

Laws of Her Majesty's Province of Upper Canada, passed in the year 1849. Montreal: Stewart
Derbshire & George Desbarats, 1849.

12 Victoria – Chapter 6

**An Act to repeal certain Acts therein mentioned, and to make further provision respecting
Emigrants. 25th April, 1849.**

Whereas it is necessary to repeal certain Acts hereinafter mentioned, and to make such further provision with reference to Emigration as will tend to prevent the introduction into this Province of a Pauper Emigration labouring under disease, and at the same time to encourage the introduction of a more healthy and useful class of Emigrants: 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 the Act of the Legislature of this Province, 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*; and the Act of the said Legislature, passed in the eleventh year of Her Majesty's Reign, and intituled, *An Act to make belter 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of forwarding them to their place of destination, and to amend the Act therein mentioned*, be, and the same are hereby repealed.

II. And be it enacted, That there shall be raised, levied and collected, a rate or duty, payable in the manner hereinafter prescribed, by the master or person in command of every vessel arriving in the Port of Quebec or in the Port of Montreal from any Port of the United Kingdom or of any other part of Europe, with Passengers or Emigrants therefrom, and such rate or duty shall be seven shillings and six pence currency for every Adult Passenger or Emigrant, and five shillings for every other Passenger or Emigrant between the ages of five and fifteen years who shall have embarked from any Port in the United Kingdom under the sanction of Her Majesty's Government ascertained by a certificate from one of the Officers of Her Majesty's Customs at the Port at which such vessel shall have cleared, and ten shillings currency for every Passenger or Emigrant who shall have embarked without such sanction; and such rate or duty shall be paid by the master or person in command of such vessel or by some person on his behalf, to the Collector or other Chief Officer of the Customs at the Port at which such vessel shall be first entered, and at the time of making such first entry, which shall contain on the face of it the number of passengers actually on board the vessel; and no such entry shall be deemed to have been validly made, or to have any legal effect whatsoever, unless such rates or duties be so paid as aforesaid: Provided always, that no child under the age of five years shall be reckoned among the number of Passengers; and provided also, that any draft, order or other document made or signed by any person in the United Kingdom aforesaid duly empowered to that effect by Her Majesty's Government, and directed to Her Majesty's Commissary General, or other Officer having charge of the Military Chest

in this Province, and authorizing the payment to the Collector or Chief Officer of the Customs aforesaid, of the rate or duty which would otherwise be payable by the master of any vessel for any Emigrant or any number of Emigrants on board such vessel, shall be taken and accepted by the Collector or Chief Officer as payment of the rate or duty payable on such Emigrant or Emigrants, and the sum mentioned in such order shall thereafter be received by such Collector or Chief Officer and paid over and applied in the same manner as other money raised under the authority of this Act.

III. And whereas masters of vessels are in the practice of embarking Passengers after the vessel 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 vessel may have touched after the embarkation of such Passenger, the master or person in command of such vessel 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 Quebec or Montreal, at whichever the said vessel 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.

IV. And be it enacted, That no master or person having the command of any vessel arriving in either of the Ports last mentioned, shall permit any Passenger to leave such vessel, until he shall have delivered to the Collector or other Chief Officer of Her Majesty's Customs at such Port, a correct list of all Passengers on board of such vessel at the time of her arrival at such Port, nor until such list shall have been certified to be correct, and a certificate of such correctness and a permission to allow his Passengers to leave the vessel, and a receipt for the duties payable by him under the provisions of this Act, shall have been given to him by the said Collector or other Chief Officer, under a penalty of not less than Five pounds and not exceeding Twenty-five pounds currency, to be paid by such master or person having the command of the vessel, for every Passenger leaving the same contrary to the provisions of this Act; Provided always, that the said list shall contain the name of each head of a family being a Passenger on board such vessel, his profession or trade, his country and the place of his destination, and the number of grown persons and children belonging to his family on board such vessel, and the name of each person not belonging to any family, with the like particulars of country, trade, profession and destination.

