

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1803. Saint John, NB: John Ryan, Printer to the King's Most Excellent Majesty, 1803.

43 George III – Chapter 9

An Act for raising a Revenue in this Provinces Passed the 16th March, 1803.

I. Be it enacted by the Lieutenant-Governor, Council and Assembly, That from and after the thirty-first day of March now instant, there be and hereby is granted to the King's most excellent Majesty, his Heirs and Successors, for the use of this Province, and for the support of the Government thereof, the several rates and duties on the articles herein after mentioned, which shall or may be brought or imported into any port or place within this Province, to be paid by the importer or importers thereof; that is to say, for every gallon of Rum sixpence; for every gallon of Wine nine pence; for every gallon of Brandy, Geneva, and all other distilled Spirituous Liquors eight pence; for every gallon of Molasses one penny; for every gross hundred weight of Brown Sugar two shillings and six pence, on the amount of the original invoice, allowing twenty-five per cent, for tare and wastage.

II. And le it further enacted, That the said rates and duties shall be paid at the time of the importation of such articles into the City and County of Saint John, unto the Treasurer of the Province or his Deputy there; and at every other port or place to the Deputy of the said Treasurer for the port or place where the same shall be imported, unless such rates and duties on any one cargo shall amount to upwards of ten pounds, in which case and where the same shall not amount to fifty pounds, it shall be lawful for the said Treasurer or his Deputy or Deputies respectively, to take a Bond duly executed by; the owner or importer of such dutiable articles, with one good and sufficient surety in double the amount of the rates and duties payable upon the articles specified in the report of such cargo, for the payment of the same one half in three months, and the other half in six months; and where the rates and duties arising on any one cargo (as specified in the report of such cargo) shall amount to fifty pounds, and shall not exceed one hundred pounds, then it shall be lawful for the said Treasurer or his Deputy or Deputies respectively, to take a Bond executed in like manner for the payment of the same, one third in three months, one third in six months, and the remaining third in nine months; and where the rates and duties arising on any one cargo (as specified in the report of such-cargo) shall exceed one hundred pounds, then it shall be lawful for the said Treasurer or his Deputy or Deputies respectively, to take a Bond executed in like manner for the payment of the same, one fourth in three months, one fourth in six months, one fourth in nine months, and the remaining fourth in twelve months. All which Bonds shall be taken in the name of the Treasurer, payable to him or to the Treasurer of the Province for the time being, and conditioned for the payment of the amount of the said rates and duties respectively, at the time or times specified therein, either to the Treasurer himself, or to the Treasurer for the time being or his Deputy, if taken in Saint John, or to the Deputy Treasurer for the time being, at the port or place where the same may be taken.

III. And be it further enacted, That every Master of any Ship or Vessel coming into any port or harbour of this Province, shall within twenty-four hours after his arrival, and before breaking Bulk,

