

Statutes of Upper-Canada, Passed in the fourth session of the third provincial parliament (1803). From The Provincial Statutes of Upper-Canada: Revised, Corrected, and Republished (York, R. C. Horne, 1818.)

43 George III – Chapter 2

An Act to Explain and Amend an Act, passed in the Forty-first year of His Majesty's Reign, intituled, "An Act for granting to His Majesty, his Heirs and Successors, to and for the uses of this Province, the like Duties on Goods and Merchandize brought into this Province from the United States of America, as are now paid on Goods and Merchandize imported from Great Britain and other places, and to provide more effectually for the collection and payment of duties on Goods and Merchandize coming from, the United States of America into this Province," and also to establish a fund for the erection and repairing of Light Houses. (5th March, 1803.)

Whereas the Laws at present in force, for the securing the due Collection and Payment of the Duties on Goods, Wares and Merchandize brought into this Province from the United States of America, have been found inadequate to the purposes for which they were intended, it is therefore become expedient to amend such laws, and to provide additional remedies, and security against the evasion of such Duties; Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the government of the Province of Quebec, in North America, and to make further provision for the government of the said Province,'" and by the authority of the same, That from and after the passing of this Act, whenever any ship or vessel, from whatever port or place she may have sailed, containing Goods, Wares, or Merchandize, shall arrive at any port or ports of entry or clearance in this Province, the cargo or load whereof is intended to pass by such port or ports without breaking bulk there, in order to pass to some other port or ports of entry in this Province, and there to break bulk; or, in order to pass through the Province, without breaking bulk, into some part or parts of the United States, the Master, or other person having the charge or command of such ship or vessel, or the Agent or Agents, for the proprietor or proprietors of such cargo or load, or the consignee or consignees thereof, shall forthwith, upon arrival at any port or ports of entry or clearance as aforesaid make a report and declaration thereof to the Collector or his deputy stationed at such port or ports of entry, which report and declaration shall state the particulars specified and directed to be contained in the report and declaration which Masters and Commanders are required to make, by an Act passed in the forty-first year of His Majesty's Reign, intituled, "An Act for granting to His Majesty, his Heirs and Successors, to and for the uses of this Province, the like Duties on Goods and Merchandizes brought into this Province from the United States of America, as are now paid on Goods and Merchandize imported from Great Britain and other places," and which report and declaration, shall be verified upon oath or affirmation, in like manner and under the like pains and penalties, as in and by the said Act of this Province is directed; and in case such Master or Commander shall not intend to break bulk within this Province, then such declaration shall so state, and shall also state to what place in the said United

43 George III – Chapter 2

States it is intended that such cargo or load shall be transported or conveyed, and in cases in which it is intended that such cargo or load shall pass to some other port or ports of entry and clearance in this Province, and then break bulk, such declaration shall state the particular port or ports, place or places of entry or clearance at which it is intended such bulk shall be broken; and as well in those cases, in which it shall be declared, it is intended to break bulk at some other port or ports of entry and clearance in this Province, as in cases in which such declaration shall state that it is intended to pass into, and transport and convey such cargo and load into some part or parts of the United States, without breaking bulk in this Province, the said Master or Commander, or the Agent or Agents of the Proprietor or Proprietors of such cargo or loads, or the Consignee or Consignees thereof, shall, and he and they is and are hereby required to enter into Bond, in a penalty of double the amount of the Duties with which such cargo or load would, if for consumption in this Province, be charged or chargeable, which Bond shall be conditioned not to break bulk, or suffer bulk to be broken, till the arrival of the ship or vessel, at the port or place at which such declaration shall state that such bulk is intended to be broken, and conditioned also for producing the permit hereinafter mentioned, at ever, port of entry or clearance at which she shall arrive, or through which she shall pass, till she shall arrive at her ultimate port or place of destination.

