

The Provincial Statutes of Lower-Canada, Being the third session of the fourth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1807.

47 George III – Chapter 9

An Act to prevent the desertion of Seamen and others in the sea service; to punish persons encouraging such Seamen and others to desert, or harbouring or concealing them, thereafter; and to repeal certain acts therein mentioned. (16th April, 1807.)

Whereas the Laws now in force for preventing desertion from ships and vessels in the merchant service, for the apprehension and detention of deserters therefrom, as well as from His Majesty's ships, and for the detection and punishment of persons encouraging, or enticing seamen, apprentices and others to desert, and receiving, harbouring or secreting such seamen, apprentices and others, have been found inadequate to the end proposed, and that further and more efficient regulations have thereby become necessary: Be it therefore 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 from and after the passing of this Act, all and every part of an Ordinance made and passed by the Legislative Council of the late Province of Quebec, in the thirtieth year of His Majesty's Reign, intituled, "An Act or Ordinance to prevent the desertion of seamen from the merchant service;" and also, an Act passed in the fortieth year of His Majesty's Reign, intituled, "An Act to prevent harbouring runaway seamen, to repeal certain parts of an Act or Ordinance therein mentioned, and for other purposes;" shall be, and the same are hereby repealed.

II. And be it further enacted by the authority aforesaid, that if any person or persons whatsoever, other than and except hereafter of commanded or other persons in the third Clause of this Act described, shall, from and after the passing of this Act, either by himself or themselves, or by the means of others acting under his or their orders or control; and with his or their knowledge, lodge, harbour, conceal or receive any seaman, landsman or apprentice, seaman, landsmen or apprentice or any other person legally bound or engaged to serve on board any ship or vessel, who shall have deserted from any ship or vessel in the service of his Majesty, or who having regularly entered and signed articles of agreement, or being bound by articles of indenture to serve on board of any merchant ship or vessel, and knowing him or them to be such deserter or deserters, every person so offending, shall, on conviction thereof, for the first offence, forfeit and pay the sum of Ten Pounds current money of this Province, and for each and every subsequent like offence, shall forfeit and pay double the amount of said penalty; and such person be an Inn keeper or Tavern keeper, his

or her licence for keeping a house or other place of public entertainment, shall also, from and after a conviction for every such subsequent offence, be null and void, and not renewable for the space of twelve months nor until the judgment of the Court before which the offence shall have been tried shall have been certified by the Clerk of the Peace of the District to have been fully complied with and satisfied: and the said Clerk of the Peace is hereby required to furnish such certificate on receiving the sum of one shilling and three pence from the party requiring the same; and it is hereby declared, that the suffering any such deserter or person suspected of desertion as aforesaid, to continue in the house, out buildings or premises of the same master or keeper, for the space of three hours between the rising of the Sun and the setting of the same, or for the space of any six successive hours, shall be held and construed to be harbouring, concealing, lodging, or receiving such deserter or person suspected of desertion, as aforesaid, within the true intent and meaning of this act.

III. And be it further enacted by the authority aforesaid, that if the master or commander of any ship or vessel in the merchant service, or the owner or part owners, consignee or consignees, or any agent, servant or person acting on behalf of such owner or owners, part owner or part owners, consignee or consignees or any other person or persons, acting on the behalf, with the knowledge or under the authority of any such matter or commander, or of such owner or owners, part owner or part owners, consignee or consignees, shall engage or shall receive, harbour or conceal on board of any ship or vessel or elsewhere, any seaman, landsman or apprentice, seamen, landsmen or apprentices, or any other person so legally engaged as aforesaid, knowing him or them to be such, who shall have deserted as herein before mentioned, or shall, by himself, themselves or any servant or servants, agent or agents, by words or with money, or by promises of future reward or compensation, or by any other ways or means whatsoever, directly or indirectly, entice, prevail upon, procure, persuade or encourage or endeavour or attempt to entice, prevail upon, procure, persuade or encourage, any such seaman or seamen, landsman or landsmen, apprentice or apprentices, or any other such person, so legally engaged as aforesaid, to desert from the ship or vessel to which he or they may respectively belong; every such matter or commander, owner and owners, part owner and part owners, consignee and consignees, and all and every other person and persons acting on the behalf, with the knowledge or under the authority of any such matter or commander, owner or owners, part owner or part owners, consignee or consignees, shall, (on conviction thereof,) for every such offence, forfeit and pay a sum not exceeding Fifty Pounds, nor less than Twenty Pounds current money of this Province, at the discretion of the Court or Magistrate, before which the said offence shall be prosecuted, for every seaman, landsman or apprentice or such other person so legally engaged as aforesaid, who shall be received, harboured, concealed, enticed, prevailed upon, procured, persuaded or encouraged, or attempted to be enticed prevailed upon, procured, persuaded or encouraged to desert as aforesaid. Provided always, that nothing in this Act contained, shall extend or be construed to extend so to affect His Majesty's service, by sea or land, as to subject any seaman or landsman or any other person or persons whomsoever, for or in respect of his or their entering into His Majesty's service, nor shall any Officer in his Majesty's service, or any other person or persons acting by or on

