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No. 9.

1st Session, 4th Parliament, 16 Victoria, 1852.

BILL.

An Act to regulate the business of
Stevedore at the Port of Quebec.

Received and read a first time, Wednesday, 25th
August, 1852.

Second reading, Wednesday, 1st September, 1852.

MR. LAUBIN.

QUEBEC:

(9)

BILL.

An Act to regulate the business of Stevedore at the Port of Quebec.

WHEREAS the magnitude and increasing importance of the Canada Timber Trade render it expedient that Legislative provision should be made in order to ensure the better qualification of persons exercising the business of Stevedore or Shipstower at the Port of Quebec, and the more secure and advantageous loading of the cargoes of ships at the said Port, and in order to prevent persons unskilled in the said business of Stevedore from practising the same, to the great injury and damage of such cargoes, and the endangering of the lives of Her Majesty's subjects; Be it therefore enacted, &c.,

- 10 And it is hereby enacted by the authority of the same, That it shall be the duty of the Council of the Quebec Board of Trade, within twenty-one days after the passing of this Act, at a meeting to be called for that purpose, to constitute and appoint in that City, thirteen persons from and out of those exercising the business of Stevedore in the said City of
15 Quebec, and most skilled and practically acquainted, with the same, to be and to be called, "*The Quebec Board of Examiners for Stevedores,*" whose duty it shall be to examine and test the skill and qualification of all applicants to be admitted and licensed as Stevedores under the provisions of this Act: And all vacancies thereafter occurring in the said
20 Board, by death, resignation, permanent absence from the said City or otherwise, shall from time to time be filled from and out of such licensed Stevedores, by votes given by ballot at a general meeting to be called to that effect, by public notice to be forthwith given by the Chairman of the said Board, in the public newspapers in the said City, and the
25 person having a majority of votes at the said meeting, shall become a member of the said Board upon his complying with the requirements of this Act in that behalf; and at such meeting it shall be competent to all the members of the said Board for the time being to vote at the said election with the exception of the Chairman thereof, who
30 shall only vote upon an equal division of the persons present.

II And be it enacted, That within ten days after the announcement by the said Council of the said Board of Trade in the Canada Gazette, of the appointment of the said "*Quebec Board of Examiners for Stevedores,*" public notice shall be given by the member thereof whose name occurs
35 first on the list, in two of the public newspapers published in the said City of Quebec, one in the English, and the other in the French language, of the time and place at which the said Board shall thereafter assemble for the purposes of the present Act, which shall be within ten days after

the publication of such notice ; and upon the day so appointed and thereafter from time to time as circumstances may require, and pursuant to adjournment or public notice to that effect by the Chairman, the said Board shall meet to test the skill, capacity and qualifications of all applicants to be licensed as Stevedores and for all and every the purposes of this Act ; and five of the members of the said Board, or any majority of the members thereof for the time time being, shall be a *quorum* for holding any meeting of the said Board ; and the decision of any majority of the members present at any such meeting shall be held to be the decision of the said Board, exclusive of the Chairman thereof, who shall only vote in the case of an equal division of the members present ; and each member of the said Board before acting as such shall take the oath contained in the Schedule A. hereunto annexed, to be administered by one of the Judges of the Superior Court, at Quebec, or by any Circuit Judge in the said District.

Quorum.

Vote of
Chairman.

Superintendent of Stevedores and Chairman appointed.

III. And be it enacted, That it shall be lawful for the said Quebec Board of Examiners for Stevedores, at the first meeting thereof, to elect by ballot, from and out of the members of the said Board, a fit and proper person to be "*Superintendent of Stevedores for the Port of Quebec,*" and Chairman of the said Board, and to discharge the duties hereinafter assigned to him, which selection shall be subject to the approval of the Governor of this Province, and shall be forthwith reported for that purpose ; and the person so selected, after signification of such approval, shall with two responsible sureties execute a Bond to Her Majesty, Her Heirs and Successors, in the penal sum of pounds currency, each, for the faithful discharge of his duties as Superintendent and Chairman of the said Board, which Bond shall enure to the benefit of all parties who may be damnified by the misfeasance, malfeasance or nonfeasance of the said Superintendent and Chairman, and who shall have a remedy therefor upon such Bond, by suit or action against the said Superintendent and Chairman and his sureties, before a Court of competent jurisdiction ; and the said Superintendent and Chairman shall, before entering upon the duties of his office, take and subscribe before one of the Judges of the said Superior Court, or one of the said Circuit Judges, the oath contained in the Schedule B. hereunto annexed.

