

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1840. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1840.

3 Victoria – Chapter 68

An Act relating to Wrecked Property. Passed 31st March 1840.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That it shall and may be lawful for the Lieutenant Governor or Commander in Chief for the time being, by and with the advice of Her Majesty's Executive Council, to appoint and also to re-appoint and supply, where it maybe expedient, in each of the Counties of this Province, where he shall think it necessary, one or more Commissioners of Wrecks and shipwrecked Goods; which said Commissioners before they enter on the duties of their office shall be sworn to the faithful discharge thereof by the Clerks of the Peace respectively of the several Counties for which the said Commissioners may be appointed.

II. And be it enacted, That the Commissioner or Commissioners for each County, or any two Commissioners (should more than two be appointed for any County), shall immediately on receiving information of any Shipwreck, or of the finding any Shipwrecked Goods or Property of any kind, to the amount or value of twenty five pounds or more, on any of the shores or waters within his or their County, or of any abandoned or wrecked Ship or Vessel, Property or Goods having been brought into his or their County, repair to the place where the said property may be found or brought, and in case the same shall not be in the custody of any owner, or agent of such owner, or other lawful authority, or any owner or agent or lawful authority as aforesaid shall so request, shall take charge thereof, and shall preserve and secure the same for the owner.

III. And be it enacted, That the said Commissioner or Commissioners may employ as many persons as he or they shall think necessary to assist in preserving the property, and may appoint guards to secure the same, and shall and may have full power and authority to suppress all tumults and disorders; and if any person shall disobey any lawful order of such Commissioner or Commissioners, for the suppression of any tumults or disorders, he shall forfeit for every such offence the sum of ten pounds, to be recovered by action of debt, in any Court of Record in this Province, by and in the name of the said Commissioner or Commissioners to his or their use.

IV. And be it enacted, That the said Commissioner or Commissioners shall on every such occasion take an inventory of all the Property that shall come to his or their possession; and when required by the owner of the Property or his agent, or by any Insurance Company or Underwriter, or other person interested, in the said Property, shall make oath to the truth of such Inventory, and shall deliver a copy thereof, if required, together with all the said Property to the owner, agent or other person lawfully authorized to receive it as aforesaid: Provided that there shall first be paid, or secured to be paid to the said Commissioner or Commissioners a reasonable compensation for his or their services and expenses, and such duties and other charges as he or they shall have paid, or become liable to pay, upon or for the Property in question.

V. And be it enacted, That no owner or other person or persons interested in any such Property, shall be liable to pay any person or persons, other than the said Commissioner or Commissioners, any charge for services or expenses in taking or securing the said Property, unless it be for property, taken or secured before any Commissioner or Commissioners shall take charge of the said Property.

VI. And be it enacted, That if any person shall after the arrival of any such Commissioner or Commissioners take, detain or intermeddle with any Property, shipwrecked or found as aforesaid, except under the direction of such Commissioner or Commissioners, owner or agent, or other person or persons interested, he shall forfeit a sum not exceeding two hundred and fifty pounds for each offence, to be recovered in an action of debt which may be brought by the said Commissioner or Commissioners, owner, agent or party interested as aforesaid, in any Court of Record in this Province, to the use of such Commissioner or Commissioners, owner, agent or party interested as aforesaid.

VII. And be it enacted, That if the said Commissioner or Commissioners, and the said owner or owners, agent or other person lawfully authorized to receive the said Property, shall not agree on the sum so due to the said Commissioner or Commissioners, as to the compensation to be allowed to him or them for his or their services, and for his or their expenses and charges as aforesaid, the same shall and may be submitted to three arbitrators, one to be chosen by each party, and the two so chosen to choose a third, and in case either shall omit or refuse to choose an arbitrator within six days from the time of such disagreement, the other party to name both, the award of whom shall be conclusive as to such compensation, expenses and charges.

