

*Laws of His Majesty's Province of Upper Canada*, passed in the year 1857. Toronto: Stewart Derbishire & George Desbarats, 1857.

20 Victoria – Chapter 126

**An Act to amend the Act to provide for the management and improvement of the Harbour of Montreal and the deepening of the Ship Channel between Montreal and Quebec. Assented to 10th June, 1857.**

Whereas defects have been found to exist in the details of the Act eighteenth Victoria, chapter one hundred and forty-three, for the management and improvement of the Harbour of Montreal and the deepening of the Ship Channel between the said Harbour and the Port of Quebec, which in some respects diminish its efficiency for the purposes therein contemplated, and it is expedient to amend the same: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

- I. In addition to the purposes, which are in and by the said Act declared to be the purposes for which the Corporation of the Harbour Commissioners of Montreal may make By-laws under its provisions, the said Corporation shall have power also to make By-laws for the control of the ice in the said Harbour in the Winter season, and of the cutting the same and of the deposit upon the same of any substance or matter whatever and of the situation and boundaries of any roads thereon; and also for the allotment of berths in the said Harbour to any Steamer or other Vessel, or to any regular line of Steamers, or other Vessels, either on each trip of such Steamer or other Vessel, or for the whole business season; and also for the allotting, letting or leasing any lot or lots, space or spaces, or portions of the wharves or piers, or vacant ground in the said Harbour, or any of them; and also for regulating the powers of the Harbour Master of the said Harbour, in respect of the enforcement of his lawful directions and orders in the said Harbour, and in respect of the necessary force, aid or assistance by him required for that purpose; and to impose penalties for the infringement of such By-laws, in the manner and to the extent, and subject to the restrictions fixed by the said Act and by this Act.
- II. From and after the passing of this Act, the said Corporation of the Harbour Commissioners of Montreal, shall have power and authority in the By-laws to be by them made under the authority of the said Act and of this Act, to provide, that any person who shall be convicted of infringing any of such By-laws, or any of the provisions of the said Act or of this Act, and who shall be condemned to the payment of any pecuniary penalty for such infringement, and who shall make default in the payment of such pecuniary penalty, and of the costs of such conviction, may be imprisoned for a period to be fixed by the said By-laws but not to exceed thirty days, unless the amount of such penalty and costs be sooner paid; the said powers to be in addition to the powers granted by the seventh section of the said Act.
- III. All By-laws from time to time made by the said Corporation under the provisions of the said Act or of this Act, upon being sanctioned by the Governor and published in the *Canada Gazette* as provided in the said Act, shall become and be law, and shall have the same force and effect as if specifically enacted in, and forming part of the said Act or of this Act.

IV. In every case wherein the master, owner or person in charge of any vessel or goods shall infringe any of the By-laws of the said Corporation, or any of the provisions of the said Act or of this Act, and shall thereby render himself liable to a penalty, such vessel or goods may be forthwith seized by the said Corporation before judgment, and may be detained at the risk, cost and charges of the owner until the penalty so incurred, and the costs and charges incurred in the seizure and detention of the same, and the costs of any conviction that may be obtained for such infraction be paid in full.

V. In every case wherein under the said Act, or under this Act, the said Corporation or its authorized Agent, is empowered to seize, or to seize and detain any vessel or goods, such seizure and detention may be effected upon the order of any Magistrate for the district of Montreal, or for the district of Quebec, or for the district of Three-Rivers, or of the Collector of Customs at either of the ports of Montreal or Quebec; and such Magistrates and Collectors respectively, are hereby authorized to give, such order, upon the application of the said Corporation, or of its authorized Agent, or of its Attorney or Solicitor, on the affidavit of any one credible person, that any sum is due to the said Corporation for any tolls, rates or dues whatever, or that any penalty has been incurred under the By-laws of the said Corporation, or under the provisions of the said Act or of this Act, by the master, owner or person in charge of the said vessel or goods, or that the provisions of the said Act or of this Act have been infringed by any vessel or by the master, owner or person in charge thereof, or by the owner or person in charge of any goods, stating the particulars of such infringement; and such seizure and detention may take place either at the commencement of any action or proceeding for the recovery of any dues, penalties or damages, or pending such action or proceeding, as an incident thereto, or without the institution of any action or proceeding whatever.