Licenses to Stevedores exercising the business before the passing of this Act.

IV. And be it enacted, That within calendar month after the first meeting of the said Board, it shall be lawful for them to recommend to be licensed as Stevedores, all persons applying for the same, upon the said Board being satisfied either from personal examination, or otherwise, that such applicants have publicly practised the business of Stevedore, during at least two seasons of navigation previous to the passing of this Act, and also of their fitness and capacity to exercise the said business of Stevedore, and not afterwards, except in the manner hereinafter specified ; provided that due notice thereof be given by the said Superintendent of Stevedores and Chairman, simultaneously with the notice of the first meeting of the said Board hereinbefore directed to be given ; And provided always that it shall be lawful for the said Board, at any time within two years after the said first meeting thereof, in the event of the illness or the absence from this Province, of any person or persons

who may at and before the time of the passing of this Act, have publicly exercised during the seasons of navigation, the business of Stevedore as aforesaid, at the said Port of Quebec, upon application of such person or persons within the period aforesaid, to recommend him or them to be
 5 licensed as such Stevedore or Stevedores as aforesaid, upon the said Board being satisfied, by personal examination or otherwise, of his or their fitness to exercise the said business, without such person or persons being obliged to serve any further apprenticeship thereto.

V. And be it enacted, That within one calendar month after public
 10 notice by the said Board to that effect, it shall be lawful for all persons then or previously engaged in the business or occupation of ship-stowing, and not practising as Stevedores, and who may be desirous of qualifying themselves thereafter as such, to enter their names as apprentices, with some licensed Stevedore, who shall enquire into the time, (without
 15 regard to continuity,) during which such persons may have followed such occupation; and after the expiration of a period equal to one calendar month, during the season of navigation in the River St. Lawrence, shall certify to the said Board, what further period of apprenticeship, (without interruption unless of the said seasons of navigation,) will be necessary
 20 to entitle such person to apply for a license to practise as a Stevedore; and the certificate of such licensed Stevedore shall be conclusive in the premises, subject nevertheless, to be revised and altered by the said Board, upon good cause shewn; and each licensed Stevedore, upon the expiration of the first mentioned period of one month, shall return to the
 25 said Board a list of all such apprentices, specifying the required time for each to complete his apprenticeship.

Apprentice-ship of persons partially acquainted with the business at the passing of this Act.

VI. And be it enacted, That from and after the first meeting of the
 said Board, all persons desirous of acquiring the business of Stevedore,
 and obtaining a license to practice as such, and not entitled to avail
 30 themselves of the provisions hereinbefore mentioned, shall be hold to enter into and perform an apprenticeship of five consecutive years or seasons of navigation, with some licensed Stevedore, and at the expiration of that period, to undergo an examination by the said Board, previously to their obtaining a certificate of qualification; Provided
 35 nevertheless, that it shall be in the discretion of the said Board, in the event of the interruption of the continuity of the said apprenticeship of five years or seasons of the navigation, upon good cause shewn, and if they think fit so to do, to examine any apprentice so circumstanced, and to order that he shall serve such further apprenticeship as may be by the
 40 said Board deemed reasonable in order to complete his apprenticeship, without forfeiture of the period or periods already performed.

Apprentice-ship of five years necessary to qualify as Stevedore.

Proviso.

