

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1836. Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1836.

6 William IV – Chapter 4

An Act to provide for the collection of the Revenue of the Province. Passed 8th March 1836.

'Whereas it is deemed necessary that provision should be made for the collection of the revenue of this Province;'

- I. Be it therefore enacted by the Lieutenant Governor, the Legislative Council and Assembly, That this Act shall come into operation and take effect from the first day of April in this year of our Lord one thousand eight hundred and thirty six.

- II. And be it further enacted, That all goods subject to duties under any Act or Acts of the General Assembly of this Province, and which have been or shall be imported or brought by sea or inland navigation, or by land carriage into this Province, from any port or place abroad beyond the seas, or out of this Province, or which being so subject to duties shall be carried and transported by sea from one port or place within this Province to another port or place within this Province, shall be and the same are hereby made liable and subject to the several rules, restrictions, conditions, regulations, penalties and forfeitures in this Act contained, in respect to such importation, and the payment or security of the duties thereon, or the warehousing the same goods.

- III. And be it further enacted, That the master, commander or person in charge of every ship or vessel arriving at any port or place in this Province, shall within twenty four hours after such arrival, and before bulk be broken, make due report of such ship or vessel to the Treasurer of the Province, or to the deputy Treasurer at or nearest the place of such arrival, under oath subscribed by him; and such report shall contain an account of the particular marks, numbers, and contents of all the different packages or parcels of the goods on board of such ship, and the particulars of such goods as are stored loose, to the best of his knowledge, and of the place or places where such goods were respectively taken on board; and shall in the same report state, on oath as aforesaid, the name of each and every owner and consignee of such cargo, and where the same is intended to be landed, and whether any and what part thereof has been landed and taken from such ship or vessel after arriving within the Province; and the master of any ship who shall fail to make such report, or who shall make a false report, shall forfeit the sum of one hundred pounds.

- IV. And be it further enacted, That the owner, consignee or person entering any goods inwards, (whether for payment of duty, or to be warehoused upon the entry thereof, or for payment of duty upon taking out of the warehouse, or whether such goods be free of duty,) shall deliver to the Treasurer of the Province or to the deputy Treasurer, as the case may be, a report in writing by him subscribed under oath, of all articles belonging to or consigned to him on board of such ship or vessel; and any part of such cargo which shall be landed before the report of the master or commander of such ship or vessel, and the report of the owner or consignee, or other person entering the same, and a permit obtained from the said Treasurer or deputy Treasurer, as the case

may be, for landing the same, such goods so landed shall be forfeited, and the person or persons concerned in concealing such articles or in landing them without a permit for that purpose, shall each respectively forfeit and pay the sum of one hundred pounds.

V. And be it further enacted, That if the goods in such entry be charged to pay duty according to number, measure or weight thereof, such number, measure or weight shall be stated in the entry; and if the goods in such entry be charged to pay duty according to the value thereof, such value shall be stated in the entry, and shall be upon oath of the importer or his known agent, before the Treasurer or deputy Treasurer, written upon the bill of entry, and if any person making such entry upon oath not being the importer or proprietor of such goods, nor his agent duly authorized by him, such person shall forfeit the sum of one hundred pounds; and such affidavit shall be made in the manner and form following, that is to say,

I A. B. do swear that I am the importer (or authorised by the importer) of the goods contained in this entry, and that they are of the value of _____ currency, and cost the same and no more, to the best of my knowledge and belief.

A. B.

Sworn to, &c. C. D. Treasurer, or Deputy Treasurer.

And written on the bill of entry of such articles, and in all cases made before the Treasurer or deputy Treasurer at the port or place of importation, and shall be subscribed with the hand of the importer, or his known agent.

VI. And be it further enacted, That if it shall appear to the Treasurer or deputy Treasurer, that the said articles are not valued according to the true price or value thereof according to the true intent and meaning of this Act, then and in such case the importer or his known agent shall be required to declare on oath before the Treasurer or deputy Treasurer (as the case may be) what is the invoice price of such articles, and that he verily believes such invoice price is the current value of the articles at the place whence such articles were imported; and such invoice price shall be deemed to be the value of the articles in lieu of the value so declared by the importer or his known agent, and upon which the duties shall be charged and paid: Provided that if it shall appear to the Treasurer or deputy Treasurer, that such articles have been invoiced below the real value thereof at the place from whence the same were imported, or if the value is not known, the articles shall in such case be examined by one or more competent person or persons appointed or to be appointed by the Lieutenant Governor or Commander in Chief of the Province for the time being, and such person or persons or any one of them shall declare or certify to the Treasurer or deputy Treasurer what is the true and real value of such articles, and the value so declared or certified shall be the true and real value of such articles, and upon which the duties imposed by any Acts of the General Assembly of the Province shall be charged and paid: Provided always, that if such articles be charged with duties by virtue of any Act or Acts of the Imperial Parliament and have been charged with duties according to the provisions of the same, such valuation shall be accepted as the true value for paying the provincial duties.

