

*At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on the Twentieth day of February 1800, and thence continued by several Prorogations to the Ninth day of June, 1801, in the Forty-first Year of the Reign of our Sovereign Lord George the Third, by the Grace of God of the United Kingdom of Great-Britain, and Ireland, King, Defender of the Faith, &c. being the Second Session of the Eighth General Assembly, convened in the said Province. From Richard John Uniacke, The Statutes at Large passed in the General Assembly held in His Majesty's Province of Nova Scotia: A complete index and abridgement of the whole. John Howe and Son, 1805.*

41 George III – Chapter 14

**An Act for the Security of Navigation, and for preserving all Ships, Vessels and Goods, which may be found on shore, wrecked or stranded upon the coasts of this Province, and for punishing persons who shall steal Shipwrecked Goods, and for the relief of persons suffering loss thereby.**

Whereas the preservation of shipwrecked goods, as well as the punishment of persons who shall plunder or conceal the same, are of great importance:

I. Be it therefore enacted, by the Lieutenant-Governor, Council and Assembly, that all wrecked, stranded or abandoned, ships or vessels, and shipwrecked goods of every kind and denomination whatsoever, whether appertaining to the vessel, cargo, or otherwise, which shall be forced on shore, wrecked or stranded, upon the coasts of this province, or of the island of Sable, or which shall be found floating in the rivers, bays or harbours, thereof, or so near to the coast thereof as to be within soundings, shall be carefully preserved, and taken care of for the right owner or owners, and the person or persons discovering or finding the same, shall give immediate notice to any one or more of the several officers hereafter named, viz. to the sheriff of the county, coroner, officers of the customs, officers of impost and excise, or justices of the peace, whichsoever of them, or either or any of them, shall be nearest at hand, and such officer or officers, or a majority of them, if more than one shall attend, shall immediately take all necessary measures for securing and preserving of all such ships, vessels, goods, effects, and property of every kind, and shall proceed therewith as herein after directed; and if any person or persons whatsoever, shall plunder, steal, take away or destroy, any wrecked, stranded or abandoned, ships or vessels, or any kind of goods, wares and merchandise whatsoever, which shall be wrecked, lost, stranded, or cast on shore, on the coasts of this province, or of the island of Sable, or shall steal, or take away, any kind of shipwrecked or lost goods, wares or merchandise, which shall be found floating in the rivers, bays or harbours, of this province, or contiguous to the shores thereof, except so far as may be necessary to bring the same to the shore for security, or shall plunder, steal, or take away, any of the tackle, apparel, furniture or provision, of any ship or vessel so found wrecked, stranded or cast away as aforesaid, (whether there be any living creature on board such ship or vessel or not) or shall beat, wound, or otherwise wilfully obstruct, any person or persons endeavoring to save his, her or their, life or lives, from such ship or vessel, or shall put out any false light or lights, with intention to bring any ship or vessel into danger, then,

and in all such cases, the person or persons so offending, shall be deemed guilty of felony, and, being lawfully convicted thereof, shall suffer death, as in cases of felony, without benefit of clergy.

II. Provided always, and be it enacted, that when any goods or effects, which are under the value of forty shillings, shall be lost, stranded, or cast on shore as aforesaid, if the same be stolen without any circumstances of cruelty, outrage or violence, the person or persons convicted of such stealing, shall suffer only the punishment which the laws direct in cases of petit larceny.

III. And be it further enacted, that all and every His Majesty's justices of the peace throughout the province, shall, upon information made before him or them, on oath, that any kind of lost or shipwrecked goods, as aforesaid, or any thing belonging to any vessel, lost or stranded, as aforesaid, has been carried away, or concealed, in any place whatsoever, such justice, or justices, shall issue his or their warrant or warrants, for searching of all places, where the same shall be suspected to be concealed, and if any such goods be found in the custody or keeping of any person or persons whatsoever, who shall appear to such justice, or justices, to have wilfully concealed, hid or kept, such goods from being found with a fraudulent intention, it shall and may be lawful for such justice, or justices, to commit such person or persons to the county jail, there to remain until he, she or they, may be delivered therefrom by due course of law.

IV. And be it further enacted, that the officers herein before named, or any one or more of them, when any ship or vessel shall be in danger of shipwreck, or when any vessel or goods, shall be wrecked or cast on shore, or shall be discovered floating as aforesaid, to require and command as many men of the neighbourhood, as shall be thought necessary to aid and assist in the preservation of the lives of the people on board such ship or vessel, and to preserve and save the vessels' goods, or whatever else may be wrecked or lost, or in danger thereof; and such officer or officers, may, if necessary, command or order the master, or principal officer, of any ship or vessel, which may be at anchor near to the place where such assistance shall be required, to furnish assistance with his or their boats, and as many men as they can conveniently spare, and all persons so ordered by such officer or officers to aid and assist for the purposes aforesaid, are required to give their attendance accordingly, and to yield ready obedience to the orders which such officer or officers shall, from time to time, give for the accomplishment of the purposes aforesaid, and if any person or persons whatsoever, when commanded by such officer or officers to give his or their attendance for the purposes aforesaid, or when notified so to do, by a person appointed by such officer or officers for that purpose, shall refuse to attend and give his assistance, or shall disobey any of the lawful orders which such officer or officers shall give to such person or persons, touching or concerning the premises, it shall and may be lawful for any one of His Majesty's justices of the peace, on complaint made thereof on oath, to commit such offender or offenders to the county jail for trial, unless he or they shall give good security, to appear and answer to such complaint at the next general sessions of the peace, for the county or district wherein such offence shall have been committed, and if such person or persons shall, on

