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No. 113.

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1st Session, 7th Parliament, 25 Victoria, 1862

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**BILL.**

An Act to provide for the appointment of  
a Port Warden for the Harbour of  
Montreal.

(LOCAL BILL.)

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Received and read, first time, Wednesday, 30th  
April, 1862.

Second Reading, Thursday, 1st May, 1862.

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Hon. Mr. ROSE

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QUEBEC:

PRINTED FOR THE CONTRACTORS BY HUNTER,  
ROSE & LEMIEUX, ST. URSULE STREET.

An Act to provide for the appointment of a Port Warden for the Harbour of Montreal.

**WHEREAS** the increasing trade of the city and business of the Harbour of Montreal, renders the office of Port Warden necessary: Preamble.  
Therefore Her Majesty, &c., enacts as follows:

- 1.** There shall be at the City of Montreal an officer who shall be, Office created.  
5 and shall be designated the Port Warden of the Harbour of Montreal.
- 2.** The appointment to the office and the control of the office shall Appointment to office.  
be in the Council of the Board of Trade for the City of Montreal, which shall in the present year as soon as may be after the passing of this Act, and after this year, in the month of April in each year, appoint a  
10 Board of Examiners, five in number, who shall examine all Candidates for the office of Port Warden, or such number of Deputy Port Wardens, as the said Council may from time to time deem necessary for the business of the Harbour, and upon the recommendation of the said Examiners, the Council shall make the appointments.
- 3.** The person so appointed to be Port Warden shall, before acting Oath of office.  
15 as such, take and subscribe the following oath of office before some Justice of the Peace for the District of Montreal, who is hereby empowered to administer the same, and who shall have the custody thereof:—
- 20 “I, A. B., do solemnly swear, that I will faithfully and impartially, Form.  
to the best of my judgment and ability, perform the duties of the office of Port Warden of the Harbour of Montreal, without fear, favour or affection for any person or party whomsoever.
- 4.** The Port Warden shall receive no fees whatever, other than such Fees.  
25 as strictly appertain to the business of his office; all such fees shall be recorded in his books, and he shall make a certified annual return to the said Council of the Board of Trade, of the receipts and expenses of his office.
- 5.** The Port Warden or any Deputy Port Warden, may be removed Removal for misconduct.  
30 for misconduct or neglect of duty at the discretion of the Council of the Board of Trade; and the said Board of Examiners shall make and, when they shall think, it necessary, may repeal or amend all such rules and regulations, or by-laws, for regulating the office of Port Warden, Regulations.  
as they may deem from time to time necessary, subject to the approval  
35 of the Council of the Board of Trade.
- 6.** The Port Warden shall, at his own expense, keep an office always Port Wardens of office, books, &c.  
open, on lawful days, from 9 a.m., till 6 p.m. during the season of navigation, and from 10 a.m., till 2 p.m., during the remainder of the year, and shall have a seal of office, and the necessary books, in which

all his acts as Port Warden, and those of his deputies, with their fees of office, shall be recorded in such manner as the Board of Examiners shall direct.

Duty of Port Warden as to stowage of cargo, &c.

7. It shall be the duty of the Port Warden or his deputy, on being notified and requested by any of the parties interested, to proceed in person on board of any vessel for the purpose of examining the condition and stowage of cargo; and if there be any goods damaged on board such vessel, he shall inquire, examine, and ascertain the cause or causes of such damage, and make a memorandum thereof, and enter the same in full upon the books of his office.

Duty of masters of vessels as to vessels which have broken bulk before arrival; as to vessels which have not so broken bulk.

8. The master of any vessel which has broken bulk for the purpose of lightening or other necessary purpose, previous to her arrival in the Harbour of Montreal, shall immediately, on the discovery of any damaged cargo, proceed to hold a survey on the same in the manner herein prescribed, before the same shall be moved out of the place in which it was originally stowed; And if, after the arrival in port of any vessel, from beyond the seas, which has had not occasion to lighten, break bulk, or otherwise discharge any portion of her cargo before coming into the Harbour, the hatches of such vessel shall be first opened by any person not a Port Warden, and the cargo or any part thereof, shall come on board such ship in a damaged condition, these facts shall be *prima facie* evidence that such damage occurred in consequence of improper stowage or negligence on the part of the persons in charge of the vessel, and such default shall, until the contrary be shewn, be chargeable to the owner, master, or other person interested, as part owner or master of the said vessel.

Inspecting goods damaged, &c.

9. The Port Warden shall, when required, proceed to any ship, warehouse, dwelling, or wharf, and examine any merchandize, vessel, material, produce or other property, said to have been damaged on board of any vessel, and inquire, examine, and ascertain the cause of such damage, make a memorandum thereof, and of such property, and record in the books of his office, a full and complete statement thereof.

Inspecting vessels wrecked or damaged.

10. The Port Warden shall, when required, be surveyor on any vessel which may have suffered wreck or damage, or which shall be deemed unfit to proceed on her voyage: he shall examine the hull, spars, rigging, and all appurtenances thereof, shall specify what damage has occurred, record in the books of the office, a full and particular account of all surveys held on such vessel: he shall call to his assistance, if necessary, in such survey, one or more carpenters, sail-makers, riggers, shipwrights, or other persons skilled in their profession, who shall each be entitled to a fee not exceeding *two dollars* for the first survey, and *one dollar* for each subsequent one on which their services may be required to aid him in the examination and survey, but no such surveyor must be interested in the case; the Port Warden shall also, if required, be surveyor of the repairs necessary to render such vessel seaworthy, and his certificates that these repairs have been properly made shall be evidence that the vessel is seaworthy.