VII. And be it further enacted, That if upon the first entry of any article subject to duty, the rates and duties imposed by any provincial Act or Acts shall not amount to the sum of twenty five pounds, then the said duties shall be paid by the importer or person making the entry thereof, before any permit shall be granted for the landing of the goods contained in such entry; but if the amount of such provincial duties shall amount to the sum of twenty five pounds, and not exceed fifty pounds, then the importer shall give bonds with at least one sufficient surety to be approved of by the Treasurer or deputy Treasurer, in double the duties payable upon such goods, with a condition for the payment of the duties in three months; and if the said provincial duties shall amount to the sum of fifty pounds, and not exceed one hundred pounds, then the importer shall give bond in like manner for the payment of the duties, one half in three months, and the other half in six months; and if the said provincial duties shall amount to the sum of one hundred pounds, and not exceed two hundred pounds, then the importer shall give bond in like manner for the payment of the duties, one third in four months, one third in eight months, and the remaining third in twelve months; and if the said provincial duties shall amount to the sum of two hundred pounds and upwards, then the importer shall give bond in like manner conditioned for the payment of the duties, one third in six months, one third in twelve months, and the remaining third in eighteen months; all which bonds shall be executed by the importer with at least one good and sufficient surety in double the amount of such duties, and shall be taken in His Majesty's name and made payable to His said Majesty, his heirs and successors, and conditioned for the amount of the said duties respectively, at the time or times specified therein, to the Treasurer of the Province or to the deputy Treasurer at the port or place where the same may be taken: Provided always, that in cases where by the provisions of this Act the importer or importers are entitled to have credit for payment of any duties upon giving bonds as aforesaid, the Treasurer or deputy Treasurer shall be and they are hereby authorised to receive payment at the time of entry, if required, and to allow a discount or abatement therefrom at and after the rate of six per centum per annum, proportionable to the credit which the importer or importers would be entitled to have.

VIII. And be it further enacted, That if the importer of such articles shall refuse to pay the duties imposed under and by virtue of any Act or Acts for raising a Revenue in this Province, it shall and may be lawful for the Treasurer or deputy Treasurer at the place where such articles shall be imported, and he is hereby respectively required to take and secure the same with the casks or other packages thereof, and to cause the same to be publicly sold within the space of twenty days at the most, after such refusal made, and at such time and place as such Treasurer or deputy Treasurer shall by four or more days public notice appoint for that purpose; which articles shall be sold to the best bidder, and the money arising from the sale thereof, shall be applied in the first place in payment of the said duties, together with the charges that shall have been occasioned by such sale, and the overplus (if any) shall be paid to such importer or proprietor, or any other person authorised to receive the same.

IX. And be it further enacted, That every importer of any goods shall, within twenty days after the arrival of the importing ship, the same not being intended for exportation in the same ship to parts beyond the seas, make due entry inwards of such goods, and land the same; and in default of such entry and landing, it shall be lawful for the Treasurer or deputy Treasurer to convey such goods to

the King's or some special warehouse, and if the duties due upon such goods be not paid or secured within three months after such twenty days shall have expired, together with all charges of removal and warehouse rent, the same shall be sold, and the produce thereof shall be applied first to the payment of freight and charges, next of duties, and the overplus, if any, shall be paid to the proprietor of the goods.

X. And be it further enacted, That it shall be lawful for the Treasurer or any deputy Treasurer or provincial tide surveyor, to go on board of any ship in any port in any part of this Province, and either before or after such ship comes to anchor, and to rummage and search all parts of such ship for dutiable goods, and freely to stay on board such ship so long as she shall remain in such port or place, and to search and examine the cargo, and to examine the matter upon oath touching the cargo and voyage, and if there be any dutiable goods on board not reported, the same shall be forfeited; and if the master shall not truly answer the questions to be demanded of him in such examination, he shall forfeit the sum of one hundred pounds.

XI. And be it further enacted, That all boats, carriages and cattle made use of in the removal of any goods liable to forfeiture under this or any Act relating to the provincial revenue, shall be forfeited, and every person who shall assist or be otherwise concerned in the unshipping, landing or removal, or in the harbouring or concealing such goods, or into whose hands or possession the same shall knowingly come, shall forfeit treble the value thereof or the penalty of one hundred pounds, at the election of the officer or person prosecuting; and the averment in any information or libel to be exhibited for the recovery of such penalty. that the officer or person proceeding has elected to sue for the sum mentioned in the information, shall be deemed sufficient proof of such election without any other or further evidence of such fact.

XII. And be it further enacted, That it shall and may be lawful for the Treasurer or any deputy Treasurer, to enter in the day time into any house, shop, or cellar or other building whatsoever, wherein such officer shall have reasonable cause to suspect or believe any goods to be, or to be concealed or deposited, which are liable to forfeiture under this or any Act relating to the provincial revenue: Provided that before such entry made, information on oath shall be given to some one of His Majesty's Justices of the Peace for the County, or City and County where such house, shop, cellar or other building is situate, that such officer has reasonable cause to suspect and believe that goods liable to forfeiture as aforesaid are deposited or concealed therein, and immediately on such information being laid or given, such Justice shall, and he is hereby enjoined and authorised forthwith, but at some time, between sun rise and sun setting, to go with such officer to such house, shop or other building, and then and there to enter with such officer, or to authorise him to enter and search for such goods, if the doors be open, but if the doors be fastened and admission denied, then after first demanding to be admitted and declaring the purpose for which such entry is demanded, it shall be lawful for such Justice, and he is hereby required to direct and order such officer forcibly to enter into such house, shop, cellar or other building, and to search therein for any goods forfeited, and to seize and take away all goods liable to forfeiture under any Act relating to the provincial revenue.