information to be exhibited against him or them, be found guilty, the person or persons so convicted, shall each pay a fine not exceeding fifty pounds, or be imprisoned in the county jail, for a term not exceeding six months, at the discretion of the justices of said sessions, and according to the nature and circumstances of the offence, and for the encouragement of such person or persons, as give assistance to such ships or vessels so in distress, or to the people or crew thereof, who may be in danger, or who shall assist in the securing and preserving for the right owners any property whatsoever, which shall be wrecked, lost, cast on shore, or found floating as aforesaid, such person or persons shall, within thirty days after the service performed, be paid a reasonable reward for the same, by the commander, principal officer, mariners, seamen or owners, of the vessel, goods, or property preserved as aforesaid; and the goods and property so saved, or in default thereof, the vessel or her materials shall remain and be held in the custody of any or either of the herein before named officers, until such charges be paid, and the officer or officers, and all others who shall aid in performing such service, shall be reasonably gratified for the assistance which he or they have actually and fairly given, touching or concerning the premises. Provided always, that no person or persons shall be entitled to receive any gratification for his or their service, if during the time thereof, he or they shall have been guilty of dishonesty, misbehaviour, or disorderly conduct of any kind, and unless the officer or officers, if any such shall attend and direct the making of such salvage, shall certify the services actually performed by each and every person who shall demand gratification, and the quantum of such reward or gratification, to be paid to the officer or officers, person or persons, claiming the same, shall be adjusted and settled on a reference to be made to three of the neighbouring justices of the peace, to be mutually chosen by the parties; which justices shall adjust the quantum of the reward or gratification, to be paid to the persons employed in making such salvage, and such adjustment shall be binding to all parties, and shall be recoverable in an action at law, to be brought in any of His Majesty's courts of record in this province, by the parties to whom the same shall be allotted, and in case it shall happen that no person or persons shall appear, to make his claim to all or any the goods that shall be saved, that then, and in such case, the officer or officers in whose custody the same may be, shall sell so much thereof as will be sufficient to satisfy, and pay, the sum or sums of money adjusted, and allowed, for the salvage thereof, with incidental charges incurred, or if the goods are in danger of perishing, or of being otherwise lost by delay, then the whole to be sold; and shall put some principal officer of His Majesty's customs, or some other responsible person, in case no such officer is present to receive the same into immediate possession of the goods or money remaining after payments of the salvage and costs aforesaid, first taking an account in writing of the said goods, or money, to be signed by the officer of the customs, or person receiving the same, and if the said money, or goods, shall not be legally claimed within the space of twelve months next ensuing by the owner thereof, such of the goods as may be on hand shall be forthwith sold at public auction, and the monies arising from such sale or sales, reasonable charges being first deducted, with a fair and just account of the whole, shall be paid into the treasury of this province, there to remain for the benefit of the rightful owner when appearing, who, upon affidavit, or other proof made of his, or their, right or property therein, to the satisfaction of the chief justice or one of the justices of the supreme court, shall, upon his order, receive the same out of the treasury.

V. Provided always, and be it further enacted, that it shall not be lawful for any person or persons whatsoever, under pretence of making salvage, under the authority of this act, or under any pretence whatsoever, to meddle or interfere with any kind of property whatsoever, if there be found any person or persons whatsoever in the charge or custody thereof, unless such person or persons shall require his or their assistance, in which case notice shall be immediately given to one or more of the officers herein before named, that such assistance is wanted, and it shall and may be lawful for the master, or other person or persons having charge of any ship or vessel, or property so wrecked, or in distress, or for the officer or officers who shall come to his or their assistance, to repel by force any person or persons who shall dare to enter such ship or vessel, or to meddle with such property, without his or their leave, consent or orders: and the person or persons who shall molest or disturb those having charge of such property, and employed in making salvage thereof, or who shall molest, insult or disturb, the officer or officers herein before named, and those acting under his or their authority, in and about the premises, such person or persons, if convicted thereof in the supreme court, or general sessions of the peace, for the county or district, shall be punished as for a misdemeanour.