II. And be it further enacted by the authority aforesaid, That after such Bonds shall have been so given as aforesaid, it shall and may be lawful to and for the said Collector or his Deputy, who has taken such Bond, to give and grant to the Master, Owner, or Commander of such vessel, boat, raft, or carriage, a Permit to proceed upon his voyage, by virtue of which such Master, Owner or Commander, shall and may, and he is hereby authorized to prosecute his voyage with the said cargo and loading and to pass unmolested to the next Port or place of entry or Clearance, where he shall be entitled, in case the condition of the said Bond shall not have been obtained under the authority herein before specified, to demand and receive another Permit, and in like manner shall continue to apply for and receive Permits at every place or Port of Entry or Clearance, till he shall arrive at his ultimate destination, any thing in the said recited Act of this province, or any other law or usage to the contrary notwithstanding. But in case any Master, Owner or Commander shall, after having given such Bond as aforesaid, land or attempt to land, or cause or permit to be landed, any such goods, wares or merchandize as aforesaid, before the arrival of the vessel, boat, raft or other carriage, at the Port or place of Entry and Clearance stated or mentioned in the said declaration, to be given under the direction of the said recited Act of this Province and this Act, then, and in such case, the said goods, wares and merchandize shall be liable to seizure and condemnation, in like manner as if no Entry had ever been thereof made, by the Master, Owner or Commander of the vessel, boat, raft or other carriage containing the same: Provided always nevertheless, that nothing herein contained shall extend or be construed to extend to prevent or hinder any Master, Owner or Commander of any vessel, boat, raft or other carriage, from breaking bulk at any port or place of entry or clearance, at which he may arrive, or from landing or unloading part of his cargo, and proceeding further with the remaining part thereof, provided such Master, Owner or Commander shall first pay or secure to be paid in manner by this Act and the said recited Act of this Province required, the duties on such part of such cargo so to be landed, and procure or obtain the necessary Permit and Certificate for landing or permitting the same to be landed, from the Collector of the said port or place of entry or clearance, or his Deputy, and provided the said Master, Owner or Commander, shall in all respects comply with, and act in

conformity with the requisitions of the said recited Act of this Province and this Act. Provided also nevertheless, That the words ship or vessel herein before contained, shall not be construed to extend to any batteau, boat, raft or other craft or carriage, employed for the transport of any goods or merchandize from Lower Canada to this Province, or which shall be only employed in the inland trade of the country and shall not have arrived from the United States of America, nor shall this Act extend to compel or oblige the Master, Commander or Owner of any ship or vessel bound from any port or place in this Province to Queenston direct, to make any such report of declaration as aforesaid, at the port of Niagara, unless such ship or vessel shall cast anchor at the said port of Niagara, and remain there at anchor for the space of two hours, or attempt to land any part of her cargo, or break bulk there. And provided also, That whenever any ship or vessel passing the port of Niagara on her way to Queenston, shall come to an anchor in the intermediate distance between the said ports she shall not unlade or break bulk, until the Master or Commander of such ship or vessel shall have reported as aforesaid, to the Collector of the port or place of entry then nearest to where such ship or vessel shall then be.

III. And be it further enacted by the authority aforesaid, That each and every Collector to be appointed under the authority of the said recited Act of this Province, or any other Act now in force in this Province, or to be appointed under any other Act hereafter to be passed, shall, and he is hereby required, from and after the passing of this Act, to render to the Inspector General of this Province, four times in every year, a just, true and faithful account of all duties which have accrued due at the port or place, ports or places of entry and clearance, at which such Collector or his Deputy, or Deputies shall be stationed, the first of which accounts shall be delivered in immediately after the passing of this Act, and shall comprise all duties which shall have accrued due since the last account rendered up to the thirty-first day of December, now last past inclusive, and the next account shall be delivered in, on or before the twentieth day of May next, and shall comprise all duties which shall have accrued due between the first day of January and the thirty-first day of March in this present year, both days inclusive, and so shall continue on or before the expiration of forty days next after every succeeding three months, to render a like account to the said Inspector General, which accounts shall severally comprise a faithful statement of all Duties paid or secured, or which shall have accrued due within the periods following (that is to say) between the first day of January and the last day of March, the first day of April and the last day of June, the first day of July and the last day of September, and the first day of October and the last day of December, and that the first and last days in each of such several periods of three months, shall be included in such several accounts, and immediately after such accounts shall have been so respectively rendered, passed and approved by the said Inspector General, such Collector shall, and he is hereby required to pay the full amount of all the Duties which shall be stated in such accounts to have come to his hands, to His Majesty's Receiver General of this Province for the time beings and in case the said Collector shall neglect, or refuse to render his said accounts, or to pay in such Duties, in manner herein before required, such Collector so neglecting or refusing, shall not be at liberty to retain any part of the per centage allowed to the said Collector, in and by the said recited Act of this Province, but shall, and he is hereby required to pay in the full amount of all the Duties by him received, or to be received for the three months, for which such Collector shall neglect or refuse to render such account, or pay in such monies as hereby required, without any deduction on account of such percentage, or on any other account whatsoever, any thing in the

said recited Act of this Province, or this Act, or any other Act, law or usage to the contrary notwithstanding.

