

Laws of Her Majesty's Province of Upper Canada, passed in the year 1848. Montreal: Stewart Derbishire & George Desbarats, 1848.

11 Victoria – Chapter 1

An Act to make better provision with respect to Emigrants, and for defraying the expenses of supporting Indigent Emigrants, and of forwarding them to their place of destination, and to amend the Act therein mentioned. 23d March, 1848.

Whereas the amount of the rate or duty now levied under the provisions of the Provincial Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to create a fund for defraying the expense of enabling Indigent Emigrants to proceed to their place of destination, and of supporting them until they can procure employment*, hath been found to be inadequate for the purposes contemplated by the said Act; and whereas it is necessary to increase the said amount, and to make such further provisions generally in reference to Emigration as will tend to prevent the introduction into the Province of a pauper class of Emigrants, labouring under disease and incapable of supporting themselves; and it is expedient to amend the said Act accordingly: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That instead of the rate or duty of five shillings currency, payable for each Passenger by any ship arriving in the Port of Québec, or in the Port of Montreal, from any Port in the United Kingdom or in any other part of Europe, directed to be levied under the provisions of the said Act, there shall be raised, levied, collected and paid the rate or duty of ten shillings currency for every Passenger, irrespective of age, who shall have been embarked in such ship; and such rate or duty, and any increase thereof under the provisions hereinafter made shall be paid and collected in the manner provided in and by the said Act, the provisions whereof as hereby amended shall apply in all respects to the rate or duty hereby imposed as if the same had been imposed by the said Act, except in so far as it is herein otherwise provided.

II. And whereas it is expedient to holdout inducements to Masters of Ships carrying passengers, to maintain proper cleanliness, ventilation, and regularity on board, during the voyage: Be it therefore enacted, That the rate or duty payable for Passengers embarked on board of any such ship as aforesaid, shall be increased in proportion to the time during which such ship shall be detained in Quarantine, subject to the limitation hereinafter made; and such increase shall be two shillings and six pence currency, for every passenger embarked on board of such ship for each full period of three days during which the ship shall be detained in Quarantine after her arrival at the Quarantine Station; but such increase payable for each Passenger shall not, in the whole, exceed the sum of twenty shillings currency, except in the case of ships arriving after certain periods of the year as hereinafter mentioned: Provided always, that such increase shall not apply to the Passengers by any ship having had no disease, or mortality from disease, on board during the

voyage, and having no disease on board on her arrival, and detained at the Quarantine Station only for observation or the proper cleansing of the ship or of the Passengers thereby.

III. And whereas it is necessary to prevent, if possible, the arrival of Passengers at so late a period of the year as to render it almost impossible that they should be able, during the winter season, to provide for their own subsistence: Be it therefore enacted, That the said rate or duty of ten shillings, shall be doubled for every Passenger in any ship arriving in either of the said Ports of Québec or Montreal, between the tenth day of September and the first day of October in any year, and shall be trebled for every Passenger in any ship so arriving on or after the first day of October in any year.

IV. And whereas Masters of Ships are in the practice of embarking passengers after the ship has been cleared and examined by the proper Officer at the Port of departure, and without delivering lists of such additional passengers to some Officer to whom by law the same ought to be delivered; For the prevention and punishment of such practice, Be it enacted, That for every passenger not included in the list of passengers delivered to the Collector or Officer of Her Majesty's Customs at the Port of departure, or at the Port where such additional passenger may have been embarked, or at the Port at which such ship may have touched after the embarkation of such passenger, the Master shall, in addition to the rate or duty payable as aforesaid, and at the same time and under the same penalties, pay to the Collector or Chief Officer of the Customs at the Port of Québec or Montreal, at whichever the said ship shall be first entered, the sum of forty shillings, currency, for each passenger so embarked as aforesaid, and not included in one of the said lists.