VI. And be it further enacted, that if any person or persons whatsoever shall be sued or prosecuted for any thing done in pursuance and execution of this act, such person or persons, in whatever court such suit or prosecution shall be commenced, may give this act, and the special matter, in evidence on the general issue, and shall have his costs awarded him, if entitled thereto, from the plaintiff or prosecutor, with the usual remedy for the recovery thereof: and in case any proceedings whatsoever, touching or concerning the execution of this act, shall be removed by certiorari, or otherwise, from any inferior jurisdiction in the province, into the supreme court, the justices of said supreme court shall, and they are hereby empowered to, enquire into the real merits of the case, and if it shall appear that such inferior jurisdiction has acted according to the real justice of the case, such proceedings shall be affirmed, notwithstanding the want of legal form therein: and if, on such enquiry, it shall appear to said supreme court that such inferior jurisdiction has proceeded with just and honest intentions, and has been guilty of no wilful error, the said supreme court shall, without reversing the whole of the proceedings of such inferior jurisdiction, proceed to amend and correct the same, and shall give such final judgment upon the merits of such case, as shall be agreeable to law and justice, and shall only wholly reverse the proceedings of such inferior jurisdiction, for wilful and corrupt error appearing on the face thereof, or being otherwise proved to the satisfaction of said court.

VII. And be it further enacted, that if any person or persons whatsoever, shall make, or aid, or assist, in the making any hole or passage, in the bottom, side, or any other part of any ship or vessel, whether in distress or otherwise, if done with an intention wilfully to increase the distress of such ship or vessel, or to produce the loss or destruction of a ship or vessel, not being in distress, or shall steal, or take away, or wilfully destroy, or in any other way wilfully render useless, the pump of a ship or vessel, whether in distress or not, if so done with a wilful intention to produce the loss or other danger of such ship or vessel, or shall

wilfully do any other matter or thing whatsoever, tending to produce the immediate loss or destruction of any ship or vessel whatsoever, such person or persons shall be, and are hereby, made guilty of felony, without any benefit of his, her or their, clergy.

And whereas it is of the utmost consequence to the security and safety of navigation, that no person or persons whatsoever, but such as are trustworthy, should settle on, or take up a temporary residence on, the island of Sable, whether for the purpose of fishing or otherwise:

VIII. Be it therefore enacted, that it shall and may be lawful for the Governor, Lieutenant Governor, or Commander in Chief for the time being, so often as it shall be deemed expedient and necessary, to cause the said island of Sable to be viewed, and inspected, by a fit and proper person, to be by him, from time to time, appointed for that purpose, and if any person or persons, whatsoever, shall be found residing on said island, who shall have voluntarily gone there, either for the purpose of fishing, or for any other purpose whatsoever, it shall and may be lawful for the person or persons, so appointed to inspect said island, to take and apprehend such person or persons, (unless he, she or they, shall produce to him a licence, under the hand and seal of the Governor, Lieutenant-Governor, or Commander in Chief for the time being, describing therein the person of him or them so found on said island, and authorising the person or persons named and described in such licence to go upon said island, and to take up a permanent or temporary residence thereon) and to bring him, her or them, prisoner or prisoners to Halifax, together with all such goods, or property of any kind, found in his or their possession, and upon due proof being made before any three of His Majesty's justices of the peace, that such person or persons had wilfully gone on said island, and was found sojourning there without licence as aforesaid, it shall and may be lawful for such justices to commit such person or persons to jail, to be imprisoned therein for a space not exceeding six months, and until he, she or they, shall give security for his, her or their, future good behaviour, and so much of the goods and effects found on said island, of whatsoever kind or nature forever, in the possession or custody of such person or persons, as shall be sufficient to pay the charge of removing such person or persons with such effects, shall, by order of such justices, be sold, and the neat proceeds of the same shall be applied to the payment of such charges and expences, and the residue returned to the owner or owners, unless such goods and property shall appear to have been cast on the shore of said island by the sea, or to have been procured from some wrecked or stranded ship or vessel, in which case such kind of property shall be sold, and the neat proceeds thereof, after payment of the charges, shall be paid to the proprietor, or his agent, on due proof of ownership being made; or, otherwise lodged in the treasury of the province for the right owner or owners, agreeably to the rules and regulations herein before set forth.

IX. And be it further enacted, that the clerk of the peace shall, on the first day of each and every general sessions of the peace, in every county and district of this province, immediately on the opening of said court, and before the grand jury shall depart from the court, distinctly read aloud this act, and every matter, clause or thing, therein contained; and the clerk or clerks of the peace, who shall neglect so to do, shall, for every such neglect, forfeit and pay to the person who shall inform against him or them, the sum of twenty

shillings, the same to be recovered on conviction before the justices of such court of general sessions.

X. And be it further enacted, that this act, and every clause, matter and thing, herein contained, shall continue, and be in force, for and during the term of three years, from and after the publication hereof, and no longer.

XI. And be it further enacted, that nothing herein contained shall be of force, or effect, until His Majesty's pleasure be known thereon.