

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1842. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1842.

5 Victoria – Chapter 39

An Act to regulate Dockage, Wharfage and Cranage in the City of Saint John and in the Parish of Portland. Passed 4th April 1842.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act, an Act made and passed in the twenty sixth year of the Reign of King George the Third, intituled *An Act establishing the Rates to be taken for Wharfage and Cranage of Ships and other Vessels within the limits of this Province*, and also an Act made and passed in the fifty fourth year of the same Reign, intituled *An Act to repeal an Act, intituled 'An Act in alteration and amendment of an Act for establishing the Rates to be taken for Wharfage and Cranage' and for substituting other alterations and amendments of the same Act therein recited in lieu thereof* shall not extend or be construed to extend to the City of Saint John and the Parish of Portland in this Province, any tiling in the said Acts contained, or any Law, usage or custom to the contrary in anywise notwithstanding: Provided always nevertheless, that no legal right or remedy arising out of, or given by the said Acts or either of them, before the passing of this Act, shall be deemed or taken to be annulled or barred thereby.

II. And be it further enacted, That from and after the passing of this Act, it shall and may be lawful for the Owner or Owners, Lessee or Lessees of any Wharf or Wharves already erected or hereafter to be erected in the City of Saint John or the Parish of Portland aforesaid, or his or their Agent or Agents to ask, demand, sue for, recover and receive as Dockage for Vessels whilst lying at any such Wharf or Wharves the following Rates per diem, that is to say:—

For every Decked Vessel or Wood Boat of the burthen of forty tons or under, one shilling and six pence:

For every Decked Vessel over forty tons and under fifty tons, one shilling and nine pence:

For every Decked Vessel of fifty tons and under sixty tons, two shillings:

For every Decked Vessel of sixty tons and under seventy tons, two shillings and three pence:

For every Decked Vessel of seventy tons and under eighty tons, two shillings and six pence:

For every Decked Vessel of eighty tons and under ninety tons, two shillings and nine pence:

For every Decked Vessel of ninety tons and under one hundred tons, three shillings:

For every Decked Vessel of one hundred tons and under one hundred and twenty tons, three shillings and six pence:

For every Decked Vessel of one hundred and twenty tons and under one hundred and fifty tons, four shillings:

For every Decked Vessel of one hundred and fifty tons and under one hundred and eighty tons, four shillings and six pence:

For every Decked Vessel of one hundred and eighty tons and under two hundred tons, five shillings:

For every Decked Vessel of two hundred tons and under two hundred and twenty tons, five shillings and six pence:

For every Decked Vessel of two hundred and twenty tons and under two hundred and forty tons, six shillings:

For every Decked Vessel of two hundred and forty tons and under two hundred and sixty tons, six shillings and six pence:

For every Decked Vessel of two hundred and sixty tons and under two hundred and eighty tons, seven shillings:

For every Decked Vessel of two hundred and eighty tons and under three hundred tons, seven shillings and six pence:

For every Decked Vessel of three hundred tons and under three hundred and twenty tons, eight shillings:

For every Decked Vessel of three hundred and twenty tons and under three hundred and forty tons, eight shillings and six pence:

For every Decked Vessel of three hundred and forty tons and under three hundred and sixty tons, nine shillings:

For every Decked Vessel of three hundred and sixty tons and under three hundred and eighty tons, nine shillings and six pence:

For every Decked Vessel of three hundred and eighty tons and under four hundred tons, ten shillings:

For every Decked Vessel of four hundred tons and under four hundred and fifty tons, eleven shillings and three pence:

For every Decked Vessel of four hundred and fifty tons and under five hundred tons, twelve shillings and six pence:

And the sum of one shilling and three pence for every additional fifty tons.