V. And be it enacted, That in addition to the particulars heretofore required in the list of passengers to be delivered on each voyage, by the Master of any ship carrying passengers and arriving in either of the Ports of Québec or Montreal, to the Collector or Chief Officer of Her Majesty's Customs at such Port, the Master shall report in writing to the said Collector or Chief Officer, the name and age of every passenger embarked on board of such ship on such voyage, and shall designate all such passengers as shall be lunatic, idiotic, deaf and dumb, blind or infirm, stating also whether they are accompanied by relatives likely to be able to support them; and shall also designate all such passengers as shall be children not members of any Emigrant family on board, or widows having families, or women without their husbands having families, with the names and ages of their children; and in case any Master shall omit or neglect to report the particulars herein specified, or shall make any false report in any of such particulars, he shall incur a penalty of five pounds, currency, for every passenger in respect of whom such omission or neglect or such false statement shall have been made as aforesaid.

VI. And be it enacted, That it shall be the duty of the Medical Superintendent at the Quarantine Establishment in this Province, forthwith after the arrival thereof of any ship carrying passengers, to examine into their condition; and for that purpose the said Medical Superintendent, or such other competent person or persons as may be thereunto appointed, shall have authority to go on board and through any such ship, and to inspect the said List of Passengers, and the Bill of Health, Manifest, Log Book or otherwise of the said ship, and if necessary to take extracts from the same;

and if, on examination, there shall be found among such passengers any child not being a member of any emigrating family on board, or lunatic, idiotic, deaf and dumb, blind or infirm person, or any person above the age of sixty years, or any widow with a child or children, or any woman with a child or children and without her husband, and any such person or child shall, in the opinion of such Medical Superintendent, be likely to be some permanently a public charge, the said Medical Superintendent shall forthwith report the same officially to the Collector or other Chief Officer of the Customs, at the Port of Québec or of Montreal, at whichever the ship is first to be entered, who shall require the Master of such ship, in addition to the rate or duty payable for the passengers generally, to execute jointly and severally with two sufficient sureties, a bond to Her Majesty in the sum of twenty pounds, currency, for every such passenger so specially reported, conditioned to indemnify and save harmless this Province or any Municipality, Village, City, Town or County, or Charitable Institution within the same, from any expense or charge which shall or may be incurred within the space of one year from the execution of the said bond, for the maintenance and support of any such passenger; and the said sureties shall justify before and to the satisfaction of the said Collector or Chief Officer, and by their oath or affirmation (which such Collector or Officer is hereby authorized to administer) shall satisfy him that they are respectively residents in this Province and worth double the amount of the penalty of such bond over and above all their debts and liabilities, personal and real: Provided always, that every such Master may relieve himself from making and executing such bond, by the payment to the said Collector or Chief Officer of the sum of twenty shillings, currency, for each such passenger so specially reported.

VII. And be it enacted, That in case any passenger for whom any bond shall have been given as aforesaid, shall, at any time within one year from the execution thereof, become chargeable upon this Province or upon any municipality, village, city, town or county, or upon any charitable institution within this Province, the payment of such charge or expense incurred for the maintenance and support of such passenger, shall be provided for out of the monies collected on and under such bond, to the extent of the penalty therein contained, or such portion thereof as shall be required for the payment of such charges or expenses.

VIII. And be it enacted, That if the Master of any ship on board of which such passengers specially reported as aforesaid shall have been carried, shall neglect or refuse to execute the said bond, or to pay the commutation money in lieu thereof forthwith after the said ship shall have been reported to the said Collector or Chief Officer, such Master shall incur penalty of one hundred pounds, currency; and the said ship shall not be cleared on her return voyage until the said bond shall have been executed, or the commutation money in lieu thereof paid, nor until the said penalty shall have been paid, with all costs which shall have been incurred on any prosecution for the recovery thereof.

IX. And be it enacted, That after the said bond shall have been executed as aforesaid, the said Collector or Chief Officer shall transmit the same to the Receiver General of this Province, to be by him kept and held during the said period of one year from the execution of the said bond, or until the payment of the penalty therein mentioned, (if incurred) shall be enforced; and for the purpose of ascertaining the necessity of such enforcement, it shall be the duty of the Chief Emigrant Agents

in Upper and Lower Canada, upon representation made to either of them, as the case may be, in their respective portions of the said Province, to ascertain the right and claim to indemnity, for the maintenance and support of any such specially reported passenger, and to report the same to the Executive Government of this Province, and the said report shall be final and conclusive in the matter, and shall be evidence of the facts therein stated, and the said penalty, or so much thereof as shall be from time to time sufficient to defray the expense incurred for the maintenance and support of any passenger for whom the said bond was given as aforesaid, shall be prosecuted for and recovered by suit or information, in Her Majesty's name, in any Court in this Province having jurisdiction in civil cases to the amount for which such suit or information shall be brought.