XIII. And be it further enacted, That under the authority of a writ of assistance granted by the Supreme Court of this Province, or the Chief Justice thereof, or any Judge thereof, or by the Inferior Court of Common Pleas, or any Justice of such Court, who are hereby authorised and required to grant such writ of assistance upon application made in term time, or in vacation, for that purpose, by the Treasurer of the Province or any deputy Treasurer, and due cause shewn therefor, it shall be lawful for any officer of the revenue, taking with him a peace officer, to enter any building or other place in the day time, and to search for and seize and secure any goods liable to forfeiture under any Act or Acts relating to the provincial revenue, and in case of necessity to break open any doors and chests or other packages for that purpose; and such writ of assistance when issued, shall be deemed to be in force for and during the period specified in such writ.

XIV. And be it further enacted, That if any person shall by force or violence assault, resist, oppose, molest, hinder, or obstruct any officer of the provincial revenue, or other person employed as aforesaid, in the exercise of his office, or any person acting in his aid or assistance, such person being thereof convicted before any Court of Record in this Province, shall pay a fine not exceeding one hundred pounds, nor less than fifty pounds, in the discretion of the Court before whom such offender shall be tried; which fine shall be paid into the Province Treasury, for the use of the Province; and in case such fine be not paid, such person shall be imprisoned for such time not exceeding twelve months nor less than three months, at the discretion of the Court.

XV. And be it further enacted, That no suit shall be commenced for the recovery of any penalty or forfeiture under any Act relating to the provincial revenue, except in the name of the Treasurer of the Province, or in the name of some deputy Treasurer, or of His Majesty's Attorney General, or in his absence, of the Solicitor General of the Province; and if any question shall arise whether any person is an officer of the provincial revenue, or such other person as aforesaid, viva voce evidence may be given of such fact and may be deemed legal and sufficient evidence.

XVI. And be it further enacted, That if any goods shall be seized for nonpayment of duties, or any other cause of forfeiture, and any dispute shall arise whether the duties shall have been paid for the same, or the same have been lawfully imported, or lawfully laden or exported, the proof thereof shall be on the owner, or claimer of such goods, and not on the officer who shall seize and stop the same.

XVII. And be it further enacted, That no claim to any thing seized under this or any Act relating to the provincial revenue, and returned in any of His Majesty's Courts of Record for adjudication, shall be admitted, unless such claim be entered in the name of the owner with his residence and occupation, nor unless oath to the property in such thing be made by the owner or by his attorney or agent by whom such claim shall be entered to the best of his knowledge and belief; and every person making a false oath thereto, shall be deemed guilty of a misdemeanour, and shall be liable to the pains and penalties to which persons are liable for a misdemeanour.

XVIII. And be it further enacted, That no person shall be admitted to enter a claim to any thing seized in pursuance of this or any other Act relating to the provincial revenue, and prosecuted in any Court of the Province, until sufficient security shall have been given in the Court where such

seizure is prosecuted, in a penalty not exceeding forty pounds, to answer and pay the costs of such claim if found against him, and in default of giving such security, such things shall be adjudged to be forfeited.

XIX. And be it further enacted, That no writ shall be sued out against nor a copy of any process served upon any officer of the provincial revenue, or other person as aforesaid, for any thing done in the exercise of his office, until one calendar month after notice in writing shall have been delivered to him, or left at his usual place of abode, by the attorney or agent to the party who intends to sue out such writ or process; in which notice shall be clearly and explicitly contained the cause of the action, the name and place of abode of the person who is to bring such action and the name and place of abode of the attorney or agent; and no evidence of the cause of such action shall be produced except of such as shall be contained in such notice, and no verdict shall be given for the plaintiff unless he shall prove on the trial that such notice was given, and in default of such proof, the defendant shall receive in such action a verdict and costs.

XX. And be it further enacted, That every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in the place or district where the facts were committed, and the defendant may plead the general issue, and give the special matter in evidence, and if the plaintiff shall become nonsuited, or shall discontinue the action, or if upon a verdict or demurrer judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have such remedy for the same as any defendant can have in other cases where costs are given by law.

XXI. And be it further enacted, That in case any information or suit shall be brought to trial on account of any seizure made under this or any other Act relating to the revenue, and a verdict shall be found for the claimant thereof, and the Judge or Court before whom the cause shall have been tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment, or other suit or prosecution on account of such seizure; and if any action, indictment, or other suit or prosecution shall be brought to trial against any person on account of such seizure, wherein a verdict shall be given against the defendant, the plaintiff besides the thing seized or the value thereof, shall not be entitled to more than two pence damages nor to any costs of suit, nor shall the defendant be fined more than one shilling.