VII. And be it enacted, That it shall be lawful for the Governor to
 grant licenses, which shall be issued by the Superintendent of Stevedores to all persons duly qualified to practice the business of a Stevedore, upon the production of a certificate of fitness and qualification from
 45 the said Board of Examiners, provided that each applicant shall execute a Bond with two sufficient sureties to the satisfaction of the said Superintendent, to Her Majesty, Her Heirs and Successors in the penal sum of
 of currency, each, to be taken and acknowledged

Manner of issuing licenses.

before the said Superintendent, and in his absence or illness before one of the Judges of the said Superior Court, or one of the Circuit Judges in the said District of Quebec, upon view of such certificate of qualification and of a certificate under the hand of the said Superintendent, or in his absence of the Chairman *ad interim* of the said Board, of the sufficiency 5 of such sureties, which Bond shall enure to the benefit of all parties damnified by the misfeasance, malfeasance, or nonfeasance of such Stevedore, and who shall have a remedy therefor upon such Bond by suit or action against the said Stevedore and sureties before a Court of competent jurisdiction : and every such licensed Stevedore shall, before 10 exercising his said business, take and subscribe before any of the said Judges of the said Superior Court, or Circuit Judges, the oath contained in Schedule C, hereunto annexed.

Penalty upon persons exercising the business of Stevedore without a license, and upon Shipmasters, &c., employing persons not licensed.

VIII. And be it enacted, That from and after the expiration of the said period of one month next after the day of the first meeting of the said 15 Board as aforesaid, any person who shall stow or commence the stowing of the cargo of any ship or vessel in the capacity of Stevedore or Shipstower, or who shall have bargained or contracted for the stowing of any such cargo in such capacity, or who shall directly or indirectly practice the business of Stevedore or Shipstower, without being thereunto duly 20 licensed, shall upon being duly convicted thereof incur a penalty not exceeding currency ; and any master, owner or consignee or other person having the control of any such ship or vessel, who shall employ any person not being a licensed Stevedore to stow the cargo of the said ship or vessel, or any portion thereof, shall, 25 upon being duly convicted thereof, incur a like penalty ; Provided always, that nothing in this Act contained shall restrict any master of a vessel, shipowner, agent, or other person as to the choice of a Stevedore having a legal capacity to stow or contract for the stowing of any vessel.

List of licensed Stevedores.

IX. And be it enacted, that it shall be the duty of the said Superinten- 30 dent of Stevedores to cause a list of all licensed Stevedores to be suspended in some conspicuous place in the office of the said Board ; and it shall be the duty of every licensed Stevedore immediately upon his having contracted for the stowing of any vessel, to report the same together with the name of such vessel, to the said Superintendent, who shall keep a 35 list of all the Stevedores so employed, to which, as well as to the said list of licensed Stevedores, all persons desiring the same shall have reference ; And in the event at any one time of all the licensed Stevedores at the Port of Quebec, in a condition to prosecute their trade, being reported as engaged in stowing ships, it shall be competent in that case to any licensed Steve- 40 dore already engaged, to undertake the stowing of any vessel for which no disengaged Stevedore can be procured, and to commence the stowing thereof by one of his most skilful apprentices, but which apprentice shall be removed at the instance of and replaced by, the licensed Stevedore who shall first report himself as disengaged at the office of the said Board ; 45 and the work performed by any such apprentice shall be estimated by the said Superintendent, and the value thereof shall accrue to the licensed Stevedore whose apprentice he may be.

If all the Stevedores are engaged, an apprentice may stow.