IV. And be it further enacted by the authority aforesaid, That in all cases in which the Duties by the said recited Act of this Province imposed, shall exceed in amount the sum of twenty pounds, the said Collector shall and may (if required) and he is hereby authorised, in case he shall deem it meet so to do, to accept and take of and from any master, commander, or owner of any vessel, boat, raft, or carriage, in which shall be contained any goods, wares, or merchandize, which by law are dutiable, a Bond, with one or more surety or sureties, as such Collector or his deputy shall judge necessary, due regard being had, and a sound discretion used, as to the amount of the Duties so to be secured, which Bond so to be given, may be in the form hereunto subjoined, and shall be taken in double the amount of the Duties intended to be thereby secured, and shall be conditioned for the payment of the full amount of the said Duties, at or before the expiration of one month from the time of the arrival of any such vessel, boat, raft, or carriage in the port or place of entry and clearance where she shall break bulk, and where she shall fully or in part discharge and land her cargo or loading; which Bonds so to be taken as aforesaid, or such of them as shall not have been paid and satisfied at the time of delivering in such three month's accounts as aforesaid, the said Collector, and each and every of them, is and are hereby required to insert in, and make part of the then next three month's account, as so much of the Duties which have accrued since the previous account rendered and remaining unpaid upon such security as aforesaid.

V. And be it further enacted by the authority aforesaid, That from and after the passing of this Act, it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person administering the Government of this Province at any time when it shall be found necessary, by and with the advice and consent of the Executive Council thereof, to expend at each, every, or any of the port or ports, place or places of entry and clearance within this Province, such reasonable sum or sums of money out of the proceeds of the Duties collected, or to be collected, under the authority of the said recited Act of this Province, or any other Act of the Province, or any future Acts to be passed for the purpose of laying Duties on imported goods and merchandize, as shall be deemed sufficient for the purpose of erecting Custom Houses and Store Houses, for the storing the goods, wares and merchandize liable to pay such Duties as aforesaid, and for the accommodation of the Collector or Deputy at such port or ports, place or places of entry and clearance, and for the transacting of all business relative to the collecting and securing the due payment of such Duties: Provided nevertheless, That the sums to be expended in any one year on the erection and repairing of Custom Houses and Stores, shall in no one year exceed one-fourth of the amount of the preceding year's collection of the said Duties within this Province.

VI. And be it further enacted by the authority aforesaid, That in all cases of seizure, under any Act of this Province, when the value of the goods seized shall not exceed twenty pounds, (of which value the said Collector or his deputy is to form a judgment, according to the best of his ability, and to depose to the same on oath, before the Magistrate granting the summons hereinafter mentioned) the seizure shall and may, in a summary way, be proceeded upon, and be examined into, heard, adjudged and determined by the Magistrates in Quarter Sessions assembled, in order

whereto, it shall and may be lawful to and for any one of His Majesty's Justices of the Peace within the District, where any such seizure as last mentioned shall be made, to cause the master, commander or owner of any vessel, boat, raft, or other carriage, or the person reputed or appearing to be such master, commander or owner, whose goods, wares or merchandize shall be so seized as last aforesaid, to be summoned and appear at the next General Quarter Sessions of the Peace, to be holden in and for such District, next after such seizure; And the Magistrates in such Quarter Sessions assembled, are hereby fully authorized, empowered and required, upon the appearance or default of such person or persons so to be summoned, to examine into the cause of such seizure or seizures, and thereupon to proceed to give judgment for the condemnation of such goods, wares or merchandize, as upon due examination, shall be found to be forfeited, by virtue of the said recited Act of this Province, or this Act, together with the vessel, boat, raft, or other carriage containing the same, and to issue out a warrant or warrants for the sale of such goods, wares and merchandize so to be condemned as last aforesaid, and of the vessels, boats, rafts, and other craft or carriages containing the same, and such sales shall be made accordingly, and all such judgments shall be, and are hereby declared to be good, valid and effectual in the law, and final to all intents and purposes whatsoever, and not liable to any appeal, or to be removed by any writ or writs of certiorari; and the monies arising from such sales, shall be applied in such and the same manner as are directed with respect to monies arising from, seizures, under the said recited Act of this Province, any law, statute, or provision to the contrary thereof in any wise notwithstanding. Provided nevertheless, That if any master, owner or commander shall be dissatisfied with the valuation put upon any goods, wares or merchandize so to be seized as last aforesaid, or shall be minded or desirous that the merits of such seizure shall be tried and determined in His Majesty's Court of King's Bench, and will, previous to the Magistrates proceeding thereon, enter into a Bond, with a sufficient surety, before the said Magistrate, in the penalty of sixty pounds, conditioned for the payment of all costs, charges and expences attending the condemnation of such goods, wares and merchandize last mentioned, in His Majesty's said Court of King's Bench, in case such condemnation shall in such last mentioned Court be pronounced; then the said Magistrates in Quarter Sessions assembled, shall not proceed to hear or decide on the legality of such seizure, but such seizure and the merits thereof shall be heard, determined and decided upon in His Majesty's said Court of King's Bench, in like manner and as other seizures above the value of twenty pounds are, by the said recited Act and this Act, directed to be determined. Provided also, That in all cases of seizure, where the value of the goods seized shall not exceed the value of fifty pounds, if the master, commander, or owner of the vessel, boat, raft, or other carriage, shall be minded or desirous that the goods, wares and merchandize seized, shall not be detained till the condemnation thereof, or the determination of the merits of the same, and shall so signify to the Collector or his deputy seizing the same, and shall tender to the said Collector or his deputy, a Bond, with sufficient sureties, in the penalty of one hundred pounds, conditioned for the payment of the value of such goods to the said Collector or his deputy; in case the same shall be condemned, then and in such case it shall and may be lawful to and for the said Collector or his deputy, to restore such goods, wares and merchandize, to the master, commander, or owner of the vessel containing the same, without waiting the determination of the merits of the said seizure, any thing herein contained to the contrary notwithstanding. Provided nevertheless, That in case any dispute shall arise respecting the value of any such goods, wares and merchandize as last mentioned, and the owner, master, or commander of the vessel