XXII. And be it further enacted, That it shall be lawful for such officer, within one calendar month after such notice, to tender amends to the party complaining or his agent, and to plead such tender in bar to any action together with other pleas, and if the Jury shall find the amends sufficient they shall give a verdict for the defendant, and in such case or in case the plaintiff shall become nonsuited, or shall discontinue his action, or judgment shall be given for the defendant upon demurrer, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only: Provided always, that it shall be lawful for such defendant by leave of the Court where such action shall be brought, at any time before issue joined to pay money into Court as in other actions.

XXIII. And be it further enacted, That in any such action if the Judge or Court before whom such action shall be tried shall certify upon the record that the defendant or defendants in such action acted upon probable cause, the plaintiff in such action shall not be entitled to more than two pence damages nor to any costs of suit.

XXIV. And be it further enacted, That all commissions, deputations and appointments granted to any officers of the revenue in force at the time of the commencement of this Act, shall continue in force as if the same had been afterwards granted and made under and by authority of this Act, and that all bonds which shall have been given by any such officers and their respective sureties for good conduct or otherwise, shall continue and remain in full force and effect.

XXV. And be it further enacted, That it shall be the duty of the Treasurer of the Province for the time being, in places where a deputy may be required for the due enforcement of this or any other Act relating to the revenue of this Province, to appoint fit persons to be approved of by the Lieutenant Governor and Commander in Chief, to be deputy Treasurers in such port or place; which persons so appointed and approved of shall give good and sufficient security by bond to His Majesty for the faithful discharge of their duties respectively, that is to say: the deputy Treasurer at Saint Andrews and Miramichi respectively in a sum not less than four thousand pounds; the deputy Treasurer at Dalhousie in a sum not less than three thousand pounds; the deputy Treasurer of Richibucto in the County of Kent in a sum not less than two thousand pounds; the deputy Treasurer of Bathurst in a sum not less than two thousand pounds; the deputy Treasurer at West Isles in a sum not less than one thousand pounds; and all other deputy Treasurers respectively in a sum not less than five hundred pounds; and all such bonds shall also be executed by at least two good and sufficient sureties to be approved of by the Treasurer, and shall be taken in the name of His Majesty, his heirs and successors; and the said deputy Treasurers now in office and all, those who may hereafter be appointed shall be accountable to the Treasurer, of the Province for the time being, when thereunto required, for all sums of money received by them under and by virtue of this or any other Act relating to the revenue of the Province; and all deputy Treasurers whether appointed under this or any previous Act and now in force, shall have the same powers to the fullest extent in every respect to make seizures, and proceed to condemnation and sale, as are given to the Treasurer by virtue of this or any other Act; and each deputy Treasurer shall and may retain for his services ten pounds for every hundred pounds which he shall receive, secure or shall come into his hands, under and by virtue of this or any other Act relating to the revenue of this Province, over and above his proportion of the seizures and forfeitures which he may make under and by virtue of this or any other Act relating to the provincial revenue: Provided always, that the sum so retained as aforesaid shall not in any one year exceed three hundred pounds for the services of any one deputy.

XXVI. And be it further enacted, That it shall and may be lawful for the said Treasurer, 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 during his continuance in office shall have the same power and authority in every respect as the Treasurer hath by virtue of this or any other Act relating to matters of revenue when personally executing the duties of his office, but shall receive no compensation or allowance from the public Treasury

for his services, except his proportion of the proceeds of any seizures which he may make or of any penalties and forfeitures which may be incurred by this or any other Act during his continuance in office as aforesaid.

XXVII. And be it further enacted, That the tide surveyors and waiters and all other revenue officers who may be appointed by the Lieutenant Governor or Commander in Chief for the port of Saint John, or for any other port or place within the Province, shall in all respects be under the orders, directions and control of the Treasurer and deputy Treasurers respectively for the places where such officers may be appointed, and the said tide surveyors and waiters, and other revenue officers, shall attend to the unloading of ships and vessels with dutiable articles, and shall not allow any such dutiable articles to be landed from any ship or vessel arriving at any port or place for which they are respectively appointed, without a permit from the Treasurer or deputy Treasurer, as the case may be; which permit to land dutiable articles shall be made by the Treasurer or deputy Treasurer immediately upon the duties thereon being paid or secured agreeably to the provisions of this or any other Act relating to provincial revenue; and if any tide surveyor, waiter or other revenue officer attending the unloading of any vessel with dutiable articles, or shall discover any articles on board which have not been duly entered by the master in his report of the cargo on board such vessel, or in the report of the owner or consignee of such articles, or if any such article shall be by such officer found to be landed from such ship, or otherwise Imported contrary to the provisions of this or any other Act for raising a revenue, it shall be the duty of such tide surveyors and waiters respectively, and other revenue officers respectively, and they are hereby required forthwith to take possession of such articles and detain the same, and make report thereof to the Treasurer or deputy Treasurer at the port or place where such detention shall take place, and the said Treasurer or deputy Treasurer shall immediately seize the said articles, and proceed against the same according to the provisions of this Act.