V. And be it enacted, That in addition to the particulars hereinbefore required in the list of Passengers to be delivered on each voyage by the master of any vessel carrying Passengers and arriving in either of the Ports of Quebec 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 all Passengers embarked on board of such vessel on such voyage, who 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 in case any such master or person having the command of any such vessel shall omit or neglect to report the particulars herein

specified, or shall make any false report in any such particulars, he shall incur a penalty of not less than Five pounds and not exceeding Twenty-five pounds currency, for every such Passenger in regard to whom any such omission or neglect shall have occurred, or any such false report or statement shall be made, for which the owner or owners of every such vessel shall also be liable jointly and severally, and which may be sued for and recovered as hereinafter provided.

VI. Provided always and be it enacted, That nothing in this Act contained shall prevent the master or person having the command, of such vessel from permitting any Passenger to leave the vessel at the request of such Passenger before the arrival of the vessel in the harbour of Quebec, but in every such case, the names of the passengers who shall so leave shall be entered in the manifest on the list of Emigrants made out at the time of the clearing of the vessel from the United Kingdom or other part of Europe as aforesaid, and shall be certified under the signatures of the Passengers so leaving the vessel; and if the number of Passengers remaining on board on the arrival of the vessel in the Harbour of Quebec do not correspond with that mentioned in such manifest, after deducting the number who shall have so left the vessel, the master or person having the command of such vessel shall incur a penalty of Five pounds currency for each Passenger not found on board or entered on the manifest as having left the vessel as aforesaid.

VII. And be it enacted, That the said report shall further contain the name, age and last place of residence of any person who may have died during the passage of such vessel, and shall specify whether such passenger was accompanied by relatives, or other persons, and the names of such relatives or other persons, who were entitled to take charge of the monies, goods and effects which may have been left by such passenger, and if there shall have been no such relatives or other persons entitled to take charge of the same, then the said report shall fully designate, the quantity and description of such property, whether money or otherwise, which shall have been left by such Passenger, and the said master or person in command of any such vessel shall pay over and fully account for the same, to the Collector or Chief Officer of Customs for the Port at which the said vessel may be entered; and the said Collector or Chief Officer of Customs shall thereupon grant unto such master a receipt for all such monies, goods or effects as may be so placed in his hands by such master, which receipts shall contain a full description of the nature or amount thereof; and in case any master or person in command of any such vessel shall neglect or refuse to make such report, or to pay over and account for any such monies, goods or effects, as required by this Section, he shall incur a penalty of not less than Five pounds and not exceeding Two hundred and fifty pounds, currency, for every such case of neglect or refusal.

VIII. And be it enacted, That every Passenger on board any vessel arriving in the harbour to which the master or person in command of such vessel shall have engaged to convey him, shall be entitled to remain and keep his baggage on board such vessel, during forty-eight hours after her arrival in such harbour, and every such master who shall compel any Passenger to leave his vessel before the expiration of the said term of forty eight hours, shall incur a penalty of not exceeding Five pounds, currency, for every passenger he shall so compel to leave his vessel, nor shall any master or person in command of such vessel, remove or cause to be removed, before the expiration of the said forty-eight hours, any berthing or accommodation used by his Passengers under a like penalty.

IX. And be it enacted, That every Pilot who shall have had charge of any vessel having Passengers on board, and shall know that any Passenger has been permitted to leave the vessel, contrary to the provisions of this Act, and shall not within twenty-four hours after the arrival of such vessel in the harbour to which he shall have engaged to pilot her, inform the Collector or other Chief Officer of Her Majesty's Customs at such place, that a Passenger or Passengers has or have been so permitted to leave the vessel, shall incur a penalty not exceeding Five pounds, currency, for every Passenger with respect to whom he shall have wilfully neglected to give such information.

X. 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 vessel 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 vessel and to inspect the said List of Passengers, and the Bill of Health, Manifest, Log-Book or otherwise of the said vessel, and, if necessary, to take extracts from the same; and if, on examination, there shall be found among such Passengers any lunatic, idiotic, deaf and dumb, blind or infirm person, not belonging to any Emigrant family, and any such person shall, in the opinion of such Medical Superintendent be likely to become 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 Quebec or of Montreal, at whichever the vessel is first to be entered, who shall require the master of such vessel, 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 Seventy-five 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 three years 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 each worth double the amount of the penalty of such Bond over and above all their debts and liabilities, personal and real.

XI. And be it enacted, That in case any Passenger, for whom any Bond shall have been given as aforesaid, shall, at any time within three years 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.