containing the same, will produce before a Magistrate, two indifferent and credible witnesses, who will upon oath declare, that according to the best of their judgment, they respectively believe that such goods, wares and merchandize, as last mentioned, are not of above the value of fifty pounds, such declaration shall be final and decisive as to such value; and if any such witness or witnesses shall, in deposing to the value of any such goods, wares and merchandize as last mentioned, wilfully or corruptly forswear him, her or themselves, he, she and they, and each of them, shall incur all the pains and penalties which by the Criminal Law of England are attached to wilful and corrupt perjury.

VII. And whereas it will be necessary and essential to the safety of vessels, boats, rafts and other craft passing from Lake Ontario into the river Niagara and passing by the Isle called Isle Forest, and likewise into the Port of York, that there should be a Light House erected near to each of the said last mentioned places Be it therefore enacted by the authority aforesaid, That in order to provide for the expence of erecting and repairing such Light Houses, it shall and may be lawful to and for the Collector or his Deputy, at the port to which any vessel, boat, raft or other craft shall arrive next after having passed the said Lake into the said River or the said Island, or which shall come into the port of York, and such Collector or his Deputy, is hereby authorized and required to demand and receive of and from the master, commander or owner of each and every such vessel, boat, raft or other craft, the following rates, that is to say, for every vessel, boat, raft or other craft, of the burthen of ten tons and upwards, the sum of three pence for every ton of which such vessel, boat, raft or other craft is of burthen, and which burthen is hereby required to be computed by such Collector or his deputy, and the monies by such tonnage rate accruing, when collected, the said Collector is hereby required to pay into the hands of His Majesty's Receiver General of this Province, at the same time he pays the other duties by him collected, and all which said sums of money so to be collected upon the said tonnage, the Governor, Lieutenant Governor, or person administering the Government of this Province, is hereby authorized and empowered by and with the advice and consent of the Executive Council of the Province, to lay out and expend, or cause to be laid out and expended, in the erection and keeping in repair, and other incidental charges attending three Light-Houses, one to be erected and built upon the south-westernmost point of a certain island called Isle Forest, situate about three leagues from the Town of Kingston, in the Midland District; another upon Mississagua [Mississauga] Point, at the entrance of the Niagara River, near to the Town of Niagara, and the other upon Gibraltar Point.