XXVIII. And be it further enacted, That for the recovery of all duties imposed by the provisions of any Acts of the General Assembly for raising a revenue, and for which the said Treasurer or deputy Treasurer at the port or place has taken security by bonds as aforesaid, and which have not been paid at the several times limited for payment thereof respectively as aforesaid, the said Treasurer or deputy Treasurer is hereby directed to transmit the same within thirty days to His Majesty's Attorney General for prosecution, and His Majesty's Attorney General is hereby required forthwith to cause process to be issued against' all and every person or persons so standing indebted, and to pursue the same to final judgment and execution, [and] unless payment of the sum due and costs be previously made; and in case the said bonds shall not be transmitted to be prosecuted within thirty days after default in payment of the amount secured in such bond, the surety in such bond shall be discharged and recourse only to be had against the principal of the same, or against the Treasurer or deputy Treasurer so neglecting to transmit the same for prosecution: Provided always, that all bonds entered into for the security of duties imposed by this Act shall be void, and may be cancelled or destroyed, unless such bonds shall be sued within one year from the time limited in such bonds for the payment of such duties or the last instalment due on the same, and if such bond shall not be prosecuted to final judgment and execution in three years from the time limited as last aforesaid, then and in such case such bonds shall be void.

XXIX. And be it further enacted, That the Treasurer and the several deputy Treasurers respectively shall make half yearly return to the office of the Provincial Secretary of the bonds by them respectively taken for duties and then remaining unpaid, stating the names of the obligors, the amount secured, the dates of such bonds, the times when payments become due, and the amount (if any) which has been paid thereon, and any other particulars which may be necessary, which returns shall be annually laid before the House of Assembly in the Treasurer's accounts; and the Treasurer or deputy Treasurer who shall neglect to make such returns for a longer period than two months after the expiration of each and every period shall severally be liable to pay a penalty of fifty pounds to be applied to the use of this Province.

XXX. And be it further enacted, That it shall and may be lawful for the Treasurer of the Province to appoint fit and proper persons in every such place and places within the Province as he may judge meet and expedient, to be collectors of duties on cattle and horses; and every person so appointed or who may have been appointed under any former Act relating to the revenue, are hereby authorised to detain and report to the Treasurer or deputy Treasurer all such cattle and horses as may be found on any road, place or places, and so imported and brought as aforesaid, unless the owner or owners, person or persons having charge of and driving such cattle and horses, shall produce a separate certificate for each and every such horse or head of cattle from the Treasurer or one of his deputies, that the duties have been paid or secured to be paid on such cattle and horses; and the said collectors shall give bonds to the Treasurer in the sum of one hundred pounds, with two sufficient sureties in the sum of fifty pounds each, for the faithful discharge of their trust, and shall be allowed one half of the commission to be received by the deputy Treasurer of the County in which such collector shall reside, and also one half of the net proceeds of the sale of all cattle and horses so detained and forfeited under and by virtue of this Act.

XXXI. And be it further enacted, That no duties on any horses or horned cattle shall be collected at any place in the Province, except at the office of the Treasurer of the Province, or the deputy Treasurer at Saint Andrews, Saint Stephen's and Woodstock; and all foreign horses and horned cattle which may be found within the Province, except when on the way to any of the said places, without a certificate from the said Treasurer, or some one of the said deputy Treasurers, for each and every such horse, and for each and every head of such horned cattle, that the duty thereon had been paid either at the deputy Treasurer's office at Saint Andrews, Saint Stephens or Woodstock, shall be seized and forfeited, and may be prosecuted to condemnation in manner and form as provided in and by the provisions of this Act.

XXXII. And be it further enacted, That the deputy Treasurers of Saint Stephens and Woodstock, shall have the same powers to the fullest extent as other deputy Treasurers have under the provisions of this Act, as far as relates to horses, horned cattle, goods, wares and merchandize imported by inland navigation or by land.

XXXIII. And be it further enacted, That all articles which are subject to duties under any Act for raising a revenue, and which having been seized and sold by the officers of His Majesty's customs in any part of the Province, for having been illegally imported or smuggled, shall be liable to the

same rates and duties as if the same had been legally imported and entered at the Treasurer's or any deputy Treasurer's office, as required by this or any other Act relating to revenue; and the purchaser or purchasers of any such articles sold as aforesaid, shall within twenty four hours after such sale and purchase, and before any part of the articles so purchased shall be consumed, make report to the Treasurer or his deputy at the place nearest the sale, in writing under affidavit, of the articles so purchased, and the duties arising thereon shall then be paid or secured to be paid in the same manner and subject to the same regulations as duties arising on such articles when legally imported; and upon the exportation of any such articles so purchased, reported, and upon which the duties have been paid or secured as aforesaid, the purchasers shall be entitled to the like drawbacks as herein after allowed upon the exportation of the like articles, subject always to the like regulations, provisions and restrictions as are hereinafter made and provided; and if any dutiable articles which may have been imported into the Province, or purchased from some resident merchant or trader for the use of His Majesty's army or navy, and upon which no duties have been paid, or upon which the duties may have been repaid, shall at any time be sold by order of Government, the purchaser or purchasers shall report the same and pay or secure to be paid the same amount of duties as such articles are liable to when imported into the Province, and shall be entitled to the same drawbacks upon the exportation thereof, subject to the same regulations, provisions and restrictions as are hereinafter provided and made as hereinafter mentioned; and any purchaser of dutiable articles at any custom house sale, or at the sale of government stores as aforesaid, who shall refuse or neglect to make report of such articles so purchased, and to pay or secure the duties thereon, shall, if the same articles cannot be found, forfeit and pay the sum of one hundred pounds, and if the whole of the same are found, then in lieu of such penalty the said articles shall be forfeited, and may be seized, taken away and prosecuted, by order of the Treasurer or any deputy Treasurer, and the proceeds thereof applied in manner directed by this Act.