behalf, or in the service of his Majesty, be subject to any pains, penalty or punishment, which he or they would not have been subject to, before the passing of this present Statute.

IV. And be it further enacted by the authority aforesaid, that upon complaint made upon oath before any one of his Majesty's Justices of the Peace, by the master or commander of any ship or vessel, in the merchant service, or in his absence, by the chief mate thereof, or by any other person having the care or charge of such ship or vessel, that any seaman, landsman or apprentice, or any other person legally bound or engaged to serve on board such ship or vessel, hath deserted therefrom, or hath conveyed away by himself, or by any other means whatsoever, from such ship or vessel, his clothes or bedding, or thereof any other seaman, landsman or apprentice, or any other person so legally engaged as aforesaid, or belonging to the said master or commander, mate or mates, or to the owner or owners of such ship or vessel, (such seaman, landsman or apprentice, or any such other person as last aforesaid) doing so with the view, design or intention of deserting or of aiding, assisting, promoting or facilitating the desertion of any other person or persons lawfully engaged to serve on board any such ship or vessel or that such seaman, landsman or apprentice, or other such person or persons, so legally engaged, hath absented himself, from such ship or vessel without leave first obtained from the said master or commander for the space of three hours, after the rising of the sun, and before the setting thereof, or for the space of six hours after the setting of the sun, or for six hours succeeding each other, although such last mentioned hours shall commence before the setting of the sun, (unless the person or persons so absenting him or themselves, shall by the terms of his or their engagements have contracted for an absence of longer duration than herein before mentioned,) or hath and still doth refuse to do and perform his duty on board of such ship or vessel or elsewhere, agreeable to his articles of agreement or indenture, as the case may be, such Justice before whom such complaint as aforesaid, for such offences or either of them, shall so as aforesaid be made, shall, if thereunto required, immediately grant and issue a Warrant, addressed to and authorising and commanding any Constable or Constables of the District, for which such Justice shall act, to apprehend every such seaman, landsman or apprentice or other person so legally engaged, and who shall be so complained of, as aforesaid, and to bring such seaman, landsman, or apprentice or other such person who had been so legally engaged before such Justice, to answer unto such complaint, and to be further dealt with according to law; and if any such seaman, landsman or apprentice, or other such last mentioned person, shall, by such Justice be legally convicted of having defected from such ship or vessel, or of having absented himself from such ship or vessel, without leave, as aforesaid, during such time as aforesaid, or of having refused to do and perform his duty on board of such ship or vessel as aforesaid, and before such Justice, shall refuse to return on board such ship or vessel, or to perform his duty as aforesaid, and shall not assign a sufficient reason for such refusals, and each of them, to the satisfaction of such Justice, it shall and may be lawful to and for such Justice, to commit such seaman, landsman or apprentice or other such person so legally engaged as aforesaid, so convicted, to the common Gaol or House of Correction of the District, in which such conviction shall be had, for any time not exceeding twenty days, then to be returned and put on board the Ship or vessel, in which such seaman, landsman or apprentice or other such person, so legally engaged as aforesaid, shall be so as