VI. The provisions of the tenth section of the said Act regulating the recovery of dues and penalties and the competency and sufficiency of witnesses, shall apply to this Act and to the By-laws made under the authority of this Act, to the same extent as if contained herein; and the service of any Writ of Summons, Warrant or Notice which may be required by law or by the practice of any Court of Justice to be made upon the master, owner or person in charge of any vessel whatever, shall be held to be well and validly made, if a duplicate or copy or original of such Writ, Warrant or Notice, as the case may be, is delivered to any grown person on board of such vessel, for the master, owner or person in charge thereof; and in any action or proceeding by the said Corporation, the defendant shall be held to be sufficiently described by the mention of his surname only; and any plea in abatement, exception à la forme, or other preliminary plea filed by the defendant, shall be summarily disposed of.

VII. The said Corporation shall have a special privilege upon any vessel and upon the proceeds thereof, by preference to all other claims and demands whatsoever, for the payment of all or any penalties, rates and dues, due and payable in respect, of such vessel, or of the acts of the master, owner or person in charge thereof, and of all commutation of rates or dues; and any such vessel may be seized and sold, under any Writ or Warrant of execution, or of distress issued by any Court or by any Magistrate, upon any judgment or conviction at the suit of the said Corporation against the master, owner or person in charge thereof; and the said Corporation may seize and detain such vessel, or such vessel may be seized and sold, in manner aforesaid, in the possession or charge of any person whatever, whether in the charge or possession or the property of the person who was proprietor,

when such penalties, rates or dues or commutation thereof accrued, or in the charge or possession or the property of a third person or persons; Provided always, that the rights conferred by this section be exercised; within three months from the period when such penalty or penalties, rates, dues or the commutation thereof, shall have accrued and become exigible.

VIII. From and after the passing of this Act the master or person in charge of every vessel in the said Harbour shall make the reports, exhibit the bills of lading, cargo book, or other vouchers mentioned in the sixteenth section of the said Act, and conform himself to all the provisions of the said section, and shall make such reports, at the office of the Wharfinger of the said Harbour, the whole within the time mentioned in the said section; and in default thereof shall be, and such vessel shall be subject to all the pains and penalties in the said section mentioned, and to the further penalty of five pounds currency for every twenty-four hours that shall elapse, after the arrival of such vessel in the said Harbour until such report shall be so made, and such bills of lading, cargo book, and other vouchers, exhibited; the whole without any notice, demand or requirement on the part of the said Corporation so to do; and the master or person in charge of every vessel in the said Harbour shall be bound, under the penalties in the nineteenth section of the said Act mentioned, to conform to the provisions of the said nineteenth section, without being notified or required by the said Corporation so to do.

IX. It shall be lawful for the said Commissioners, in the exercise of their duties in the improvement of the Navigation between Montreal and Quebec, to place buoys or other floating marks, for all purposes connected with the works by them carried on, and to be carried on, under the powers previously granted to them, at such points or places in the River St. Lawrence and in Lake St. Peter, as to them may seem needful and expedient, which buoys or floating marks all masters and owners of vessels or rafts shall avoid and keep clear of, at their own proper risk and peril; Provided always, that such buoys or floating marks shall be so placed as to obstruct the Navigation of the said River and Lake in as slight a degree as is consistent with the use for which they or any of them are intended.

X. If any injury be done to any of the quays, buoys, floating stock, steamers, or dredging vessels of the said Corporation, used in the said Harbour, or in the said River Saint Lawrence between Montreal and Quebec, or any obstruction whatever offered or made to the operations of the said Corporation in the said River between the said places, by any ships or vessels, or by the carelessness or wantonness of the crew thereof, while in the execution of their duty, or of the orders of their superior officers, it shall be lawful for the said Corporation to seize any such ship or vessel and detain her, until the injury so done shall have been repaired by the master or crew, or until security shall have been given by the said master to pay such amount for injury and costs, as may be awarded in any suit which may be brought against him for the same, and he is hereby declared to be liable to the said Corporation for any such injury.

XI. From and after the passing of this Act the rates and dues in Schedule F annexed to the said Act, shall be amended, by striking out the words "nine pence per ton measurement of forty cubic feet," and substituting in lieu thereof the words, "three shillings and four pence upon every one hundred pounds of the value thereof."

XII. So much of the said Act as is inconsistent with the enactments contained in this Act is hereby repealed.

XIII. Doubts having arisen as to the right of the said Harbour Commissioners to erect the gallery or passage over Capital Street in Montreal aforesaid, now existing, and of the sufficiency of the sanction given for such erection by the Corporation of Montreal, the said Harbour Commissioners are hereby authorized and empowered to retain the said gallery or passage as the same now is, and in the event of its destruction by accident or otherwise to replace it by a similar construction if they see fit; Provided always, that nothing herein contained shall take away the right of any person to claim damages in a civil action for any injury sustained in consequence of the erection of such gallery.

XIV. The Interpretation Act shall apply to this Act.

XV. This Act shall be a Public Act.