make report to the said Treasurer or his Deputy there, in writing by him subscribed and under oath, of all the packages or articles whether dutiable or not, on board such Ship or Vessel, describing and specifying the same, and shall in the same report state, that there has not to his knowledge or belief been landed or taken from on board such Ship or Vessel, any such articles or any part thereof within this Province since the sailing of such Ship or Vessel from the port or place where such articles were laden on board the same for exportation: And in case of refusal or neglect of any such Master, he shall forfeit and pay the sum of one hundred pounds, to be recovered by information to be made and filed by his Majesty's Attorney-General in the Supreme Court of Judicature of this Province, upon the filing whereof the first Process in all cases shall be a *capias*, to be directed to the Sheriff or Coroner of the place where the offender may be found; by virtue of which Process the said offender shall be held to Bail for his appearance at the return of the Process, to answer the matters charged in such information. And if any dutiable articles shall be landed in any part of this Province, before Entry and Report made as aforesaid, or not being duly entered as aforesaid, shall be found on board any Ship or Vessel after such Entry and Report, or if any such articles shall have been landed from any Ship or Vessel after Entry and Report made as aforesaid, other than were specified in such Report, or for which a permit shall not have been obtained agreeably to the provisions of this Act, such dutiable articles so landed or found on board contrary to the true intent and meaning of this Act, shall be and the same are hereby declared to be forfeited, and shall and may be seized and detained by the said Treasurer or his Deputy or Deputies respectively, and information made by his Majesty's Attorney-General, and proceedings to condemnation had in the said Supreme Court. And the Master of such Ship or Vessel and each and every person concerned, shall also be liable to the penalty of one hundred pounds, to be recovered in manner as is herein first before set forth; all which penalties and forfeitures after deducting the costs and charges of prosecution, together with all reasonable charges that may have accrued, shall be paid as follows, that is to say, one half part to the Officer seizing and prosecuting the same articles to condemnation, or complaining against and prosecuting such offender or offenders to conviction, and the other half into the hands of the Treasurer of the Province for the use thereof. And it shall and may be lawful for the said Treasurer and his Deputy or Deputies respectively, at all times to enter on board any Ship or Vessel and to examine and search throughout the same for dutiable articles, and thereto seize and from thence to carry away all such as are by this Act made liable to seizure; and being authorized by Writ of Assistance under the seal of his Majesty's Supreme Court or of the Inferior Court of Common Pleas of the County in which the articles herein after mentioned shall be found, (which Writ the proper, officers of such Courts respectively, are hereby authorized and required to issue upon the allowance or *fiat* of one of the Justices of such Court, to be filed together with the affidavit upon which the same is grounded) to take the High Sheriff in person or his Deputy, or any Coroner of the County, and in the day time to enter and go into any House, Store, Warehouse or Outhouse, and in case of resistance to break open Doors, and open and examine Casks, Chests or other Packages, and thereto seize and from thence to carry away any dutiable articles whatsoever so landed as aforesaid, contrary to the provisions and the true intent and meaning of this Act.

IV. And be it further enacted, That in addition to the Entry and Report herein before required to be made by the Master of any Ship or Vessel arriving in any port or place in this Province, the Owner or Consignee of the dutiable articles onboard such Ship or Vessel, (and in cases where

there may be several Owners or Consignees of the same cargo, each Owner or Consignee thereof shall make report in writing by him subscribed, under oath before the said Treasurer or either of his Deputies, of all dutiable articles belonging to or consigned to him as aforesaid, on board such Ship or Vessel, and before such Entry and Report shall be made by the Owner or Consignee as aforesaid, the said articles shall not be permitted to be landed from on board such Ship or Vessel.

V. And be it further enacted, That for the recovery of all such duties as are imposed by this Act, and shall not be paid at the several times limited for the payment thereof respectively as aforesaid, the said Treasurer or his Deputy of the port or place in which such Bonds may have been taken, is hereby directed to cause Process to be issued against all and every person and persons so Handing indebted, and to pursue the same if necessary to final judgment and execution: And if the said Treasurer or either of his Deputies as aforesaid, shall not within one month after the time limited for the payment of any one sum so becoming due as aforesaid, cause Process to be issued and pursued as aforesaid, the said Treasurer or such Deputy so neglecting shall be answerable for and chargeable with the same.

VI. And be it further enacted, That it shall be the duty of the Treasurer of the Province for the time being, to appoint fit persons (to be approved of by the Lieutenant-Governor or Commander in Chief) to be his Deputies in the several Ports and places in this Province, where the same may be necessary, (except in the City and County of Saint John, where the said Treasurer resides) to perform the duties and services in and by this Act required, which persons so appointed, shall give good and sufficient security, by Bond to his Majesty, for the faithful discharge of their duty respectively, and be accountable to the said Treasurer when thereunto required, for all sums so to be received, by virtue of this or any former Act; and that such Deputies shall have the same powers to make seizures, and proceed to condemnation as are given to the Treasurer by virtue of this Act. And shall and may retain Ten Pounds for every Hundred Pounds they shall so receive, in full for their services, exclusive of their proportion of the proceeds of the penalties and forfeitures incurred by this Act.

VII. And be it further enacted, That it shall and may be lawful for the Treasurer of the Province, in case of sickness or necessary absence from the City and County of Saint John, to appoint a fit person to act as his Deputy there, for whose acts the said Treasurer shall be responsible; which Deputy shall have the same powers and authority in every respect during his continuance in office, as the said Treasurer shall by virtue of this Act when present, and capacitated to execute the duties incident to his office. Provided always; That such Deputy shall not be entitled to any allowance whatever from the Public Treasury for his services; any thing herein contained to the contrary thereof in any wise notwithstanding.

