages occasioned by such refusal or neglect to the party applying.

XIX. And be it further enacted by the authority aforesaid, that dried cod-fish intended for exportation from either of the aforesaid Cities or ports of Quebec or Montreal shall be culled, nor shall any dried cod-fish be shipped on board of any vessel for exportation, nor be exported, until the same shall have been culled pursuant to this Act, under penalty of the seizure and forfeiture (as hereto-above mentioned, with respect to salted or pickled fish) of such dried cod-fish as may be shipped in disobedience to this Act.

XX. And be it further enacted by the authority aforesaid, that all dried cod-fish intended for exportation from either of the said Cities or ports of Quebec or Montreal, shall be well screwed and packed, under the direction and in presence of an Inspector of fish, in good and substantial hogsheads or casks, made of oak of the dimensions herein after specified, with heads and buts of pine, spruce or either soft wood, proper for the purpose, and such hogsheads or casks as contain dried cod-fish 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 cod-fish of a second or inferior quality, shall, in like manner, be branded or marked with the words, West-India, in large and legible letters.

XXI. And be it further enacted by the authority aforesaid, that the hogsheads and casks in which dried cod-fish intended for exportation from this Province, from either of the said Cities, shall be screwed and packed, shall 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 buts 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 buts twenty-eight inches in diameter between the chimes, and to contain at least six quintals casks; of the third class to be in like manner forty-two inches in length of stave, the heads or buts twenty-two inches in diameter between the chimes, and to contain at least four quintals. Provided nevertheless, that nothing herein contained shall be construed to prevent the packing and shipping, for exportation, dried cod-fish in casks of smaller dimensions than herein before is stated, whenever the shippers may find that necessary, the fish so packed in such smaller casks, being subject nevertheless to due inscription, and the casks to be branded as herein before is required for casks of larger dimensions.

XXII. Provided always, and be it further enacted by the authority aforesaid, that nothing in this Act contained, shall prevent or be construed to prevent the exportation of dried cod-fish in boxes or in bulk, such cod-fish having previously been culled by an Inspector, and the owner, possessor or shipper having obtained a certificate to that effect, dating the quantity and quality culled and shipped.

XXIII. And be it further enacted by the authority aforesaid, that when any Inspector of Fish, who may be appointed in virtue of this Act, shall in the execution of his duty, ascertain that fish of two or more kinds or qualities are 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, in large and legible letters, with the additional word, Mixed.

XXIV. And be it further enacted by the authority aforesaid, that the Inspectors to be appointed in virtue of this Act, shall, for the services which may by them respectively be performed, be entitled to the

following rates or allowances from the persons employing them, and no more, that is to, say; for inspecting and branding each and every tierce, the sum of one shilling and three pence, currency; and every half tierce, nine pence, currency; for each and every barrel, one shilling, currency; for each and every half barrel, nine pence, currency; for each and every box containing red or smoked herring, two pence, currency; which several rates shall cover and include the trouble and expense of cooerage which the Inspector may incur in the execution of the aforesaid duty; and for each and every quintal of dried cod-fish, one penny, currency; and for inspecting each and every draught of green fish, three pence, currency; and for his attendance at the packing, and screwing every hogshead or other cask of dried cod-fish, and for branding the same pursuant to this Act, the sum of three pence, currency, in addition to the rate or allowance herein above-mentioned; for inspecting, and for inspecting and branding each and every cask of oil, one shilling, currency.

XXV. And be it further enacted by the authority aforesaid, that such fines, penalties and forfeitures by this Act imposed, as do not exceed the sum of ten pounds, sterling, shall and may be used for and recovered in a summary way, before the Justices of the Peace, in their Weekly Sittings, in the aforesaid Cities of Quebec and Montreal, respectively, and such as may exceed the aforesaid sum of ten pounds sterling, shall and may be sued for and recovered in any Court of competent jurisdiction, in the usual and ordinary manner, and according to the course and practice of such Court.

XXVI. And be it further enacted by the authority aforesaid, that the fines, penalties and forfeitures by this Act imposed, or such part thereof as shall belong to His Majesty, shall, on recovery, be forthwith paid into the hands of the Receiver-General of the Province, and shall be accounted for to His Majesty, His heirs, and successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form at His Majesty, His Heirs and Successors shall be pleased to direct.

XXVII. And be it further enacted by the authority aforesaid, that all fines, penalties and forfeitures that may be incurred against this Act, shall be sued for within three months after the commission of the offence, and not afterwards.

XXVIII. And be it further 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 Act, such suit or action shall be commenced within three months next 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 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 or their suit or action, after the defendant or defendants shall have appeared, then such defendant or defendants shall have treble costs awarded against such plaintiff or 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.

XXIX. 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 twenty-five, and no longer.