X. And be it enacted, That no person being Medical superintendent at the said Quarantine establishment, nor any person thereat employed under him and remunerated for his services from the public monies of the Province, shall directly or indirectly, by himself or others, be concerned or have any interest in the said Quarantine establishment whatever, nor in any public works thereat, nor in any contracts relating thereto, nor in vending or furnishing supplies or necessaries of any kind therefor, nor to any emigrant or emigrants arriving thereat, nor trade in any respect as such superintendent or as such other officer thereat either directly or indirectly for his or their benefit under the penalty in case of contravention hereof of dismissal from his office or employ at the said Quarantine establishment, and of being for ever thereafter incapable of being again employed and of serving thereat, and that each and every person herein offending shall moreover be held and taken to be guilty of a misdemeanor, and on conviction thereof, be in the discretion of the Court liable to punishment by fine, not exceeding twenty five pounds, currency, or imprisonment for any period not exceeding six calendar months.

XI. And whereas it is expedient that a discretionary power should exist for reducing the penalty of twenty-five pounds, currency, provided in the third Section of the Act hereinbefore cited, for the purpose of more effectually securing the enforcement of the same for the contravention of the law in the case to which the said penalty applies; Be it enacted, That in the adjudication of the said penalty of twenty-five pounds, currency, the same may in the discretion of the Court or Justices adjudging the same, be reduced to any sum not less than five pounds, currency.

XII. And whereas inconvenience and expense are occasioned by the practice of Masters of Ships carrying passengers, anchoring at great distances from the usual landing places in the Port of Québec, and landing their passengers at unreasonable hours: Be it therefore enacted, That all Masters of Ships having passengers on board, shall be held and they are hereby required to land their passengers and their baggage, free of expense to the said passengers, at the usual public landing places in the said Port of Québec, and at reasonable hours, not earlier than six of the clock in the morning, and not later than four of the clock in the afternoon; and such ships shall, for the purpose of landing their passengers and baggage, be anchored within the following limits in the said Port, to wit: The whole space of the River Saint Lawrence, from the mouth of the River Saint Charles to a line drawn across the said River Saint Lawrence, from the Flag Staff on the Citadel on Cape Diamond, at right angles to the course of the said River; under a penalty of Ten Pounds, Currency, for any offence against the provisions of this Section.

XIII. And be it enacted, That all and every the provisions of the Provincial Act aforesaid, for the raising, levying and paying of the rate and duty directed to be levied by the said Act, and for the application of the same, and for enforcing the payment of the same and of the penalties by the said Act imposed, by summary proceedings and imprisonment, and for requiring detailed statements of the expenditure of the said monies and of the due application thereof to be accounted for through the Lords Commissioners of Her Majesty's Treasury, shall apply in every particular to the rates and duties and to the monies under this Act required to be levied and paid, and to the penalties imposed for any offence against this Act; and all and every the said monies so directed to be levied as aforesaid; and all rates or duties hereby imposed, may also be recovered by the Collector or Officer to whom they ought to be paid in the manner provided by the said Act, for the recovery of the penalties thereby imposed: and all and every the penalties or forfeitures under the provisions hereof and of the said Provincial Act, shall be a lien upon the Ship by reason whereof such monies shall have become payable and the Master whereof shall have become liable in such penalty, and may be enforced and collected by the seizure and sale of the Ship, her tackle or furniture, under the warrant or process of the Justices or Court before whom the same may have been sued for and recovered, and shall be preferred to all other liens, or hypothecations, except mariners' wages.