aforesaid bound and engaged to serve, provided such ship or vessel, shall not then have taken her departure; and if such seaman, landsman or apprentice or other such person so legally engaged as aforesaid, shall, by such Justice, be convicted of having conveyed away by himself or by any other means whatsoever from such ship or vessel, his clothes or bedding, or those of any other seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, or belonging to the master or commander, mate or mates, or to the owner or owners of such ship or vessel, it shall and may be lawful to and for such Justice to commit such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, so convicted to the common Gaol or House of Correction of the District in which such conviction shall be had, for any time not exceeding thirty days, then to be returned and put on board the ship or vessel in which such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, shall be so as aforesaid bound or engaged to serve, provided such ship or vessel shall not then have taken her departure; And if any such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, so as aforesaid convicted of any or either of the offences aforesaid, shall thereafter be legally convicted by and before any Justice as aforesaid, of having deserted from such ship or vessel, or of having absented himself from such ship or vessel without leave as aforesaid, during such time as aforesaid, or of having refused to do and perform his duty on board of such ship or vessel as aforesaid, or of having conveyed away by himself, or by any other means whatsoever, from such ship or vessel, his clothes or bedding, or those of any other seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, or belonging to the master or commander, mate or mates, or to the owner or owners of such ship or vessel, it shall and may be lawful to and for such Justice to commit such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, so again convicted, to the common Gaol or House of Correction of the District in which such conviction, for such second offence, shall be had, there to remain for the space of forty days, or until the ship or vessel in which such seaman, landsman or apprentice, or other such person shall be so bound or engaged to serve, shall sail and depart from such District. Provided always, that any such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, so convicted for such second offence, shall not, by virtue of this Act, be detained in such common Gaol or House of Correction upon such conviction, for such second offence, for any time exceeding forty days; And further that it shall and may be lawful to and for the master and commander of the ship or vessel in which any seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, detained or imprisoned in any such common Gaol or House of Correction, under and by virtue of this Act, is bound or engaged to serve as aforesaid, to have and obtain at any time the discharge of any such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, so detained or imprisoned for such cause (and for no other) from such common Gaol or House of Correction, upon application for that purpose to the Justice by whom such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, shall have been committed, and such Justice upon such application is hereby authorised and required to release and discharge such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, from such common Goal or House of Correction, by warrant of deliverance under his hand and seal addressed to the keeper of such common

Gaol or House of Correction, as the case may require. Provided also, that previous to the sailing of such ship or vessel, it shall be incumbent on the matter or commander thereof, at whose instance any seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, shall have been so committed, to apply to the Justice or Justices of the Peace who may have granted the warrant of commitment, or in his or their absence to some other Justice of the Peace, whose duty it shall be to grant an order in writing directed to the gaoler or keeper of the House of Correction where such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, may be detained, immediately to deliver every such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, into the custody of a Constable or Constables, to be conveyed on board the ship or vessel to which he or they may belong, on such matter or commander paying the Gaol fees, and other reasonable expences attending such conveyance or delivery.

V. And be it further enacted by the authority aforesaid, that to every seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, committed for desertion from any ship or vessel, on complaint of the master or commander thereof, to the common Gaol or House of Correction, such matter or commander shall pay or cause to be paid in advance, for each and every day such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, shall remain in such Gaol or House of Correction, the sum of One Shilling and Six Pence, current money of this Province, in lieu of provisions; And in default of such payment by or for such matter or commander, upon representation of such default by such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, to any one Justice of the Peace, in and for the District wherein such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, shall be so confined (if immediate proof of such payment shall not be made by such matter or commander to the satisfaction of such Justice,) every such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, shall be discharged and set at liberty, upon the warrant or order of such Justice under his hand and seal, directed to the gaoler or keeper of such House of Correction, and which His Majesty's Justices of the Peace are hereby authorised and required, respectively, to grant.

