

*The Provincial Statutes of Lower-Canada, Being the first session of the Second Provincial Parliament of Lower-Canada.* Quebec: William Vondenvelden, Printer to the King's Most Excellent Majesty, 1797.

37 George III – Chapter 3

**An Act to ratify, approve and confirm certain provisional Articles of Agreement entered into by the respective Commissioners of this Province and Upper-Canada, at Montreal, on the twenty-eighth January, one thousand seven hundred and ninety-seven, relative to Duties, and for carrying the fame into effect. [2d. May, 1797.]**

MOST GRACIOUS SOVEREIGN.

Whereas Articles of Provisional Agreement were made and entered into at Montreal the twenty-eighth day of January in the thirty-seventh year of Your Majesty's reign, by the Commissioners nominated and appointed on behalf of the Province of Lower-Canada by Act of the Legislature thereof, passed in the thirty-sixth year of your Majesty's reign, intituled "An Act for appointing Commissioners on behalf of this Province, to treat further with Commissioners on behalf of the Province of Upper-Canada for the Purposes therein mentioned," and the Commissioners nominated and appointed on behalf of the Province of Upper-Canada, in pursuance of an Act of the Legislature thereof passed in the thirty-sixth year of your Majesty's reign, intituled "An Act to authorise the Lieutenant Governor to nominate and appoint certain Commissioners for the purposes herein mentioned; which Articles follow:

Article I. That the Legislature of Upper-Canada will not impose any Duties whatever on any Goods, Wares or Merchandises imported or brought into Lower-Canada, and passing into Upper Canada, nor on any article, the growth; produce or manufacture of Lower-Canada passing into Upper-Canada, but will allow and admit the Legislature of Lower-Canada to impose and levy such reasonable duties on such Goods, Wares and Merchandises, and such Articles aforesaid, as they may judge expedient for the purpose of raising a revenue within the Province of Lower-Canada.

Art. II. In consideration of the Legislature of Upper-Canada relinquishing the imposition of Duties as aforesaid, the Legislature of Lower-Canada, will allow a just proportion of the Duties imposed by them, to be paid to Upper-Canada: And in order to ascertain such proportion, a fit and proper person shall be appointed at the joint and equal expence of both Provinces, to reside at Côteau du Lac, as Inspector, for the purpose of demanding and receiving Accounts of Articles subject to duties contained in Boats, Canoes and Carriages passing by that Place.

Art. III. That it shall be enacted by the Legislature of Lower-Canada, that the said Inspector shall have authority to stop at Côteau du Lac before passing the Locks upwards. all Boats and Canoes until that there shall be delivered to him a written Account, signed by the person or

persons who shall have furnished the Lading of any such Boat or Canoe, or Brigade thereof, or who shall have dispatched, or who shall accompany the same, specifying the quantities of such Articles subject to Duties in Lower-Canada as are contained in such Boat or Canoe or Brigade thereof: And if the said Inspector shall have reason to believe that any such Account is false, (whether the same be of such Articles passing from Lower-Canada, or coming from Upper-Canada) he shall have authority at any time within three Months after the same shall have been received, (either by himself or any other person that he may see fit to appoint by letter for that purpose) to require such Account to be verified on Oath before a Justice of the Peace, by the person or persons who signed such Account; and every person, when so required, who shall refuse so to verify on Oath any such Account by him signed, shall for every such offence, forfeit and pay the sum of ten pounds, with Costs of Suit.

Art. IV. That all Carriages passing Côteau du Lac upwards shall stop at the Office of the Inspector, under the Penalty of ten shillings on every Driver thereof, who shall refuse or neglect so to stop; and if not provided with a written Account signed as aforesaid, of the Articles subject to duties contained in such Carriage or Carriages, or not being able to give a verbal Account of such Articles to the satisfaction of the Inspector, he the said Inspector shall have authority to search and examine the Ladings thereof, in order to ascertain the same; Provided always that no account shall be necessary to be given of any Article subject to duty, being bona fide for the use of the Driver or Passengers in any such Carriage during his or their Journey.

