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No. 110.

1st Session, 6th Parliament, 21 Victoria, 1858.

BILL.

An Act to regulate the inspection of Hops.

Received and read, first time, Tuesday, 27th
April, 1858.

Second reading, Thursday, 29th April, 1858.

MR. TERRILL.

TORONTO:

PRINTED BY JOHN LOVELL, YONGE STREET.

An Act to provide for the Inspection of Hops.

WHEREAS it is expedient to make provision for the Inspection of Hops; Therefore Her Majesty &c., enacts as follows: Preamble.

I. From and after the day on which this Act shall come into force, it shall be the duty of the Minister of Agriculture, upon the receipt of any requisition signed by not less than twenty persons concerned in the production or consumption of Hops, setting forth the necessity of the appointment of an Inspector of Hops in any incorporated city in this Province, to cause a notice to be inserted in the "Official Gazette" and in newspapers published in such incorporated city, to the effect that each and every person resident and doing business in such incorporated city who may be desirous of being appointed to the office of Inspector of Hops under this Act, may, within two months from and after the first insertion of such notice, transmit to the Minister of Agriculture a statement, under oath, setting forth his name, place of business, and the length of time during which he has been concerned in the growth, or consumption, or traffic in hops (as the case may be), and the quantity of hops produced, consumed, bought or sold by him during such period, accompanied by such testimonials of his skill in judging of the qualities of hops as he may see fit and be able to procure, and signifying also his desire to be appointed to the office of Inspector of Hops under this Act.

On a certain requisition the Minister of Agriculture shall advertize for persons willing to become Inspector of Hops in any City.

II. It shall be lawful for the Governor in Council, after the expiration of two months from the first insertion of the notice mentioned in the next preceding section, to appoint from among the applicants who shall have complied with the requirements mentioned in such notice, the person who shall seem to be best suited to the discharge of the duties of the office, to be an Inspector of Hops: But before any person so appointed as Inspector shall act as such, he shall furnish two good and sufficient sureties who shall be bound with himself for the due performance of the duties of his office in the sum of one hundred pounds currency each: And such sureties shall be approved by the Mayor or chief municipal authority of the city for which the said Inspector shall be appointed; And a bond shall be executed to Her Majesty in the form used with regard to the sureties of persons appointed to offices of trust in this Province; And such bond shall avail to the Crown and to all persons whomsoever who shall or may be aggrieved by the breach of the conditions thereof; And no such Inspector shall allow any person whomsoever to act for him about the duties of his office excepting only his sworn assistant, or assistants, to be appointed in the manner hereinafter provided.

The applicant best qualified shall be appointed.
He must give security.
No person to act except Inspector or his sworn assistant.

Custody of the Bond. III. The bond of suretyship which shall be executed by such Inspector and his sureties, by virtue of this Act, shall be made and shall be kept at the office of the Clerk of the Corporation of the city for which such Inspector shall be appointed; And every person shall be entitled to have communication and copy of any such bond or suretyship at such Clerk's office, upon payment of *one shilling* currency for each communication, and of *two shillings and sixpence* currency for each copy. 5

Fees for copies, &c. Inspector to be sworn. The Oath. Fees for recording oath, &c. IV. Each person appointed an Inspector of Hops under this Act, shall before he shall act as such, take and subscribe an oath before the Mayor of the city for which he shall be appointed (which Mayor is hereby authorized to administer the same), in the bonds following, to wit: "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 of an Inspector of Hops, 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 Hops," and that I will not directly or indirectly, by myself or by any other person or persons whomsoever, grow, produce, buy or sell any hops on my own account, or upon the account of any other person or persons whomsoever; nor will I be or remain in the employment or service of any person or persons who may be engaged in the growth of hops, or consumption of hops, during the time I shall continue such Inspector. So help me God;" which oath shall be recorded in the office of the Clerk of the city where the same shall be taken; And for recording such oath, and for a certificate thereof, the Clerk shall be entitled to demand and have the sum of *two shillings and sixpence*, and no more; and shall give communication of the original to any person who shall apply for the same, on payment of *one shilling* currency for such communication, and *two shillings and sixpence* currency for each copy. 10 15 20 25

Inspector to have proper building for storage of Hops. Owner to pay cost of moving them, &c. V. In any place where there shall be an Inspector of Hops, it shall be the duty of such Inspector to provide himself with suitable and convenient premises for the storage and inspection of hops, and to keep all bales and packages of hops delivered to him for inspection, whilst they remain in his 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 shall be good and sufficient and enclosed on every side, and the packages shall be so deposited that no moisture shall be imparted to them from the earth; and for the time which they may be in his possession previous to the inspection thereof, and for twenty-four hours after such inspection, the said Inspector shall be entitled to make no charge for storage, but all trouble and expense attendant upon the loading, unloading, and moving the said hops shall be at the cost of the person at whose request the said hops shall be inspected. 30 35 40