VIII. And be it further enacted, That the Tide Surveyor for the City and County of Saint John, now appointed, or who shall hereafter be appointed by the Lieutenant-Governor or Commander in Chief, shall be in all respects subordinate to and under the direction and controul of the Treasurer of the Province, or his Deputy there and that from and after the Entry of any Ship or Vessel at the Treasurer's Office at that place, there shall be a Permit or Permits made out and directed by the said Treasurer, to the said Tide Surveyor, expressing therein the quantities of the several Dutiable

Articles contained in the Cargo of the said Ship or Vessel, as entered at the said Treasurer's Office: And no Dutiable Articles shall be landed from on board any Ship or Vessel within the said City and County of Saint John, without such Permit or Permits so to be given as aforesaid, and that it shall be the particular duty of the said Tide Surveyor to attend to the unlading of any such Ship or Vessel, under the Permits so to be given by the said Treasurer or his Deputy there; and if any Dutiable Articles shall be found landed from on board any such Ship or Vessel within the said City and County, before Entry and Report made, and a Permit or Permits obtained as is herein before required, or if there shall be found on board any such Ship or Vessel, any Dutiable Articles not mentioned in the same Permit or Permits; or if any Dutiable Articles shall at any time be found to have been landed there from any Ship or Vessel contrary to the provisions of this Act, it shall be the duty of the said Tide Surveyor, and he is hereby required forthwith to take possession of and detain the same, and immediately make report thereof to the said Treasurer or his Deputy there, in order that the same Articles may be seized and prosecuted to condemnation in manner as is herein before provided. And the said Tide Surveyor, for taking and detaining such Articles, shall have and receive one moiety of the part of such forfeitures herein before directed to be paid to the officer seizing and prosecuting the same.

IX. And be it further enacted That the Rates and Duties arising by virtue of this Act, shall be paid or secured to be paid in manner as is herein before provided, at the time of Entry and Report of the Ship or Vessel having on board Dutiable Articles and before bulk be broken. And if the whole or any part of such Dutiable Articles shall be intended for Exportation in the same bottom, the same shall be mentioned, and such Articles particularly specified in the Entry and Report, which is by this Act required to be made of such Vessel and Cargo, at the Treasurer's Office; and in case such Articles so reported for Exportation, shall be actually Exported in the same bottom in which they were Imported, to any Port or place without the limits of this Province then any monies which may have been paid for the Rates and Duties arising thereon, shall be repaid, and the Bonds so taken to secure such Duties so far as may relate to them shall be cancelled, and considered of no validity. Provided always, That the evidence to be required of such Exportation, shall be the following Oath, to be taken and subscribed by the Master of such Ship or Vessel, before the said Treasurer or either of his Deputies, to wit:

I _____ do swear, that the following Articles, to wit: _____ are now actually on board the _____ whereof I am Master: That the same Articles were Imported into this Province in the same Vessel; and are the same Articles mentioned and specified in the Entry and Report of the same vessel and Cargo at this Office, on the day of _____. That the said Articles are now in the same state and condition in which they were at the time of Importation into this Province: That no part thereof hath been landed since the Entry and Report thereof as aforesaid; and that the same or any part thereof are not to be landed in any part of this Province, to the best of my knowledge and belief. So help me God!

And further, That the Owner or Consignee of the same Articles shall, at the same time, make and subscribe an Affidavit (to be indorsed upon the said Affidavit of the said Master) before the said Treasurer or one of his Deputies, Rating that he is the Owner or Consignee of such Articles, and

that the contents of such Affidavit so made by the said Master, are just and true according to the best of his knowledge and belief.

X. And be it further enacted, That if at any time it shall be found, that all or any of the Articles so reported for Exportation, have been landed contrary to the provisions of this Act, every Ship or Vessel in which the same were Imported, together with all and every of such Articles shall be forfeited, and shall and may be seized and prosecuted to condemnation, and the proceeds thereof applied in the manner herein before mentioned.