X. And be it enacted, That if any dispute or difficulty shall arise between the Master, Agent or other person interested in the stowing of the cargo of any ship or vessel, and the Stevedore hired and engaged to stow the same, in regard to the proper stowing of such cargo or in regard to any other matter or thing connected therewith, it shall be competent to the said Master, Agent, or other person so interested therein, and to the said Stevedore, by application to the said Superintendent, in writing, to demand an enquiry into the said difficulty, or a survey of the work performed, and thereupon it shall be lawful for the said Superintendent to name and appoint any one of the Members of the Quebec Board of Examiners for Stevedores as Arbitrator on behalf of such Stevedore, to repair along with a Shipmaster or other competent person to be appointed as Arbitrator on the part of the said Master, Agent or other person, in order to investigate such dispute or difficulty, and to hold such survey; and such Arbitrators shall make such order in the premises for the remedying of the evil complained of, by suspending for a limited time such Stevedore, or otherwise, as to them may seem just and reasonable, and the reasonable expenses consequent upon such Arbitration shall be borne by that one of the said parties against whom the said Arbitrators shall decree the same, or by both in such proportions as the said Arbitrators may award; Provided always, that in the event of any difference of opinion arising between the said Arbitrators in relation to the said enquiry or survey, they shall call in as umpire the said Superintendent to decide the same, and that no such Stevedore shall be suspended unless the determination of the said Arbitrators to that effect be duly reported to the said Board and concurred in by them; And provided also, that it shall at all times be competent to the said Superintendent, upon his being thereto required by any of the parties interested therein, to repair on board of any vessel engaged in shipping her cargo and to inspect the same, and thereupon to report his doings to the said Board if he should deem the same necessary.

Dispute in relation to stowing how settled.

Provisio.

Superintendent may inspect the ship.

XI. And be it enacted, That in the event of the illness, absence, death or disqualification of the said Superintendent and Chairman, it shall be lawful for the said Board at any meeting thereof, to elect by ballot any member of the said Board, to discharge *ad interim* all and every the duties of such Superintendent and Chairman during such illness or absence, or until another Superintendent and Chairman shall be appointed by the Board, in manner aforesaid; and further, that that nothing in this Act contained shall prevent any Member of the said Board, being thereto duly licensed, (the said Superintendent or Superintendent *ad interim* excepted,) from exercising the business of Stevedore; Provided always, that any Member of the said Board appointed Superintendent *ad interim* shall be entitled to receive during the period he shall be in office, the same salary, or emoluments allowed by this Act to the said Superintendent, upon his complying with each and every of the requirements of this Act in relation to the appointment of the said Superintendent.

Illness, &c. of Superintendent.

XII. And be it enacted, That it shall be the duty of the said Superintendent to have an office in a central and convenient place for the transaction of the business of the said Board and its Officers, which

Office of Board.

office shall be kept open by him on every day, Sundays excepted, from the hour of six in the morning until the hour of six in the evening during the season of Navigation, and during ordinary office hours at other seasons of the year, and the reasonable expenses of such office shall be paid out of the moneys at the disposal of the said Board under the provisions of this Act. 5

Fund for expenses of Board and disabled Stevedores.

Percentage payable by Stevedore.

Penalty for neglect to pay the same.

Salary of Superintendent.

Accounts to be laid before the Legislature.

XIII. And whereas it is expedient and desirable to provide a fund to defray the necessary expenses of the said Board, and also for the relief of sick or disabled Stevedores and their wives and children, who may stand in need of the same; Be it therefore enacted, That every licensed Stevedore shall be held and bound within ten days after the clearance at the Custom-House of any vessel in which he may have been employed as a Stevedore, to pay into the hands of the said Superintendent, at the rate of _____ for every pound by him received, or which he may be entitled to receive for stowing the cargo of such ship as aforesaid; and in every case in which any Stevedore shall have contracted to stow any such ship and bear the expenses of labourers, timber-towers, or other subordinate persons employed therein; without specifying any particular sum for the personal services of such Stevedore apart from the other expenses incurred therein, the said Stevedore shall be held and bound, within the period aforesaid, to pay into the hands of the said Superintendent, for every ship so stowed by him of and under the burthen of one hundred and fifty tons, the sum of _____ currency, and for every vessel over one hundred and fifty tons and under two hundred tons the sum of _____ currency, and so on in the ratio of _____ currency for every increase of fifty tons; and every such Stevedore failing to pay the said several sums into the hands of the said Superintendent within the period aforesaid, shall be liable to pay double the said rates for every period of ten days during which he shall have failed to comply with this provision; and all the moneys accruing from the said rates and increased rates shall be at the disposal of the said Board for the purposes of this Act, and may be recovered from all persons in default to pay the same, by suit or action, in the name of the Superintendent, or Superintendent *ad interim*, before any Court of competent jurisdiction; and every Stevedore in default to pay the same during one calendar month, shall be liable, in the discretion of the said Board, to be reported to the Governor as such defaulter, and to be suspended as a licensed Stevedore, until the amount due by him, and all the expenses incurred by reason of such default, shall have been duly paid. 40