XII. And be it enacted, That if the master of any vessel, on board of which such Passenger specially reported as aforesaid, shall have been carried, shall neglect or refuse to execute the said bond, forthwith, after the said ship shall have been reported to the said Collector or Chief Officer, such master shall incur a penalty of One hundred pounds, currency, and the said vessel shall not be

cleared on her return voyage until the said Bond shall have been executed, nor until the said penalty shall have been paid, with all costs which shall have been incurred on any prosecution for the recovery thereof.

XIII. 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 three years 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.

XIV. 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 contract 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 One hundred pounds, currency, or imprisonment for any period not exceeding six calendar months.

XV. And whereas inconvenience and expense are occasioned by the practice of masters of vessels carrying Passengers anchoring at great distances from the usual landing places in the Port of Quebec, and landing their Passengers at unreasonable hours; Be it therefore enacted, That all masters of vessels 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 Quebec, 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 vessels 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.

XVI. And be it enacted, That all and every the rates or duties, penalties or forfeitures imposed or declared under the authority of this Act shall be a special lien upon the vessels 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.

XVII. And be it enacted, That the monies levied under the authority of this Act shall be paid by the Collector or other Chief Officer of the Customs by whom they shall have been received, into the hands of the Receiver General, for the purposes hereinafter mentioned.

XVIII. And be it enacted, That the monies raised, levied and received under the authority of this Act shall be applied by such Officers or persons and under such rules and regulations as the Governor, Lieutenant-Governor or Person administering the Government shall appoint from time to time for that purpose, in defraying the expenses of medical attendance and examination of destitute Emigrants on their arrival.

XIX. And be it enacted, That all penalties imposed by this Act may be sued for and recovered with costs on oath of one credible witness other than the prosecutor, in a summary manner, before any two Justices of the Peace in the City of Quebec or in the City of Montreal; and such Justices may commit the offender to the Common Gaol of the District until such penalty and costs shall be paid; and one moiety of every such penalty shall belong to Her Majesty, Her Heirs and Successors, and shall be paid into the hands of the Receiver General to be applied to the purposes to which the other monies levied under the authority of this Act are hereby appropriated, and the other moiety shall belong to the prosecutor.

XX. 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 place of residence or business, or on board any vessel 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 at least one credible witness other than the Prosecutor (which oath such Justices are hereby authorized to administer) it shall be lawful for the 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, according to the nature of the offence, and also to pay the costs attending the information or complaint, and if forthwith upon 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 order also such party to be detained and. kept in safe custody until return can conveniently be made to such Warrant of Distress, unless such party shall 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 that 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, 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 hail 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 vessel shall not discharge the said vessel from the lien or liability attached thereto by the provisions of this Act.

XXI. And be it enacted, That no conviction or proceeding under this Act shall be quashed for want of form, or be removed by appeal or *certiorai*, 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.

XXII. And be it enacted, That every person to whom shall be entrusted the expenditure of any portion of the monies hereby appropriated, shall make up detailed accounts of such expenditure, shewing the sum advanced to the' accountant, the sum actually expended, the balance (if any) remaining in his hands, and the amount of the monies hereby appropriated to the purpose for which such advance shall have been made, remaining unexpended in the hands of the Receiver General, and that every such account shall be supported by vouchers therein distinctly referred to by numbers corresponding to the numbering of the items in such account, and shall be made up to and closed on the first day of December in each year during which such expenditure shall be made, and shall be attested before a Justice of the Court of Queen's Bench or a Justice of the Peace, and shall be transmitted to the Officer whose duty it shall be to receive such account, within fifteen days next after the expiration of the said period respectively.

XXIII. And be it enacted, That the due application of the monies received for the public uses of the Province under the authority of this Act, shall be accounted for to Her Majesty, Her Heirs and Successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, and in such manner and form as Her Majesty, Her Heirs and Successors shall direct; and that a detailed account of all such monies shall be laid before the several branches of the Provincial Legislature within the first fifteen days of the next session thereof.

XXIV. 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 vessel: The word "Vessel" shall include all ships, vessels, or craft of any kind carrying Passengers: The word "Passengers" shall apply to Emigrants usually and commonly known and understood as such, and not to Troops or Military Pensioners and their families who are carried in Transports or at the expense of the Imperial Government: The word "Quarantine" shall apply to Grosse-Isle, or other places at which such Quarantine shall be directed to be performed; 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.