XI. And be it further enacted, That if at any time within one year after the Report so made of the Articles intended to be Exported in the same bottom in which they were Imported, it shall be discovered that any of those Articles have been fraudulently landed in any part of this Province, the Owner or Consignee of such Articles and the Master or Owner of such Ship or Vessel, shall severally forfeit and pay the sum of One Hundred Pounds for each offence, to be recovered by Information to be made and filed by his Majesty's Attorney General in manner as before mentioned, and applied (after deducting the costs and charges) one half to the Informer, and the other half to be paid into the hands of the Treasurer of the Province for the use thereof.

XII. And be it further enacted, That upon the following Dutiable Articles which shall be Imported into this Province after the commencement of this Act, and upon which the Rates and Duties herein before imposed have been paid or secured to be paid as aforesaid, there shall be allowed upon Exportation of the same the following Drawback, to wit: for every gallon of Rum five pence; for every gallon of Wine seven pence ; and for every hundred weight of Brown Sugar two shillings, Provided always, That two hundred gallons or more of Liquor, or ten hundred weight or more of Sugar are Exported in one Ship or Vessel at one time; and also, that the same be Exported within six Months from the time of the Importation thereof.

XIII. And be it further enacted, That the Drawbacks herein before allowed shall be paid by the Treasurer or one of his Deputies as aforesaid, to the Owner or Importer thereof, out of the monies arising from the Duties on the same Articles so Exported when the same monies shall be received, and not before. Provided always, That previous to any part of such Drawback being paid, the Owner or Importer of such Articles shall at the time of Exporting the same make and subscribe the following Oath before the Treasurer or one of his Deputies, to wit:

I _____ do swear, that the _____ by me now Shipped on board the _____ whereof _____ is Master, was lawfully Imported into this Province in the _____ Master, from _____ and that the Duties thereon have been by me paid or secured to be paid at this Office, and that the same or any part thereof is not intended to be relanded in any part of this Province to the best of my knowledge and belief. So help me God!

And provided also, That the Master of the Ship or Vessel in which the same Articles are to be Exported, shall make and subscribe the following Oath, to be endorsed on the last mentioned Affidavit before the Treasurer or one of his Deputies, to wit:

I do swear, that the Articles Shipped by _____ as mentioned in the Affidavit upon the other side hereof are now actually on board the _____ whereof I am Master, bound for _____ and that the same or any part thereof are not again to be relanded in any part of this Province, to the best of my knowledge and belief. So help me God!

And provided also, That it shall be incumbent on the Owner or Importer of such Dutiable Articles, to produce to the Treasurer or to the Deputy; to whom the Duties shall have been secured, a Certificate under the hand and seal of the Collector or principal Officer of the Customs, at the Port or place to which the same shall be Exported, or if sent to a Foreign Port, a Certificate under the hands of two of the principal Merchants there residing (authenticated under the seal of Office of a Public Notary) that the same Articles have been there landed: And provided also, That it shall be further incumbent on the Owner or Importer (upon producing such Certificate and requiring the Drawback as aforesaid) to make and subscribe the following Oath before the Treasurer or one of his Deputies, to wit:

I _____ do swear, that the Articles by me Exported on board the _____ Master, a Certificate of the landing of which is now by me exhibited, have been really and bona fide landed at and that the same or any part thereof are not again to be landed in any part of this Province, to the best of my knowledge and belief. So help me God.

XIV. And be it further enacted, That if any of the before specified Articles shall be fraudulently relanded in any part of this Province after Shipment for Exportation as aforesaid, the same shall be forfeited, proceeded against, and applied in the manner herein before directed.

XV. And be it further enacted, That if it shall be discovered at any time before or within one year after the Drawback shall be so received, upon the Exportation of any Dutiable Articles as aforesaid, that any of those Articles have been fraudulently relanded in any part of this Province, the Owner or Importer of such Articles shall forfeit and pay the sum of one hundred pounds for each offence, to be recovered by Information to be made and filed by his Majesty's Attorney-General, in manner as before mentioned, and applied (after deducting the costs and charges) one half to the Informer, and the other half to be paid into the hands of the Treasurer of the Province for the use thereof.