VIII. And be it enacted, That the Commissioner or Commissioners aforesaid, as soon as may be after his or their arrival at the place where any Wreck or Goods shall be found, if there be no owner, agent or person lawfully authorized as aforesaid present, shall publish the particulars of the Shipwreck and of the Goods found, with such other material facts as he or they shall ascertain, in order that knowledge thereof may be given as soon as possible to the owner, agent or person interested; and if the said Commissioner or Commissioners shall neglect so to do, he or they shall forfeit the sum of one hundred pounds, to be recovered by action of debt at the suit of the owner, agent or other person or persons interested to his or their own use.

IX. And be it enacted, That the said Commissioner or Commissioners may dispose of so much of the said Property by public auction, within thirty days after taking the same into his or their custody, and upon giving fourteen days public notice in one or more of the public newspapers of the County where the Goods or Wreck may be, or by handbills posted up in three or more of the most public places in the said County, and also on the morning of the day when the same shall be offered for sale, as shall be sufficient to pay all duties and other charges and expenses thereon which he or they shall have paid or become liable for to the Custom House or Treasurer of the Province.

X. And be it enacted, That when such Property is of a perishable nature, and may be reduced in value by keeping it for one year, and no owner, agent or other person or persons interested

therein, shall appear to claim it within sixty days after it shall have been taken into the custody of the said Commissioner or Commissioners, and such particulars published as aforesaid, such Commissioner or Commissioners shall advertize the said Property in the manner hereinbefore mentioned and shall sell the same by public auction to the best advantage.

XI. And be it enacted, That if no Owner, Agent, or other person or persons interested in such property, shall appear within one year after it shall have been taken into the custody of the said Commissioner or Commissioners, and published as aforesaid, and establish his or their claim thereto, the said Commissioner or Commissioners shall present to the Treasurer of the Province or Deputy Treasurer, an Inventory of the Property, or, if sold, an account of the sales, with an account of all monies paid by him for duties on the Property and for the expenses of securing and preserving the same; and he shall make oath to the truth of such Inventory and accounts, and shall pay and deliver to the said Treasurer, or Deputy Treasurer, the balance of such accounts, with all the said Property remaining in his hands for the use of the Province; Provided, that there shall first be paid or allowed to the said Commissioner or Commissioners, out of such balance, such compensation for his or their services as shall be just, to be ascertained, in case of disagreement between the said Commissioner or Commissioners and the said Treasurer or Deputy Treasurer, in the same manner that is hereinbefore provided for the adjustment of the like question between the said Commissioner or Commissioners and the owner of such Property.

XII. And be it enacted, That if any such Commissioner or Commissioners shall for the space of sixty days after the expiration of the year hereinbefore limited for his accounting with the Treasurer or Deputy Treasurer neglect to present to the Treasurer or Deputy Treasurer the Inventory and accounts before mentioned, and to pay and deliver the balance due thereon, deducting the compensation aforesaid, together with all the said Property remaining in his hands, it shall be the duty of the said Treasurer to place the same in the hands of the Attorney General to prosecute therefor, in the name of and behalf of Her Majesty, for the use and benefit of the Province.

XIII. And be it enacted, That if any person shall exhibit any false Light or Signal, with intent bring any Ship or Vessel into danger, or shall unlawfully and maliciously do any thing tending to the immediate loss or destruction of any Ship or Vessel in distress, or shall by force prevent or impede any person endeavouring to save his life from such Ship or Vessel, (whether he shall be on board or shall have quitted the same,) every such offender shall be guilty of Felony, and being convicted thereof shall suffer death as a Felon.

XIV. And be it enacted, That if any person shall plunder steal, or destroy any wrecked, stranded, or abandoned Ships or Vessels, or any Vessel which shall be in distress, or Goods, Wares, or Merchandize belonging to such Ship or Vessel, which shall be wrecked, lost, abandoned, or cast on shore on the Coasts of this Province, or shall be found adrift or floating in any of the Bays or Harbours thereof, such person shall be guilty of Felony, and being convicted thereof, shall be liable to be punished in the manner prescribed for Felony by " An Act for improving the administration of Justice in Criminal cases."