XXXIV. And be it further enacted, That any articles subject to duties by any Act for raising a revenue, which may be imported expressly for the use of His Majesty's army, navy or ordnance, and actually delivered to the Commissary or any authorised officer of government, shall be and the same are hereby exempted from the duties herein before imposed upon the like articles; and any such articles which may be supplied by any resident merchant or trader for the uses aforesaid, and actually delivered to the Commissary or any other authorised officer of government, shall also be exempt from the payment of any duties herein imposed, and if the duties thereon shall have been paid, then such resident merchant or trader shall receive back the amount of such duties, or if indebted to the Treasury, shall have credit for the same by deducting the amount from the gross amount of his bond, the instalments of which shall be regularly paid upon the balance thereof: Provided always, that before any such dutiable articles shall be exempted from the payment of duties, and before any re-payment of duties shall be made or credit given therefor, the Commissary or other authorised officer of government shall, if the said articles have been imported, produce the invoice or bill of lading of such articles to the Treasurer or his deputy at the place of importation, and shall make and subscribe an affidavit before the said Treasurer or deputy as aforesaid, that the several articles contained in such invoice or bill of lading are imported expressly for the use of His Majesty's army, navy or ordnance, and received into his charge for that purpose; and if any such articles shall be supplied for the like purpose by any resident merchant or

trader, such resident merchant or trader shall report, and make and subscribe an affidavit before the Treasurer or his deputy as aforesaid, that the articles mentioned in the report and affidavit were actually delivered to the Commissary or other authorised officer, and the said Commissary or other authorised officer shall also make and subscribe an affidavit before the Treasurer or deputy Treasurer, that the articles mentioned in the said report and affidavit of the merchant or trader are actually delivered into his charge for the uses aforesaid.

XXXV. And be it further enacted, That the quantity of all dutiable liquors and molasses shall be ascertained by Gunter's calipers, and shall be gauged by a sworn gauger or gaugers appointed by the Lieutenant Governor or Commander in Chief, which gaugers shall not gauge any dutiable articles in which they have any interest or property.

XXXVI. And be it further enacted, That any person importing by inland navigation or by land, into any port of this Province, horses, horned cattle or any articles which are subject to a duty under this or any other Act or Acts of the General Assembly of this Province for raising a revenue, who shall neglect to report the same and pay the duties thereon to the Treasurer of the Province, or the deputy Treasurer at Saint Andrews, Saint Stephens or Woodstock, as the case may be, shall for each and every neglect or offence be liable to the same forfeitures and penalties as persons are who may be convicted of fraudulently landing any dutiable articles from on board of any ship or vessel arriving at any port or place in the Province, to be recovered and applied in the same manner as the penalties are in and by this or any Act relating to revenue, and all goods so imported as aforesaid may be seized by the Treasurer of the Province or any deputy, as the case may be, and prosecuted to condemnation and sale in the same manner as goods seized and forfeited may be under and by virtue of this or any Act relating to revenue.

XXXVII. And be it further enacted, That if any person or persons shall import into this Province by inland navigation or by land any horses, horned cattle, or any goods, wares or merchandize of any description subject to duty under any of the revenue laws of this Province, and shall neglect to report the same and pay the duties on such articles so imported at the office of the deputy Treasurer at Saint Andrews, Saint Stephens or Woodstock, such person or persons so offending shall be liable to the same penalty as persons are by this or any Act relating to revenue who shall land articles from any ship or vessel before report of the cargo of such ship or vessel, to be recovered in the like manner as the penalties are in and by this or any Act relating to revenue; and all horses, horned cattle, goods, wares and merchandize of every kind, which may be seized for non-payment of the duties or for default made to the deputy Treasurer as aforesaid, may be proceeded against in the same manner as seizures are in and by this or any Act relating to revenue.

XXXVIII. And be it further enacted, That all dutiable articles which may be seized as having been imported contrary to the provisions of this or any other Act of the General Assembly for raising a revenue, shall and may be deemed and taken to be condemned for breach of any law or laws of this Province relating to revenue, unless the owner or owners of the articles so seized as forfeited, or the person from whom they were so seized or some person duly authorized by him, shall within one calendar month from the day of seizing the same, give notice in writing to the Treasurer or

deputy Treasurer at or nearest the place where such seizure shall have been made, that he claims the articles or things so seized: Provided always, That in case of the articles so seized be live stock or dead meats, or any description of perishable articles, unless claim to the same shall be made and notice thereof given within forty eight hours after such seizure made, the same shall be taken and deemed to be forfeited, and sold at public auction after twenty four hours notice being given.