XVI. And in order to deter and prevent as much as possible, persons from being engaged in illicit Trade, which if practised, will operate greatly to the prejudice of the Fair Dealer, as well as to the Public Revenue: Be it further enacted, That it shall be the duty of the Treasurer of the Province and all and every of his Deputies, as also of the Tide-Surveyor in the City of Saint John, to be vigilant in detecting all persons that may be so engaged, as well as all Dutiable Articles illegally introduced or Smuggled into any part of this Province: And all Articles in and by this Act made Dutiable, which shall be seized and condemned, and sold at the Custom-House, or by any Officer of the King's Customs in any part of this Province, for having been illegally introduced or Smuggled into the same, shall be liable to the same Rates and Duties as if those Articles had been legally Imported and entered at the Treasurer's Office, as required by this Act: And the Purchaser or Purchasers of any such Articles at such Custom-House Sales, shall within twenty-four hours after the same purchases shall be made, and before any part of such Articles shall be vended or consumed, make

Report to the said Treasurer or his Deputy at that place in writing, and under oath before the said Treasurer or his Deputy aforesaid, of the Articles so purchased as aforesaid, and the Duties arising thereon shall at the same time be paid or secured to be paid, in the same manner and under the same regulations as Duties arising upon such Articles when legally Imported as aforesaid; and in case of refusal or neglect so to make Report and Entry of such Articles so purchased, the same are hereby declared forfeited, and shall and may be searched for, seized, condemned, sold, and applied in the same manner as is herein before provided by the third section of this Act. And if such Articles or any part thereof cannot be found, then the Purchaser thereof shall forfeit and pay the sum of one hundred pounds, to be recovered and applied in the same manner and to the same uses as is provided in and by the same section of this Act.

XVII. And be it further enacted, That upon the Exportation of such Articles so purchased at the Custom-House sales as aforesaid, and upon which the Duties have been paid or secured to be paid, the Purchaser shall be entitled to the like Drawback as is herein before allowed upon the Exportation of similar Articles under and subject to the like Regulations, Provisos and Restrictions as are herein before made and provided.

XVIII. And be it further enacted, That the quantities of Dutiable Liquors and Molasses shall be ascertained by the Instrument commonly called Gunter's Callipers, and by no other Instrument whatever, and shall be Gauged by a sworn Gauger or Gaugers, legally appointed or to be appointed for that purpose, if in the City of Saint John, by the Lieutenant-Governor or Commander in Chief, and in the several Counties by the Justices in their General Sessions, or any Special Sessions for that purpose holden; Provided, That no Gauger shall Gauge any Dutiable Article which shall be his own Property or Consigned to him.

XIX. Provided always, and be it further enacted, That no Goods Imported into this Province and Consigned to any person in the Province of Nova-Scotia, shall be liable to any of the Duties imposed by this Act, but such Goods may be landed and re-shipped for the said Province, provided they are Exported within ninety days after landing, in the same Casks or Packages in which they were landed; and the Consignee or person to whose charge or care such Goods may be sent or committed; make oath before the Treasurer or either of his Deputies, that such Goods were originally Shipped for the purpose of being conveyed into the Province of Nova-Scotia, and not intended for sale or consumption in this Province; and that the said Goods are re-shipped in the same state and Casks or Packages they were landed and received by him.

XX. And be it further enacted, That the said Treasurer of the Province and all and every of his Deputies, are hereby authorized and empowered to administer the several oaths herein required to be made and taken, and every person who shall be convicted of making or taking a false oath to any of the facts herein directed or required to be sworn to, shall be deemed guilty of perjury, and shall be liable to the pains and penalties to which persons are by Law liable for wilful and corrupt perjury.

XXI. And be it further enacted, That all the monies arising by virtue of this Act shall remain in the Treasury, until the same shall be disposed of by an Act or Acts of the General Assembly of this Province, to be passed for that purpose.

XXII. And be it further enacted, That this Act shall continue and be in force until the first day of April, which will be in the year of our Lord, one thousand eight hundred and five, and no longer, except for the recovery of any of the penalties and forfeitures herein before inflicted and incurred.