Art. V. That the said Inspector shall enter in a Book, to be by him provided and kept for the purpose, all such Accounts as he shall receive or be furnished with as before prescribed, together with such as he shall take from actual examinations in cases where Carriages shall not be provided therewith, and therefrom, twice in every year, that is to say, on the thirtieth day of June, and on the thirty-first day of December, he shall make up and certify upon Oath, before a Justice of the Peace, two General Accounts of the quantities of all such Articles so passing Côteau du Lac upwards, on which duties shall have been imposed by the Legislature of Lower-Canada, and shall transmit one of such certified general Accounts to the Governor, Lieutenant Governor or Person administering the Government of Lower-Canada, and the other thereof to the Governor, Lieutenant Governor or Person administering the Government of Upper-Canada.

Art. VI. That the Legislature of Upper-Canada shall impose and levy upon all Articles subject to duties in Lower-Canada, which shall be brought into Upper-Canada, from the United States of America, without passing through Lower-Canada, duties equal to those that are or shall be imposed and levied on similar Articles when brought from the United States into Lower-Canada: And that the Legislature of Upper-Canada shall take the most effectual measures that their local situation will admit of, for enforcing the Collection of such Duties.

Art. VII. That every Boat, Canoe or Carriage coming from Upper-Canada into Lower-Canada upon or along the River St. Lawrence, if containing Articles subject to Duties at the Port of Quebec, or within the Province of Lower-Canada, shall stop at Côteau du Lac until that there

shall be delivered to the said Inspector an account thereof, in the manner and form before prescribed for such Articles passing upwards; And the Conductor or person or persons having charge of any such Boat or Canoe or Brigade thereof, having on board any such Articles from Upper-Canada (knowing the same) who shall refuse or neglect so to stop, and to notify the same to the said Inspector, shall forfeit and pay the sum of forty shillings: And the Driver of any Carriage loaded in whole or in part with any such Articles from Upper-Canada, who shall refuse or neglect to stop at the Office of the said Inspector for delivery of such Account, or for examination and search, if not provided therewith, shall forfeit and pay the sum of ten shillings, with costs of suit in each of the said cases.

Art. VIII. That the said Inspector shall also enter in the Book before mentioned, the Accounts of such Articles subject to duties as shall be so brought from Upper-Canada; and twice in every year, at the periods before mentioned, shall make out, certify on oath and transmit as before directed, two general Accounts of the quantities thereof: And the amount of duties on the same, being deducted from the amount of duties on the quantities contained in the aforesaid general Accounts of such Articles passing from Lower into Upper-Canada by Côteau du Lac, the residue shall (after deducting therefrom the charges of levying and collecting in Lower-Canada the duties composing such residue) be the amount which Upper-Canada shall be entitled to receive, as their proportion of Duties imposed, levied and collected in Lower-Canada.

Art. IX. That the Legislature of Lower-Canada will not impose any Duties upon any Article passing from Upper-Canada into Lower-Canada; and that they shall take immediate steps for carrying into effect the Regulations stipulated in these Articles.

Art. X. That the penalties herein mentioned shall be recovered and applied in such manner and form as shall be prescribed by the Legislature of each Province.

Art. XI. That this Agreement shall continue and be in force for four years and no longer, to be reckoned from the first day of March next: And the aforesaid Inspector to reside at Côteau du Lac under this Agreement, shall for the first two years be appointed by the Governor, Lieutenant Governor or Person administering the Government of Lower-Canada, and for the remaining two years, by the Governor, Lieutenant Governor or Person administering the Government of Upper-Canada.

May it therefore please your most Excellent Majesty, that it may be enacted, and 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 Lower-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 all and every the said Articles of provisional Agreement herein before particularly mentioned and

inserted, and every clauses, obligation, penalty, fine, matter and thing in the said Articles contained, shall be, and the same are hereby ratified, approved, confirmed and enacted, and all and every the said Articles, clause, obligation, penalty, fine, matter and thing therein contained, shall have the same force, effect and validity for and during the time mentioned in the said Articles, as if the same were herein again particularly repeated, any Law, Statute, Ordinance, Custom, or Usage to the contrary thereof in any wise notwithstanding.

II. Provided always, and be it enacted by the authority aforesaid, that the foregoing Articles shall not be binding or obligatory upon the Province of Lower-Canada towards the Province of Upper-Canada, unless the same shall be approved, confirmed and ratified by the Legislature of Upper-Canada.