Examination and classification of Hops. VI. It shall be the duty of every such Inspector to receive into his premises provided as aforesaid for such purpose, all hops presented to him for inspection, and to examine and inspect the same by thoroughly cutting into and examining each bale and package, and he shall classify and assort the same into three different grades or classes according to their different qualities and conditions, to be denominated, Number 1; Merchantable; Number 2. 45 50

Number one hops shall comprise all those which are of the first quality in respect to picking, curing, packing, strength, color, flavor, and all other properties which combined would constitute a superior article for sale or use in Canada. Number one.

5 Merchantable hops shall comprise all those which are good, sound, and saleable, and in which no material defect or injury exists to the depreciation of their value for use, and which shall fully possess all the essential properties which render hops valuable for use, but in a degree inferior to those classified as Number 1 Hops. Merchantable.

10 Number 2 hops shall comprise the remainder of those which may be fit and valuable for use, but which from some defects or injuries or improper picking, curing or package, may be unworthy to be classified as Merchantable hops. Number two.

15 And the said Inspector shall mark in plain letters and figures on each and every bale and package of hops by him inspected, containing hops corresponding to the quality hereinabove described as Number one hops, the characters, "No. 1;" of the quality hereinabove described as Merchantable, the word, "Merchantable;" and of the quality hereinabove described as Number two hops, the characters, "No 2;" with his
20 own name and that of the place where the said hops are inspected, and the year when such inspection is made, together with the weight of each bale or package; he shall also mark upon each bale or package which shall seem to him to be unsaleable or unfit for use, the word, "Unmerchantable;" and he shall also make and deliver a separate weigh
25 note or bill of each quality of hops whenever he shall be required so to do by the owner thereof or his agent. How inspected Hops shall be marked.

Weigh note, &c.

VII. If from any particular defect in the quality or condition of hops, or from unskilful picking, curing, packing or other particular circumstance, the Inspector shall place the mark of an inferior grade upon
30 hops which would be otherwise of a superior grade, he shall make an entry to that effect, and stating the particular fault upon his book, to be kept as hereinafter provided, and shall make a memorandum to the same effect upon the weigh note or bill of inspection which he shall deliver to the person entitled to the same. Case of particular defect in Hops otherwise good.

VIII. Each Inspector, under this Act, shall keep a Book, in which shall be regularly entered the number of each bale or package by him inspected, with its weight and quality, and the name of the owner or the same person presenting for inspection; and the first bale or package which shall be presented for inspection, being the growth of the year
40 in which it is so inspected, shall take the Number 1; and each bale or package which shall be subsequently inspected shall take a number corresponding to the order of inspection, the numbers being continuous until hops being the growth of the next ensuing year shall be presented for inspection, and the said Inspector shall also mark upon each bale
45 or package inspected the number corresponding to the entry in his Book. Book to be kept by Inspector.

Bales, &c., to be entered by numbers in order.

IX. For all the services to be performed as aforesaid, each Inspector shall be entitled to charge to the owner of the said hops, or to the person presenting the said hops for inspection, the sum of *two shillings and* Charges and liability of Inspector.

sixpence for every hundred pounds weight inspected, and he shall be entitled to charge a reasonable sum for storage of the same for the actual time they may be left in his possession after the first twenty-four hours from the time of such inspection, and he shall not be entitled to make any further charges for any services performed under this Act; but the said Inspector shall not be liable for losses by fire or other accidents which he could not have reasonably foreseen and prevented. 5

Inspectors may appoint assistants.

X. Each Inspector of Hops may appoint and remove from time to time some skilful person to act as his assistant in case of the absence, sickness, or other incapacity of such Inspector, which assistant shall, on being required so to do, perform the several duties and acts hereinbefore assigned to the said Inspector, except that he shall mark his own name and the name of his office, "Assistant Inspector," upon every bale and package by him inspected; and for the performance of such services he shall receive such remuneration as may be agreed upon between himself and the said Inspector of Hops. 10 15

His remuneration.

Inspector and his sureties to be responsible for assistants, who shall be sworn.