VI. And be it further enacted by the authority aforesaid, that, from and after the passing of this Act, it shall and may be lawful for any one of His Majesty's Justices of the Peace, on complaint being made before him by the oath of one or more credible witness or witnesses, that any seaman or seamen, landsman or landmen, apprentice or apprentices, or other such person so legally engaged as aforesaid, in the sea service, are concealed or secreted in any dwelling house or out-house, or on board of any ship or vessel, or elsewhere, and such Justice is hereby required to grant a warrant, under his hand and seal, addressed to a Constable or Constables of the District, requiring and commanding him or them to make diligent and immediate search, in and about such dwelling house or out-house, or on board such ship or vessel, or such other place or places as shall be specified in the warrant, and to bring before him every such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, as may be found concealed or secreted, whether named in the warrant or not, and on failure of such seaman or seamen, landsman or landmen, apprentice

or apprentices, or other such person so legally engaged as aforesaid, producing to said Justice satisfactory proof of being discharged from the ship or vessel, to which he or they last belonged, or of having obtained permission for such absence, from those authorised to give the same, it shall be the duty of such Justice to commit each and every such seaman, landsman, or apprentice, or other such person so legally engaged as aforesaid, to the common Gaol or House of Correction of the District, for any space of time not exceeding one month, or if the ship or vessel from which such seaman or seamen, landsman or landsmen, apprentice or apprentices, or other such person so legally engaged as aforesaid, shall have deserted, be at the time of his or their apprehension and commitment within or near the harbour of Quebec, or any where between that and Montreal inclusive, until the time of the failing of such ship or vessel from Quebec on her outward voyage, when every such seaman, landsman or apprentice, or other such person so legally engaged as aforesaid, shall, in like manner as directed for his apprehension, be conveyed on board of such ship or vessel, and delivered to the master and commander thereof, on payment of all legal fees, disbursements and other reasonable expences attending such conveyance or delivery.

VII. And be it further enacted by the authority aforesaid, that it shall and may be lawful for any one of His Majesty's Justices of the Peace, on information being given before him, under oath, that any person or persons whatsoever has deserted, or is suspected of having deserted from any of His Majesty's ships or vessels, or from any ship or vessel in the merchant service, and is or are lodged or harboured in any tavern or other house of public entertainment, or in any house of ill fame, or in any other house whatsoever, to issue an order in writing to the matter or keeper of every such tavern, house of ill fame or other house, commanding such master or keeper to furnish him with a correct list of every such person or persons, stating his or their name and surname as far forth as shall be known to any such matter or keeper of every such tavern, house of ill fame, or other house of public entertainment, or other person whatsoever, how long he or they has or have lodged in the said house, and the name of the ship or vessel on board whereof each and every of them may have declared himself or themselves to have arrived at the port of Quebec: And on the refusal or neglect of such matter or keeper to comply with such order, within the time specified in such order, or knowingly delivering a false account of such person or persons, such matter or keeper shall forfeit and pay a sum not exceeding Ten Pounds, current money of this Province, for each and every such offence. Provided nevertheless, that in cases in which the party giving such information on oath, seeks to obtain such order against any person, not being a master or keeper of such tavern or house of public entertainment, or house of ill fame, such order shall not be given by any of his Majesty's Justices of the Peace, unless the person giving the information shall depose on oath, that he verily believes, that such person so not being master or keeper of such tavern or house of public entertainment, or house of ill fame, doth then harbour or conceal such deserter or person suspected of desertion, and doth also know that the person who has so deserted, or is so suspected of having deferred, is unlawfully and improperly absenting himself, from his duty, on board the Ship or vessel to which he belongs.

VIII. And be it further enacted by the authority aforesaid, that if any tavern keeper or other person keeping a house or other place of public entertainment, shall hereafter exact or receive from the master or commander of any ship or vessel, any sum of money as a reward for procuring a seaman or seamen to serve on board such ship or vessel, that, in all such cases, every such tavern keeper or other person keeping a house of public entertainment, shall, on conviction thereof, forfeit and pay a sum not exceeding Twenty Pounds, nor less than Five Pounds, current money, and further, on each and every subsequent conviction, the licence of every such person to keep such tavern, house or place of public entertainment, shall be null and void; and shall so continue for twelve months and further, until the judgment of the Court before which the offence shall have been tried, shall be certified by the Clerk of the Peace of the District, to have been fully satisfied.