III. And be it further enacted, That any Ship or Vessel which shall be lying at any Wharf or Wharves in the City or Parish aforesaid, not for the purpose of loading or unloading, and which shall or may be in a condition to be removed, shall be removed from such Wharf or Wharves when such Wharf or Wharves may be required for the use of any other Vessel to load, unload or careen thereat; and on the refusal of the Master, Owner or person having charge of any such Ship or Vessel to remove the same after reasonable notice so to do, such Master, Owner or person having charge as aforesaid, shall forfeit and pay to the Owner or Owners, Lessee or Lessees of such Wharf or Wharves or to his or their Agents, the sum of two pounds for each and every day such Vessel may remain at such Wharf or Wharves over and above the rate of Dockage herein established, to be recovered on the Oath of one or more credible Witness or Witnesses, before any one of Her Majesty's Justices of the Peace for the County, or City and County of Saint John, and levied by Warrant of Distress and Sale of the Goods and Chattels of the Master, Owner or person in charge of such Ship or Vessel, or of the Boats Apparel or Tackle of the said Ship or Vessel, rendering the overplus, if any, after deducting the costs and charges of prosecution and sale, to such Master, Owner or person having charge of the said Ship or Vessel.

IV. And be it further enacted, That every Ship or Vessel which shall be made fast to any other Ship or Vessel lying at any of the said Wharves, or which (lying outside another Vessel) shall be made fast to such Wharf or Wharves, shall be deemed liable to pay one half the rate of Dockage herein established, and quarter Wharfage for the privilege of fastening at such Wharf without lying at or immediately adjoining the same.

V. And be it further enacted, That the rate of Dockage established by the second Section of this Act, shall and may be recoverable from the Master, Owner, Agent, person in charge, or Consignee of the Ship or Vessel liable to the same, or any one of them; provided always that the Agent or Consignee shall in no case be liable to pay the same after the departure of such Ship or Vessel, unless an account or written demand of the same be delivered to or left at the usual place of business of such Agent or Consignee, at least twelve hours before such departure; and provided also, that if such Agent or Consignee within six hours after service of the said account or written demand as aforesaid, shall cause notice to be given to the person or persons demanding such Dockage, or left at his last place of business, that no funds of the Master or Owner of such Ship or Vessel remain in the hands or under the controul of the said Agent or Consignee, such Agent or Consignee shall not be deemed or taken to be liable to pay such Dockage.

VI. And whereas the tops or surfaces of Wharves in the said City and Parish are not kept by the owners in a proper state of repair, suitable for the landing and loading of Goods, by reason of there being no regulated compensation for the privilege of using the same; Be it therefore enacted, That it shall and may be lawful for the owner or owners of any Wharf or Wharves properly planked or timbered on the surface and none other, or the lessee or lessees of any such

Wharf or Wharves in the City or Parish aforesaid, or his or their Agents to ask, demand, sue for, recover and receive as Wharfage, or Top Wharfage, (so called) for all articles landed on, or shipped from their respective Wharves, at and after the following rates and charges, that is to say: For every Pipe of Wine, Brandy or other Liquor, six pence: For every Hogshead of Wine, Brandy or other Liquor, three pence: For every Puncheon of Rum or other Liquor, four pence: For every Hogshead of Loaf Sugar, four pence: For every Hogshead or Tierce of other Sugar, six pence: For every Hogshead or Tierce of Tobacco, one shilling: For every Hogshead or Tierce of Dry Fish or Lime, three pence: For Tierces of any article excepting Sugar, each two pence: For Barrels of any article except Salted Provisions, one penny: For every Barrel of Salted Provisions, three halfpence: For every Firkin, Half Barrel or Keg of any article, one half penny: And for any of the above kind or description of Vessels when empty, one half the respective charge, excepting Fish Barrels, for which no charge shall be made: For every Trunk, except Passengers, Bale, Box, Case or Crate, three pence, or one shilling per ton of forty Cubic feet, at the option of the person claiming Wharfage: For every Hamper, one penny: For every Chest of Tea, two pence: For every Box of Tea, one penny: For every Box of Soap or Candles, under one hundred and twelve pounds in weight, one half penny: For every such Box, if over one hundred and twelve pounds in weight, one penny: For every Quintal of Dry Fish, one half penny: For every Box of Herrings, one farthing: For every Green Hide, one half penny: For every Dry Hide, one farthing: For Hay per ton, if screwed, one shilling: For Hay per ton, if unscrewed, two shillings and six pence: For every ton of Iron castings, except Hollow Ware, Anchors, Iron Work, Hemp, Cordage or Oakum, one shilling and three pence: For every ton of Hollow Ware, one shilling and eight pence: For every thousand superficial feet of Boards, Deals or Clapboards, six pence: For every thousand superficial feet of Scantling or Ranging Timber, and for every ton of Square Timber of all kinds, one shilling: For every thousand of Laths or Shingles, two pence: For every thousand of Hoops, Hoop Poles or Staves, six pence: For every cord of Wood not otherwise described herein, four pence: For every Spar of ten inches or over, six pence: For every Spar if under ten inches, three pence: For every chaldron of Coals or ton of Salt, six pence: For Grain and Roots of all kinds at the rate of two shillings and six pence per hundred bushels: For every ton of building Stone or Ballast, six pence: For every ton of Plaster of Paris, three pence: For every ton of Grind Stones, four pence: For every thousand of Bricks, one shilling and six pence: For every Keg or Canister of Paint, not exceeding twenty eight pounds, one farthing, if above twenty eight pounds and not exceeding one hundred and twelve pounds, one half penny: Passengers' Trunks and Personal Baggage to be free: Provided always, That nothing in this Act contained shall be construed to make any owner of any Wharf or person entitled to demand and receive Top Wharfage as hereinbefore mentioned, liable for the safe keeping, charge or custody of any article so landed at or discharged from any such Wharf as a Wharfinger or otherwise howsoever, or to interfere with the responsibility of any common carrier by land or by water, in the safe delivery or discharge of any articles entrusted to his care.