XI. The Inspector of Hops and his said sureties shall be responsible for the acts of his assistant done under this Act, in the same manner and to the same extent that he would have been responsible had they been done and performed by himself; And each such assistant, before he shall act as such, shall take and subscribe the following oath, before the mayor of the city in which he shall be appointed, who 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 of the Inspector of Hops, for the city of _____, according to the true intent and meaning of an Act of the Legislature of this Province, intitled, 'An Act to provide for the inspection of Hops,' and that I will not, directly or indirectly, personally or by means of any person or persons in my behalf, receive any fee, reward or quality whatever by reason of my office of assistant to the said Inspector (except my salary from the said Inspector), and that I will not, directly or indirectly, trade in Hops, or be in any manner concerned in the purchase or sale of the same, nor will I be or remain in the employment or service of any person or persons who may be engaged in the growth, traffic or consumption of Hops during the time I shall continue such Assistant Inspector: So help me God." 20 25 30 35

The Oath.

Punishment of Inspectors, &c., for offences against this Act. Penalty.

XII. Any Inspector who shall, or whose assistant shall, during his and their continuance in office, directly or indirectly be concerned in the buying or selling of any Hops, or participate in any transaction or profit arising therefrom (farther than the fees or emoluments granted by this Act), or shall date any weigh note or bill of inspection differently from the time when the Hops were actually inspected, or shall issue the same without any date, or who shall not conform to the provisions of this Act, shall, for every such offence incur a forfeiture or penalty not exceeding fifty pounds currency, and be for ever thereafter disqualified and disabled from holding or exercising the duty or office of Inspector of Hops; and every Inspector or Assistant Inspector, or clerk, or other person who shall make or cause to be made any fraudulent bill of Hops, shall be guilty of felony, and shall, upon conviction thereof, be confined at hard labor in the Provincial Penitentiary for any term not exceeding seven years. 40 45 50

Certain offences to be felony.

XIII. If any Inspector or his assistant not then employed in the inspection of Hops, shall, on application on lawful days between sunrise and sunset to him made, shall refuse to receive any Hops, or shall neglect or delay to proceed in such examination and inspection for the space of three hours after such application so made to him, the said Inspector or his assistant so in default, shall, for each such offence, forfeit the sum of five pounds current money, to the use of the person or persons so delayed.

Penalty for refusing to inspect, &c.

XIV. If any person counterfeits any of the aforesaid brand marks or other marks of any inspection of Hops,—or without the consent of such Inspector impresses or brands the same, or any other mark purporting to be the mark of any such Inspector, on any package containing Hops, either with the proper marking tools of such Inspector, or with any counterfeit thereof,—or empties any package of Hops branded or marked by any such Inspector, in order to put therein Hops for sale or exportation, without first cutting out or obliterating any previous brand marks thereon,—or fraudulently packs therein any other Hops or thing than the Hops contained therein when such mark was impressed,—or if any person in the employ of any such Inspector hires or lends out the marking tools of such Inspector to any person whatever,—or connives at, or is privy to, any fraudulent evasion of this Act,—such person committing any of the offences aforesaid shall, for every such offence, incur a penalty of fifty pounds.

Penalty for counterfeiting Inspector's marks, &c.

XV. If any dispute shall arise between any Inspector or Assistant Inspector and the proprietor or possessor of any Hops, with regard to the quality thereof, then upon application to any of Her Majesty's Justices of the Peace for the district in which such Inspector or his assistant shall act, the said Justice shall issue his 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 Hops, and the third by the Justice of the Peace, requiring the said three persons 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 required and authorised to administer), and their determination, or that of the majority of them, shall be final and conclusive, whether approving or disproving the judgment of the Inspector or his assistant, who shall immediately attend thereto, and mark, or cause to be marked, each and every bale and package 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 such re-examination, to be ascertained and awarded by the said Justice, shall be paid by the proprietor or possessor of the Hops, if otherwise, by the Inspector.

Disputes between owners of Hops and Inspectors, how to be settled.

Costs.

XVI. Nothing herein contained shall be construed to prevent any person from purchasing or selling hops without inspection, but the inspection had in conformity with the provisions of this Act shall be decisive as to the quality and condition of the hops so inspected.

Inspection not to be compulsory.

XVII. Every penalty and forfeiture imposed by this Act shall be recoverable by any Inspector or Assistant Inspector, or any other person suing for the same, in any Court having civil jurisdiction to the amount; and if such penalty does not exceed ten pounds the proceedings shall be summary: and such penalty or forfeiture shall, on failure of payment,

Recovery of penalties.

Application of penalties. be levied by execution as in the case of debt ; And one moiety of every such penalty and forfeiture, when recovered, shall (except when herein otherwise provided) be immediately paid into the hands of the Treasurer of the corporation of the city wherein the action or prosecution is brought, for the public uses of the said city, and the other moiety shall belong to the person suing for the same, unless the action be brought by an officer of such Corporation, in which case the whole shall belong to the Corporation for the said uses. 5

Limitation of prosecution. XVIII. No suit or prosecution for any pecuniary penalty incurred under this Act, for any offence against its provisions, shall be commenced after an expiration of years after the commission of the offence. 10