IX. And be it further enacted by the authority aforesaid, that in order to enable the tavern keepers and others, the better to distinguish between those seamen and landsmen, or such other person lo legally engaged as aforesaid, that are or are not discharged, it shall be the duty of the Harbour Master of Quebec, for the time being, to provide a sufficient number of blank discharges agreeable to the form hereunto annexed, countersigned by himself, and to distribute the same to the matters of all ships and vessels, on their arrival in this port, in such number as they may severally require, to be by them filled up, signed and delivered to every seaman or landsman, or such other person so legally engaged as aforesaid, they may discharge, for which blank forms the said Harbour Matter of Quebec may lawfully ask and receive from each of the said matters of ships or vessels, a sum not exceeding Twelve Pence, for each and every form they may so require: And any master of such ship or vessel who shall refuse to fill up, sign and deliver such form of discharge to any seaman or landsman, or such ether person so legally engaged as aforesaid, requiring the same, such seaman or landsman being legally entitled to a discharge from such ship or vessel in this Port, shall forfeit and pay the sum of Twenty Pounds; for each and every such offence.

Form for the discharge of a seaman or landsman from any ship or vessel.

These are to certify to all whom it may concern, that _____ seaman (or landsman) the bearer hereof aged _____ years _____ hairs _____ complexion _____ feet high _____ made, is here discharged from the ship _____ under my command, and has received his wages, all legal stoppages being first made.

Witness my hand at Quebec, _____ 18____ as the Law directs.

X. And be it further enacted by the authority aforesaid, that it shall and may be lawful for each and every Constable and other Officer who shall be employed in the execution of any warrant for the apprehension of, or in search of, or for the delivery of any person or persons against whom a warrant or warrants may be issued by virtue of this Act, to exact and demand from the person at whole request such warrant shall have been issued, a reasonable recompense for the time he or they shall have been employed, subject to be taxed by the Justice of the Peace who may have issued such warrant. And in cases within the

jurisdiction of the Court of Vice Admiralty, according to the legal course of that Court, and recoverable, on refusal of payment, in a summary way by warrant of distress and sale of such performs goods and chattles, which warrant every such Justice of the Peace is hereby authorised and required to grant, under his hand and seal, on proof of such refusal of payment.

XI. Provided nevertheless, and it is hereby also enacted by the said authority, that nothing in this Act contained, shall be construed to extend to authorise or justify the execution of any warrant or process of any Justice or Justices of the Peace, within the jurisdiction of the Vice Admiralty of this Province, unless such execution shall have been previously authorised by the Judge of the said Court of Vice-Admiralty.

XII. And be it further enacted by the authority aforesaid, that all and every Fine and Forfeiture incurred by virtue of, and under the authority of this Acts shall and may be sued for within six months after the offence committed, and recovered in a summary manner before any two or more of His Majesty's justices of the Peace for the District wherein the offence shall have been committed, on the oath of one or more credible witness or witnesses, other than the informer, which oath; the said Justices are hereby empowered and authorised to administer: And in case of non payment, shall be levied by distress and sale of the offender's goods and chattles, by warrant under the hands and seals of such justices of the Peace, directed to a Constable or other Peace Officer, and the overplus, if any, after deducing the Penalty and costs of suit together with the expences of the distress and sale, shall be retained to the owner; and for want of sufficient distress, the offender or offenders shall be committed, by warrant under the hands and seals of such Justices, to the common Gaol of the District for any time not exceeding six months.

XIII. And be it further enacted by the authority aforesaid, that all Fines by this Act imposed, shall belong, one half to the informer, and the other half shall be paid into the hands of His Majesty's Receiver General, to and for the use of His Majesty, his Heirs and Successors, and towards the support of the Civil Government of this Province; and shall be accounted for to his Majesty, his Heirs, and Successors through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, his Heirs and Successors shall, from time to time, be graciously pleased to direct.

XIV. And be it further enacted by the authority aforesaid, that this Act shall be, once in each year, publicly read on the first day of the term of the Courts of Quarter Sessions for the month of April, in and during the sittings of the said Courts for the Districts of Quebec, Montreal and Three Rivers [Trois-Rivières] respectively, by the Clerks of the Peace for the said Districts, who shall make an entry in the Registers of the said Courts that this Act was so read publicly.