XIV. And be it enacted, that the said Superintendent and Chairman shall be entitled to receive from and out of the funds aforesaid, the sum of _____ annually as a remuneration for his services as such Superintendent and Chairman; And the balance remaining undistributed after the payment of the necessary and unavoidable contingencies and expenses of the said Board, shall be appropriated for the relief of sick and disabled Stevedores, and their wives and children, under the provision hereinafter next mentioned: And the said Superintendent shall be held annually on or before the first day of January to transmit in duplicate to the Governor, and for the use of the Legislature, a detailed 50

statement of all moneys paid and received by the said Board under the provisions of this Act, and a detailed account of the manner in which the same shall have been distributed ; and all the funds received under this Act shall be deposited weekly in one of the Banks in the said City of Quebec, and shall be drawn therefrom by checks or drafts signed by the
5 Superintendent and Chairman of the said Board, for the purposes of this Act.

XV. And be it enacted, That in order to give effect to the said provisions for the relief of sick persons and disabled Stevedores, and their wives and children, it shall be lawful for the said Board to make and
10 enact such By-Laws as to them may seem fit and proper for the regulation thereof, to come into force as soon as they shall have been sanctioned by one of the Judges of the said Superior Court, and which By-Laws may be thereafter altered, amended or abrogated from time to time by the said Board, upon such alteration, amendment or abrogation
15 being in like manner sanctioned by one of the said Judges. By-Laws.

XVI. And be it enacted, That in the event of the funds accruing to the said Board under the provisions of this Act, being inadequate to defray the expenses thereof, and to afford a reasonable and sufficient sum for the relief of sick and disabled Stevedores, their wives and children
20 as aforesaid, it shall be competent to the said Board, at a meeting to be by them held for that purpose between the first and tenth days of December in each year, to increase the said rates payable by Stevedores to such an amount as the said Board may deem necessary for the purposes aforesaid ; and in the event of the balance remaining at the
25 disposal of the said Board, after payment of its reasonable expenses, being by them deemed greater than may be reasonably required for the relief of such sick and disabled Stevedores, their wives and children as aforesaid, it shall be competent to the said Board in manner aforesaid, to diminish the said rates in such proportion as they may deem expedient ;
30 Provided always, that the resolution of the said Board, increasing or diminishing the said rates, shall be forthwith reported to the Governor of this Province, and that it shall be lawful for the Governor in Council, within three months after the making and reporting of such resolution, to disallow and annul such increase or diminution, and that it shall at all
35 times be lawful for the said Governor in Council to reduce all the rates payable by the said licensed Stevedores, under the provisions of this Act or any resolution of the said Board made by authority hereof. Proviso.

XVII. And be it enacted, That every person who shall wilfully infringe any of the provisions of this Act, or shall wilfully neglect to perform the
40 duty or duties required of him under the provisions thereof, (except where otherwise provided for,) shall incur a penalty not exceeding pounds. Penalty for infractions of this Act.

XVIII. And be it enacted, That all the penalties imposed by this Act may be prosecuted and recovered, with costs, before two or more of the
45 Justices of the Peace for the District wherein the offence shall have been committed, on the oath of one or more credible witnesses, other than the informer, or on the confession of the party accused, subject to the How penalties under this Act may be recovered.

provisions contained in the Act of the Parliament of the late Province of Lower Canada, passed in the fourth year of the reign of His Majesty King George the Fourth, and intituled, "*An Act to regulate the manner in which Justices of the Peace are annually to account for Fines and Penalties by them imposed and levied pursuant to law, and for other purposes,*" and may be levied by seizure and sale of the goods and chattels of the offender; and in the event of a want of sufficient effects, the said defendant or defendants so convicted, may be committed to the common gaol of the said District for a period not exceeding three months, unless such penalty and costs be sooner paid; and every defendant in whose favour judgment shall be rendered upon such prosecution, shall, in the discretion of the said Justices, have his costs against the prosecutor and the like remedy and remedies for the recovery thereof; and one moiety of such penalties shall be forthwith paid over to the said Superintendent and Chairman, and shall form part of the fund for the relief of sick and disabled Stevedores, their wives and children, and the other moiety shall belong to the informer or party suing for the same.