XIV. And be it enacted, That in case any Ship having passengers on board shall at any time hereafter be wrecked on the coasts of this Province, and such passengers be liable to become chargeable on the said Province, and any part of the said ship or her furniture or appurtenances be saved, and the owner, master or other person in charge shall not provide for the sustenance of the said passengers and their transport to their place of destination, it shall be lawful for the Collector or other principal Officer of Customs at the port nearest to the place where such wreck shall take place, or such other person as the Governor shall appoint for such purposes, to take charge of the said wreck, and the furniture and appurtenances thereof, and sell the same and out of the proceeds of such sale after paying any amount that may be due for salvage and the wages of the Seamen to deduct such sum as may be required to defray the necessary sustenance of the said passengers and their expenses to their place of destination, and to pay over the balance (if any) to the owner if present, and in his absence to the master or commander of such Ship.

XV. And be it enacted, That upon complaint being made in any case over which two Justices have jurisdiction as aforesaid, before any one Justice of the Peace, he shall issue a summons, requiring the party offending or complained against, to appear on a day and at an hour and place to be named in such summons; and every such summons shall be served on the party offending or complained against, or shall be left at his last place of residence or business, or on board any ship to which he may belong; and either upon the appearance or default to appear, by the party offending or complained against, it shall be lawful for any two or more Justices to proceed summarily upon the case, and either with or without any written information, and upon proof of the offence or of the complainant's claim, either by confession of the party offending or complained against, or upon the oath of one or more credible witness, (which oath such Justices are hereby authorized to administer) it shall be lawful for such Justices to convict the offender, and upon such conviction to order the offender or party complained against, to pay such penalty as is imposed by this Act, or by the said Provincial Act, as the case may be, according to the nature of

the offence, and also to pay the costs attending the information or complaint; and if forthwith upon any such order, the monies thereby ordered to be paid be not paid, the same may be levied, together with the costs of the distress and sale, by distress and sale of the goods and chattels of the party ordered to pay such monies, the surplus, if any, to be returned to him upon demand; and any such Justices may issue their warrant accordingly, and may also order such party to be detained and kept in safe custody until return can conveniently be made to such warrant of distress, unless such party give security to the satisfaction of such Justices for his appearance before them on the day appointed for such return, such day or days not being more than three days from the time of taking such security; but if it shall appear to such Justices, by the admission of such party or otherwise, that no sufficient distress can be had whereon to levy the monies so adjudged to be paid, they may, if they think fit, refrain from issuing such warrant of distress in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Justices, or to any two or more of such Justices as aforesaid, then such Justices shall, by warrant, cause the party ordered, to pay such monies and costs as aforesaid, to be committed to gaol, there to remain without bail for any term not exceeding three months, unless such monies and costs ordered to be paid, and such costs of distress and sale as aforesaid be sooner paid and satisfied; Provided always, that such imprisonment in the case of a Master of any ship shall not discharge the said ship from the lien or liability attached thereto by the provisions of this Act.

XVI. And be it enacted, That no conviction or proceeding under this Act, or the said Provincial Act, shall be quashed for want of form, or be removed by appeal or certiorari or otherwise into any of Her Majesty's Superior Courts of Record within this Province; and no Warrant of Commitment shall be held void by reason of any defect therein, provided it be thereby alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

XVII. And be it enacted, That the word "Master" whenever used in this Act shall be held to apply to any person in command of a Ship; the word "Ship" shall include all Ships or Vessels carrying Passengers; the word "Passengers" shall apply to Emigrants usually and commonly known and understood as such, and not to Cabin Passengers who pay for and are provided with cabin fare and accommodation, nor to Troops or Military Pensioners and their families who are carried in Transports, or at the expense of the Imperial Government; the term "Disease" shall apply to Plague, Small Pox, Bilious, Pestilential, Infectious, or Contagious Disease or Fever; and the word "Quarantine" shall apply to "Grosse Isle" or other place at which such Quarantine shall be directed to be performed, and the word "Child" shall apply to any person under the age of ten years; and any word importing the singular number shall include a plurality of persons or things unless there be something in the context inconsistent with such interpretation.

XVIII. And be it enacted, That this Act shall continue to be in force until the first day of December, one thousand eight hundred and forty-nine, and thence until the end of the then next Session of the Provincial Parliament, and no longer.