III. And be it further enacted by the authority aforesaid, that an Inspector to reside at Côteau du Lac shall forthwith be appointed, who shall have and is hereby invested with all the powers and authorities by the said Articles required, and who shall after such appointment immediately proceed to the execution of the duties of his office, in conformity to the true intent and meaning of the said Articles, and of this Act. And every person or persons whom it may or shall concern shall conform to the said Articles and every part thereof, under the respective penalties therein mentioned.

IV. And be it further enacted by the authority aforesaid, that the person to be appointed Inspector to reside at Côteau du Lac, by the Governor, Lieutenant Governor or Person administering the Government of Upper-Canada, under the aforesaid Articles of Agreement, shall have and hereby is invested with all the powers and authorities by the said Articles required, and shall execute the duty of the said Office in the same manner and form, and under the like penalties, as if his appointment to such Office had been by the Governor, Lieutenant Governor or Person administering the Government of this Province, any Law, Statute or Usage to the contrary notwithstanding.

V. And be it further enacted by the authority aforesaid, that it shall be lawful for all Justices of the Peace, and they are hereby authorised to administer the Oaths required by the agreement herein before mentioned: and any person or persons who shall be convicted of wilfully taking a false Oath, in any of the cases in which an Oath is so required to be taken, shall be liable to the pains and penalties to which by Law persons are liable for wilful and corrupt perjury.

VI. And be it further enacted by the authority aforesaid, that if any action be brought or commenced against any person or persons for any offence against this Act, such action or suit shall be commenced within six months next after the matter or thing done, and not afterwards.

VII. And be it further enacted by the authority aforesaid, that if any action shall be brought against any Inspector for any thing done in pursuance of this Act, such action or suit shall be commenced within six months next after the fact committed, and not afterwards, and the

Inspector in any such action or suit may plead the General issue, and give this act and the special matter in evidence, at any trial to be had thereon, and if Judgment shall be given for the Inspector in any action or suit, or if the Plaintiff or plaintiffs shall be non-suited, or discontinue his or their action or suit, after the Inspector shall have appeared, each Inspector shall have treble costs, and have the like remedy for the same as an defendant hath in other cases to recover costs at Law.

VIII. And be it further enacted by the authority aforesaid, that all the fines imposed by this Act, upon any person or persons that shall be found in this Province of Lower-Canada, shall be recovered with costs of suit before any Judge of the Court of King's Bench, or Provincial Judge in the inferior terms thereof, or in circuit in their respective Districts, or before any two Justices of the Peace, in their weekly sittings in the Cities of Quebec, Montreal or Three Rivers, upon proof of the offence by confession, or upon the Oath of one or more credible Witness or Witnesses, other than the Informer; and in default of payment, shall be levied by seizure and sale of the Defendant's moveable effects, by Warrant under the hand and seal of such Judge or Judges as shall have heard and determined the same, directed to a Constable or other Peace officer and the overplus, if any these be, after deducting the fine, costs of suit, seizure and sale, shall be paid to the Defendant or Defendants.

IX. And be it further enacted by the same authority, that one half of the fines that be recovered under this Act, shall belong to His Majesty, his heirs and successors the support of the Civil Government of this Province, and all and every person who receive the same shall pay and account therefor to His Majesty's Receiver-General of this Province, to be accounted for to His Majesty, his heirs and successors, through Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty shall direct; and the other half of all such fines shall belong to such person or persons as shall prosecute for the same.

X. And whereas it is expedient to guard against the introduction of dutiable articles by the rout aforesaid, which (consideration being had to the local situation of Upper-Canada) may be brought into this Province without having paid the duties in the said Province of Upper-Canada, be it enacted by the authority aforesaid, that no article of Merchandize, subject to duty upon entry at the port of St. Johns, shall be allowed to pass as on transit from Upper-Canada by Côteau du Lac, unless the person or persons bringing the same shall produce to the Inspector a certificate from an Officer duly authorised by Law, or in the interim authorised by the Governor, Lieutenant Governor or Person administering the Government of Upper-Canada, that such articles of Merchandize were bona fide shipped or laden in the Province of Upper-Canada, or have paid the Duties there.

XI. And be it further enacted by the authority aforesaid, that this Act shall continue to be in force to the first day of March in the year One thousand eight hundred and one, and no longer.