Forfeitures, when to be sued for.

XIX. And be it enacted, That all the forfeitures by this Act imposed shall be sued for within twelve months after the fact committed or the cause of action arisen, and not afterwards, either in Term time before the Superior Court, or before any other Court having jurisdiction to the amount of such forfeiture within the District wherein the fact shall have been committed, or the cause of action shall have arisen, or the same shall have accrued, or in vacation before any Judge of such Court, in a summary manner, and small also be recoverable with costs in the same manner as debts of the same value or amount are recoverable in this Province by bill, suit, plaint or information.

Time within which certain actions may be brought.

XX. And be it enacted, That if any action or suit shall be commenced against any person or persons for any thing done or omitted to be done in pursuance of this Act, such suit or action shall be commenced within twelve calendar months next after the offence committed 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 held thereupon, and that the same was done or omitted to be done in pursuance and by the authority of this Act; and if it shall appear so to have been done or omitted to be done, then judgment shall be given or a verdict found for the said defendant or defendants, and if the plaintiff shall be non-suited, or shall discontinue his action after the defendant or defendants shall have appeared, or if judgment shall be given against the plaintiff, the defendant may and shall recover costs and have a like remedy for the same as defendants in other cases have by law.

Governor in Council authorized to do certain acts.

XXI. And be it enacted, That if the said Quebec Board of Examiners for Stevedores to be constituted under this Act, shall at any time refuse or neglect to comply with any of the requirements of this Act, it shall be lawful for the Governor in Council, upon complaint to that effect by any person or persons interested therein, to make any appointment or to do any other act, matter or thing which the said Quebec Board of Examiners for Stevedores ought to have made or done.

XXII. And be it enacted, That the terms "ship and vessel" in this Act, shall embrace every ship or vessel of whatever kind or class, of and exceeding the burthen of one hundred and fifty tons, trading to or from this Province or to or from any parts beyond the limits thereof. Interpretation
clause.

5 XXIII. And be it enacted, That this Act shall commence and have force upon, from and after the Commence-
ment of Act.
day of
in the year one thousand
and not before.
 eight hundred and fifty

SCHEDULE A.

I, A. B., do solemnly swear that I will faithfully and impartially, and to the best of my skill and capacity, discharge my duty as a member of the Quebec Board of Examiners for Stevedores according to the true intent and meaning of the Act of the Parliament of Canada, intituled, "*An Act to regulate the business of Stevedores at the Port of Quebec,*" and that I will not either directly or indirectly receive any fee, reward, gratuity or favour, whatever, for or by reason of my duty as such member : So help me God.

SCHEDULE B.

I, A. B., do solemnly swear that I will faithfully, truly and impartially, and to the best of my skill and capacity, execute, perform and fulfil the office and duty of Superintendent of Stevedores for the Port of Quebec, and Chairman of the Quebec Board of Examiners for Stevedores, according to the true intent and meaning of the Act of Parliament of Canada, intituled, "*An Act to regulate the business of Stevedore at the Port of Quebec;*" that I will not either directly or indirectly receive any fee, reward or gratuity or favour whatever, for or by reason of any function of my office as such Superintendent and Chairman of the said Board, except such are as allowed to me by the said Act, and that I will not act as Superintendent or Chairman in regard to the stowing of any ship or cargo in any matter or thing relating thereto, in which I may have a personal interest : So help me God.

SCHEDULE C.

I, A. B., do solemnly swear that I will faithfully and impartially and to the best of my knowledge and understanding, execute and perform the duty of Stevedore, according to the true intent and meaning of an Act of the Parliament of this Province, intituled, "*An Act to regulate the business of Stevedore at the Port of Quebec :*" So help me God.