



No. 185.

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3rd Session, 5th Parliament, 20 Victoria, 1857

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(LOCAL BILL.)

**BILL.**

An Act to amend the Act intituled "*An Act to provide 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, and to repeal the Act now in force for the said purposes.*"

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Received and read, first time, Monday, 30th  
March, 1857.

Second reading, Tuesday, 31st March, 1857.

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MR. WHITNEY.

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TORONTO:  
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**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.**

**W**HEREAS defects have been found to exist in the details of the Preamble.  
Act 18 Vict., chapter 143, for the management and improvement 18 V., c. 143.  
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  
5 its efficiency for the purposes therein contemplated, and it is expedient to  
amend the same: Therefore Her Majesty, &c., 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  
10 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  
15 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  
20 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 restric-  
tions fixed by the said Act and by this Act.

II. From and after the passing of this Act, the said corporation of the  
25 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  
30 Act, and who shall be condemned to the payment of any pecuniary pen-  
alty 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  
sixty days; unless the amount of such penalty and costs be sooner paid;  
40 the said powers to be in addition to the powers granted by the seventh  
section of the said Act.

By-laws sanctioned by the Governor to have the force of Law.

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; and such sanction shall be conclusive evidence of the legality of such By-laws. 5

Seizure of vessel or goods before judgment for infraction of By-laws.

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. 10 15

How seizure may be authorized, and upon what evidence, &c.

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. 20 25 30 35

Provisions of sect. 10. of 18 V. c. 143. to apply to this Act, and to By laws made under it.

Service of process.

Description of defendant.

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 no plea in abatement, *exception à la forme*, or other preliminary plea shall be received or filed by the defendant to any such action or proceeding: And if any writ of *certiorari* be issued at the suit of the defendant on any conviction 40 45 50

being had, neither party shall have any costs in the Superior Court on the quashing of such writ or conviction. No costs on *certiorari*.

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 one year from the period when such penalty or penalties, rates, dues, or the commutation thereof shall have accrued and become exigible. Special lien on the vessel for penalties, rates and dues.  
Seizure and sale of vessel.  
Proviso.

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 16th section of the said Act, and conform himself to all the provisions of the said section, and shall make such reports under oath at the office of the wharfinger of the said Harbour, which oath the said wharfinger is hereby authorised to administer, 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 sworn to, 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. Master or person in charge of any vessel to make Report at the office of the Wharfinger, in the manner required by sect. 16, of 18 V., c. 143.

IX. 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, vessels or rafts, 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, vessel or raft 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. Corporation may seize vessels doing injury to the works.

Schedule F to  
the said Act  
amended.

X. 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."

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Inconsistent  
enactments  
repealed.

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

Interpretation.

XII. The interpretation Act shall apply to this Act.

Public Act.

XIII. This Act shall be a public Act.

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