XXXIX. And be it further enacted, That all articles seized as forfeited by virtue of this or any other Act relating to the revenue of this Province, and claimed by any person or persons agreeably to the provisions of the preceding section, and security given for prosecuting such claim with effect, shall and may be prosecuted to condemnation in the name of the Treasurer or deputy Treasurers making such seizure, or by information of His Majesty's Attorney General or Solicitor General, before any two of His Majesty's Justices of the Peace residing near the place where such seizure shall have been made, who are hereby required and directed to keep a book of record in which they shall fairly enter all causes tried before them under this or any other Act relating to revenue, together with the evidence taken before them upon such trial: Provided always, that in case the articles seized shall be of the value of twenty five pounds, then the same shall be proceeded against in some of His Majesty's Courts of Record within the Province.

XL. And be it further enacted, That if any articles shall be seized as forfeited under the provisions of this Act or any Act hereafter to be made relating to revenue, it shall and may be lawful for the Treasurer or deputy Treasurer making such seizure to deliver up the same to the claimant on security by bond with two sufficient sureties, to be approved of by such Treasurer or deputy Treasurer, to answer double the value of the same in case of condemnation; and such bond shall be taken in the name of His Majesty, and shall be delivered to and kept in the custody of such Treasurer or deputy Treasurer; and in case the goods shall be condemned, the value thereof shall be paid into the hands of such Treasurer or deputy Treasurer, who shall thereupon cancel such bond.

XLI. And be it further enacted, That any penalty or forfeiture inflicted under and by virtue of this Act or any Act hereafter to be made, may be prosecuted, sued for and recovered by action of debt, bill, plaint or information in any of His Majesty's Courts of Record within this Province, in the name of the Treasurer or deputy Treasurer, or in the name of His Majesty's Attorney or Solicitor General; and in every action or suit the person against whom judgment shall be given for any penalty or forfeiture under this Act shall pay costs of suit; and every such action or suit shall and may be brought within three years after the offence committed and not afterwards.

XLII. And be it further enacted, That all forfeitures and penalties incurred and recovered under and by virtue of this Act shall be divided, paid and applied as follows, (that is to say,) after deducting the charges of prosecution from the proceeds thereof, one half part thereof to His Majesty for the use of the Province and for the support of the government thereof, and the other moiety or half part thereof to the officer who shall inform and sue for the same.

XLIII. And be it further enacted, That the net proceeds of all articles seized and condemned under the provisions of this or any other Act relating to revenue, shall be divided, paid and applied as

follows, that is to say, one third part of the net produce shall be paid into the hands of the Collector of His Majesty's Customs at the port or place where such seizure shall be made, for the use of His Majesty, one third part to the Lieutenant Governor or Commander in Chief for the time being, and the other part to the person who shall seize and prosecute the same to conviction.

XLIV. And be it further enacted, That whosoever shall export or carry out of this Province by sea any articles chargeable with provincial duty, and upon which upon their entry inwards for home use the duties shall have been paid or secured, or which may have been purchased at any custom house sale or sale of government stores, shall be entitled to and shall be allowed a drawback or allowance of the whole amount of such duties; provided the goods shall be of the quantity or value for which a drawback of duty is hereinafter allowed; and provided also, that the regulations hereinafter contained shall be in all things observed in respect thereof.

XLV. And be it further enacted, That a drawback aforesaid of the whole provincial duty upon articles not warehoused, or upon articles on which the duties upon those articles shall have been paid or secured, shall be allowed upon any quantity of wine not less than twenty five gallons if in wood, or if bottled not less than six dozen bottles; brandy, gin, hollands, geneva and whiskey, not less than twenty five gallons; not less than one hundred gallons of rum or other spirituous liquors; not less than five hundred gallons of molasses; not less than ten hundred weight of brown sugar; not less than six hundred weight of loaf or refined sugar; not less than five hundred weight of dried fruits; not less than two hundred weight of coffee or pimento; and upon any amount not less than fifty pounds of the original or declared value of any articles charged with duty thereof, according to the value thereof at the time of importation, nor unless the requisite proof of their having been landed without the Province, to be produced at the office within twelve months from the time of exportation; and no drawback shall be allowed upon articles landed in any port of the United States eastward of Machias harbour; and provided also, that when satisfactory proof is lodged with the Treasurer or deputy Treasurer of the exportation of any article subject to duty, the said duty shall not be exacted within twelve months after the exportation of such articles: Provided always, that no drawback shall be paid upon the exportation of any articles, unless the bond given for the duty upon such articles at the time of the original or first entry shall be paid, but the Treasurer or deputy Treasurer shall and may endorse the amount of such drawback upon the bond.

