

Laws of Her Majesty's Province of Newfoundland, passed in the year 1866. J. C. Withers,
Queen's Printer, 1866.

29 Victoria – Chapter 13

An Act to make provision for the Constitution of a Marine Court of Enquiry in this Colony. (Passed 1st May, 1866.)

Whereas it is expedient to make provision for the Constitution of a Marine Court of Enquiry in this Colony:

Be it therefore enacted by the Governor, Legislative Council and Assembly, in Legislative Session convened, as follows:—

I. It shall be lawful for the Governor in Council, from time to time, and whenever occasion shall arise or require, by Commission under his hand and seal, to appoint Five Persons to form a Court, called the Marine Court of Enquiry; and such Court shall comprise some person or persons of Judicial knowledge and habits, and some person or persons of Nautical skill and experience; and in the Commission may be indicated the person to preside over the Court: The proceedings of the Court shall be assimilated, as far as possible, to those of ordinary Courts of Justice, with the like publicity.

II. In cases following, that is to say;—

Whenever any Ship is lost, abandoned, or materially damaged, on or near the Coasts of this Island or its Dependencies:

Whenever any Ship causes loss or material damage to any other Ship, on or near the Coasts of this Island or its Dependencies, or in any Roadstead or Harbor thereof:

Whenever, by reason of any casualty happening to or on board of any Ship on or near the Coast of this Island or its Dependencies, or in any Roadstead or Harbor thereof, loss of life ensues:

Whenever any such loss, abandonment, damage or casualty happens elsewhere, and any competent Witness or Witnesses thereof arrive, or are found at any place within this Island or its Dependencies: Whenever a charge of misconduct or incompetency is brought by any person against a Master, Mate, or Engineer of a British Ship;

It shall be lawful for such Court to hear and enquire, and generally to exercise the powers and perform the duties given and prescribed by the Merchant Shipping Act, 1854, as amended by the Merchant Shipping Act, 1862, or as the same may be after amended; and may also exercise the powers given to Inspectors appointed by the Board of Trade: Provided that the duty of Inspection may be performed by any one or more Members of such Court, or by one or more competent persons to be appointed by the said Court.

III. Every Person wilfully impeding such Inspection, or wilfully impeding any person or persons engaged in such inspection, whether on board ship, or elsewhere, shall incur a penalty not exceeding Forty Dollars, and may be seized and detained, by any such person or persons, or others, who may be called to assist, until such offender can be conveniently taken before some Justice of the Peace; and such penalty shall be recovered, and such offender dealt with, in the same manner, as nearly as applicable, in the case of a person impeding an Inspector under Part 1st of the Merchant Shipping Act, 1854.

IV. The said Court shall, so far as relates to the summoning of parties, compelling the attendance of witnesses, the regulation of the proceedings, and the enforcing of penalties, and of obedience to the judgment or orders of the Court, have the same powers as Justices of the Peace would have if the proceedings related to an offence or cause of complaint upon which they had power to make a summary conviction or order, or as near thereto as circumstances permit; and the said Court of Marine Enquiry may exercise the jurisdiction and authority conferred on Justices of the Peace under the third section of this Act.

V. It shall be lawful for the Governor in Council, upon any occasion which he may see fit, and at whatever place may be necessary, to nominate and appoint any other person or persons whomsoever, to be a Tribunal duly authorized to make enquiry into the several matters aforesaid, with the like powers as the Court hereinbefore mentioned.

VI. The Court may make such order, with respect to the Costs of any such investigation, or any portion thereof, as they shall deem just; and such Costs shall be paid accordingly, and shall be recoverable, in the same manner as other costs incurred in summary proceedings, before one or more Justices of the Peace.

VII. There shall be paid to the Members of the said Court, in respect of services under this Act, such remuneration, whether by way of increase of salary, if salaried officials, or otherwise, as Her Majesty's Secretary of State for the Home Department, with the consent of the Board of Trade, may direct, to be paid out of the Mercantile Marine Fund.

VIII. Upon the conclusion of the case, or as soon afterwards as possible, the Court shall state, in Open Court, the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full report upon the case, with the evidence, and of the judgment and opinion there on, and such observations, if any, as the Court may think fit, to the Governor, for transmission to the Board of Trade; and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the Governor for transmission to the Board of Trade, with their report.

IX. The Court may, if they think proper, require any Master, Mate, or Engineer, possessing a certificate of competency or service, whose conduct is called in question, or appears to them likely to be called in question, in the course of such investigation, to deliver such certificate to them: and, if their report is to cancel or suspend such certificate, shall forward the same to the Governor, to be transmitted to the Board of Trade; or, if such be not their decision, then such certificate shall be

returned; and if any Master, Mate, or Engineer fail to deliver his certificate, when so required, he shall incur a penalty not exceeding Two hundred Dollars.

X. At the instance of any Consular Officer of any Foreign Nation, if shall be lawful for any Marine Court of Enquiry, to be constituted under this Act, to exercise, with regard to Foreign ships, property and persons, similar powers of enquiry and investigation (but with the right to report only) as are conferred by this Act, with the same authority for summoning parties, compelling attendance of witnesses, regulation of proceedings, and the enforcing of penalties, and of obedience to the orders of the Court aforesaid: Provided that the expense of the Court, in the cases provided for in this section, shall be borne by the Foreign Consular Offices.

XI. Provided always, that nothing in this Act contained shall be taken to affect in any way the jurisdiction of the Vice-Admiralty Court of Newfoundland, howsoever the same may be acquired.

XII. This Act shall not come into operation until Her Majesty's pleasure shall have been first duly signified thereon.