VIII. And be it further enacted by the authority aforesaid, That in order to ascertain whether any such vessel, boat, raft or other craft has passed the said Island, or the said Mississagua Point, or Gibraltar Point, each and every owner, commander or master of each and every vessel, boat, raft or other craft, who shall pass such Island or Points, or either of them, and arrive at the Ports of Kingston, Niagara or York, is hereby required to insert it in, or add it to the declaration by the said recited Act of this Province and this Act required to be made, that he has so passed the said Island, or Mississagua Point, or Gibraltar Point, and in case such owner, commander, or master, shall refuse to pay the tonnage hereby intended to be imposed, the Collector of the said District or his Deputy, is hereby empowered and required to summon such owner, commander or master before any one of His Majesty's Justices of the Peace for the District, where the same shall happen, and such Magistrate is hereby empowered and authorised, in a summary way to hear and

determine the complaint to be thereof made by the said Collector or his Deputy, and if the said Justice shall order payment to be made of the said tonnage according to the rates by this Act imposed, and the said owner, commander or master shall not forthwith pay the same to the said Collector or his Deputy, together with the costs and expences of the said proceeding before the said Justice, such Justice is hereby empowered and authorized to issue his warrant to levy such tonnage and costs, by sale of any part of the cargo contained in any such last mentioned vessel, boat, raft or other craft, or any of the tackle or apparel thereof, or of any other the goods and chattels of the party or parties complained against, restoring the surplus of such monies arising from such sale, if any such shall be, to such party or parties, after deducting the said tonnage and the said costs, and the charges and expences of sale. Provided nevertheless, That no such tonnage shall be payable for any vessel, boat, raft or other craft, which by stress or severity of weather, or other disasterous event, shall be compelled to return into the same harbour whence she last departed, without having perfected her intended voyage. And the said Justice is hereby authorised to charge, demand and take the following fees for hearing and determining the said complaint, and no more; for his summons, two shillings; for judgment, two shillings and six pence; warrant to distrain, five shillings; for the person serving the summons, two shillings; mileage for every mile, four pence; executing warrant of distress and return thereof, five shillings.

IX. And be it further enacted by the authority aforesaid, That in case any proceedings shall, after the passing of this Act be had for the condemnation of any goods, wares or merchandize, or for or in respect of any thing done or neglected to be done, contrary to the provisions of the said recited Act of this Province, or this Act, or of any Act or Acts of this Province now passed, or hereafter to be passed, respecting any Duties imposed, or to be imposed, upon goods, wares and merchandize coming into this Province from the said United States, that as well in cases where the goods seized shall be adjudged to be restored, or if condemned, shall be insufficient to pay the costs and expences of the proceedings had respecting the same, as in all other cases, where the proceedings by or against the Collectors or Deputies shall be for or on account of any thing done, or omitted to be done, by such Collector or Deputy, it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person administering the Government of this Province for the time being, and he is hereby empowered and authorised (if he shall see fit so to do) to discharge, satisfy and pay all such costs and expences out of any monies which shall be then in the hands of His Majesty's Receiver General of this Province, and which shall have arisen out of any Duties imposed, or to be imposed, on any goods, wares and merchandize coming from the said United States, and the said Receiver General is hereby required to pay and discharge all such warrant and warrants as shall for such purposes be issued by the said Governor, Lieutenant Governor, or Person administering the Government of this Province for the time being.

X. And be it further enacted by the authority aforesaid, That the Governor. Lieutenant Governor or Person administering the Government of this Province for the time being, be, and he is hereby authorised to establish the office of the Collector of the District of Newcastle, in any place within the harbour of Newcastle, which he may judge more convenient than the town of Newcastle, until a Gaol and Court House be erected in the said Town, and no longer. Provided always, That nothing herein contained shall extend, or be construed to extend, to repeal or vary all or any of the provisions contained in the said recited Act of this Province, or any other Act of this Province,

unless in so far as such provisions are and will be necessarily varied by the provisions in this Act contained, in order to give due force and effect to this Act, and no further. Provided nevertheless, That nothing in any part of this Act contained, shall extend, or be construed to extend, to any ship or vessel, boat, raft, canoe, or other craft or carriage, now belonging, or which may at any time hereafter belong to our Sovereign Lord the King, his Heirs or Successors; Any thing herein contained to the contrary notwithstanding.

FORM OF THE BOND HEREIN MENTIONED:

Know all men by these presents, That we A. B. C. D. and E. F. are held and firmly bound to our Sovereign Lord the King, his Heirs and Successors, in the sum of _____ for which payment to be well and faithfully made, we bind ourselves, and each of us by himself, for the whole, our and each and every of our Heirs, Executors and Administrators firmly by these presents, sealed with our Seals, dated the _____ day of _____ in the _____ year of His Majesty's Reign, and in the year of our Lord _____.

The condition of this obligation is such, that if the above bounden A. B. C. D. and E. F. or any or either of them, do and shall well and truly pay or cause to be paid to our said Sovereign Lord the King, his Heirs and Successors, the sum of _____ on or before the _____ day of _____ next, then this Obligation to be void, or else to remain in full force.