VII. And be it further enacted, That if the Owner, Consignee or Agent of any of the articles, matters and things mentioned in the sixth Section of this Act, which may have been landed or shipped from any Wharf or Wharves in the City or Parish aforesaid, shall refuse to pay the Wharfage of the same agreeably to the foregoing Rates, when required so to do by the person or persons entitled to demand the same, the same may be recovered before any one of Her

Majesty's Justices of the Peace of the City or County of Saint John, in the manner prescribed by the third Section of this Act.

VIII. And whereas it sometimes happens that a Ship or Vessel when loading, discharging or moored, becomes liable to pay for the use of two or more Wharves, either on account of Dockage or Wharfage, or by reason of obstructing the adjoining Wharf or Wharves, and disputes frequently occur in settling the proportion fairly due to each Wharf, subjecting the Master, Agent, Owner or Consignee of such Ship or Vessel to several vexatious demands; for remedy whereof, Be it enacted that it shall and may be lawful for His Excellency the Lieutenant Governor or Commander in Chief for the time being, by and with the advice of Her Majesty's Executive Council, to nominate and appoint, and at his pleasure to remove, and from time to time to re-appoint, three fit and proper persons residents of the said City or Parish, to be Commissioners of Wharves in the same, whose duty it shall be on being thereto required by the person or persons interested, and on receiving a fee of ten shillings each, personally to inspect any Wharf or Wharves in the said City or Parish liable to be partially used, occupied or obstructed by a Vessel or Vessels loading, discharging or lying at the adjoining Wharf or Wharves, and upon such inspection to declare in writing under their hands, or the hands of a majority of them, what rate or proportion of the lawful Dockage or Wharfage each party shall thereafter be entitled unto, and such declaration shall be final and conclusive between the parties and the Master, Agent, Owner, Consignee or person in charge of any Ship or Vessel shall be liable to pay to each party the proportion and rate so assigned and no more, so long as the said written declaration shall remain unrescinded or unaltered by such Commissioners.

IX. And be it further enacted, That it shall and may be lawful for the person or persons entitled to receive any Dockage or Wharfage, or proportion of any Dockage or Wharfage under this Act to proceed therefor by Bailable Capias, any Law to the contrary notwithstanding.

X. And be it further enacted, That nothing herein contained shall infringe, impair, or do away any right which the Mayor, Aldermen and Commonalty of Saint John have or possess by the Charter of the City as by Law established.

XI. And be it further enacted, That this Act shall continue and be in force until the first day of May, which will be in the year of our Lord one thousand eight hundred and forty five.