Surveys of vessels and cargoes

11. The Warden shall have cognizance of all matters relating to the surveys of vessels and their cargoes, arriving in port damaged, and when requested shall, on payment of the regular fee, give certificates of such surveys.

- 12.** The master of any vessel intending to load grain in bulk for any port not within the limits of inland navigation, shall, before taking in any of such grain, notify the Port Warden from time to time, while the different chambers are being prepared, to survey and inspect the said vessel as well as the dunnage and lining boards; the Port Warden in such case shall ascertain whether such vessel is in a fit state to receive and carry the cargo intended for her to its destination; he shall record in his books the condition of the vessel: if he finds she is not fit to carry the cargo in safety, he shall state what repairs are necessary to render her seaworthy: before beginning to load each chamber he shall be careful to see that it is properly dunnaged and lined, and provided with shifting boards, and that the boards and plank used for these purposes have been properly seasoned: he shall also examine the pumps and see that they are properly lined and dunnaged: he shall enter in the books of his office all particulars connected with these surveys, and grant the necessary certificates.
- 13.** It shall be the duty of the Port Warden, when required, to decide what amount of dunnage is necessary below cargo, and also between wheat or other grain, and the flour to be stowed over it, and his certificate that such dunnage has been used, shall be *prima facie* evidence of the good stowage of the cargo so far as these points are concerned.
- 14.** The Port Warden, if requested by any person having shipped cargo on board of a vessel and at the expense of such person, shall proceed on board of such vessel and examine whether she is in a fit state to proceed to sea or not; if she is found unfit the Port Warden shall state in what particular, and shall notify the master not to leave the port until the required conditions have been fulfilled.
- 15.** The Port Warden shall, when required, estimate the value and measurement of any vessel, when the same is in dispute or otherwise needed, and shall record the same in the books of his office.
- 16.** It shall be the duty of every Auctioneer making a sale of any vessel condemned, or ships' materials, or goods damaged on board a ship or vessel, whether sea-going or of inland navigation, sold for benefit of underwriters or others concerned, in the City of Montreal, to file a statement of the same at the office of the Port Warden within ten days after such sale: no underwriters sale shall take place until after at least two days public advertisement in not less than two English and one French newspapers in the City of Montreal, and such sale shall not be at an hour earlier than twelve, nor later than three o'clock in the day.
- 17.** It shall be the duty of the Port Warden, when required, in writing, by all parties in interest, to hear and adjudicate upon any difficulty or matter in dispute between the master or consignee of any ship or vessel, and any proprietor, shipper, or consignee of the cargo, and keep a record thereof.
- 18.** No goods, vessels or other property shall be sold as damaged for account of underwriters, unless a regular survey and condemnation has previously been had, and the Port Warden shall in all such cases be one of the surveyors.
- 19.** Before proceeding to act in any case in the performance of his duties, the Port Warden shall give reasonable notice to all parties interested or concerned in the case.

Vessels taking grain in bulk.

Dunnage.

Sea worthiness of vessels.

Value or measurement of vessels.

Sales of damaged vessels or goods.

Disputes between masters and consignees, &c.

Survey before sale of damaged vessels, &c.

Notice to parties.

- Time for notice.** **20.** All notices, requests, or requirements, to, or from the Port Warden, must be given in writing and a reasonable time before action is required.
- Certificates** **21.** On the demand of any party interested, the Port Warden shall 5 furnish certificates in writing, under his hand, of any matters of record in his office: he shall also furnish, when required, copies of any entries in his books, or documents filed in his office.
- Copies of regulations.** **22.** The Port Warden shall supply to every captain of a vessel arriving in this port, a copy of the regulations relating to the office of 10 Port Warden, once in each year.
- Lloyds' regulations to apply.** **23.** In all matters regarding surveys, &c., the Port Warden shall conform to, and be governed by the regulations of Lloyds' so far as they are applicable to the port of Montreal and to the circumstances of 15 the case.
- Disputes between Port Warden and parties.** **24.** Should any dispute arise between the Port Warden and any party interested in any case where his presence has been required, either party may appeal to the Board of Examiners, and it shall be the duty of the Secretary of the said Board of Trade, on a requisition being presented to him to that effect, to summon forthwith a meeting of the said 20 Board of Examiners who, or not less than three of them, shall immediately investigate and report on the case submitted to them and their determination, or that of a majority of them, made in writing shall be final and conclusive.
- Costs.** **25.** The party against whom the Examiners decide shall pay all 25 the expenses, and the Examiners shall determine the amount of fees or charges payable in each case, which shall never exceed \$20.
- Evidence.** **26.** All certificates issued under the hand of the Port Warden or his deputy and sealed with the seal of his office, referring to matters recorded in his books, shall be received as *prima facie* evidence of the 30 existence and contents of such record in any court in this Province.
- Tariff of fees.** **27.** The Council of the Board of Trade for the City of Montreal may, from time to time, establish a tariff of fees to be paid to the Port Warden for services performed by him and his deputies, which tariff, being first approved by the Governor in Council, shall be in force until 35 repealed or altered by the said Council of the Board of Trade, as it may be at any time, with the approval of the Governor in Council.