XLVI. And be it further enacted, That the evidence to be required of the exportation of dutiable articles in the same bottom, shall be the affidavit of the master and of the owner or consignee before the Treasurer or one of his deputies, and the affidavit of the master shall be as follows:

I A. B. do swear that the following articles, to wit, _____ are now actually on board the _____ whereof I am master, that the same were imported in the same vessel, and are the same that were mentioned in the entry and report of the said vessel and cargo at this office on the ____ day of _____ and that no part of the same are to be landed within the Province, to the best of my knowledge and belief.

And the owner or consignee of the same articles shall at the time and place, make and subscribe an affidavit that he is the owner or consignee of such articles, and that the contents of the affidavit made by the master are just and true to the best of his knowledge and belief; and when articles are not exported in the same bottom in which they were imported, shall make and subscribe an affidavit as follows, (to wit):

I A. B. do swear that the following articles, to wit, _____ were imported into the Province in the vessel called the _____ whereof I am master, and are the same mentioned and specified in the entry and report of the said vessel and cargo at this office on the ____ day of _____, and that no part thereof has been landed since the said entry and report; and that the same have been actually shipped on board the vessel called the _____, in the harbour of _____ whereof _____ is master.

And the owner or consignee of the same articles shall at the same time and place make and subscribe an affidavit that he is the owner or consignee of such articles, and that the contents of the affidavits made by the said masters are just and true, and that the said articles are not to be landed within the Province to the best of his knowledge and belief; and the master of the vessel on board of which such articles have been re-shipped, shall at the same time make and subscribe an affidavit that the articles mentioned in the affidavit of the master of the vessel in which they were imported, are actually on board the ship or vessel of which he is master, and that the same or any part thereof are not to be again landed in the Province to the best of his knowledge and belief.

XLVII. And be it further enacted, That when any dutiable articles are exported for drawback after having been landed in the Province, the evidence of such exportation shall be an affidavit made and subscribed by the owner or consignee of such articles before the Treasurer or deputy Treasurer as follows, (to wit):

I A. B. do swear that the articles by me now shipped on board the _____ whereof _____ is master, were lawfully imported (or purchased at a custom house sale, or sale of government stores) in the _____ whereof _____ was master from _____, and that the duties thereon have been paid or secured to be paid by me at this office, and that the same or any part thereof are not intended to be re-landed in the Province, to the best of my knowledge and belief.

Also an affidavit made and subscribed by the master of the vessel in which the articles are to be exported as follows, (to wit):

I A. B. do swear that the articles shipped by _____ as mentioned in his affidavit are now actually on board the _____ whereof I am master, bound for _____, and that the same or any part thereof are not to be re-landed within the Province, to the best of my knowledge and belief.

Provided always, that before any drawback shall be paid, or a remission of duties upon articles exported in the same bottom, or transhipped in to another vessel, and exported without being landed, obtained, it shall be incumbent on the owner or consignee of such articles to produce to the Treasurer or deputy to whom the duties shall have been paid or secured, within one year from the time of exportation thereof, a certificate under the hand and seal of the collector or principal officer of the customs or of the revenue of the place to which the same were exported, or a certificate of two resident merchants of the place where such dutiable articles may have been landed, that such articles have been there actually landed, and he shall at the same time make and subscribe the following affidavit:

I A. B. do swear that the articles exported by me in the _____ whereof _____ was master, a certificate of the landing of which is by me now exhibited, have been actually landed at _____ to the best of my knowledge and belief.

XLVIII. And be it further enacted, That if all or any of the articles reported for exportation without being landed, or which having been landed have been shipped for exportation, with a view to obtain a remission of the duties thereon, or to obtain the drawbacks allowed by this Act, have been landed or re-landed contrary to the true intent and meaning of this Act, all such articles so landed or re-landed, and such as may be on board at the time of discovering such intended fraud, shall be forfeited, and shall and may be seized and prosecuted to condemnation, and the proceeds of such forfeiture applied as in this Act directed; and if it shall be discovered within one year after the articles so reported for exportation, or which may have been shipped for exportation after having been landed, or after any drawbacks may have been paid or received, that the whole or any part thereof have been fraudulently re-landed within the Province, the owner or consignee of such articles, and the master or owner of the ship or vessel from which the same were re-landed, shall severally pay the sum of one hundred pounds, to be recovered and applied as hereinafter directed.

XLIX. And be it further enacted, That the evidence required to obtain any drawback on horned cattle exported from this Province, shall be a certificate of the Treasurer or deputy Treasurer as the case may be, that the cattle upon which the drawback is claimed were on the importation of such cattle reported for exportation, also an affidavit shall be annexed in manner and form as follows, (to wit):

I A. B. do swear that the following (here state the number and description of cattle) now on board the _____ whereof _____ is master, bound for _____, and that they are the same as are mentioned in the annexed certificate, and were reported for exportation, and that the same are not intended to be re-landed in this Province, to the best of my knowledge and belief.

And also the affidavit of the master of the vessel mentioned in the owner's or consignee's affidavit and subscribed by him in form following, (to wit):

I A. B. do swear that the _____ shipped by _____ are now actually on board the _____ whereof I am master, bound for _____, and that the same are not to be re-landed in this Province, with my knowledge or consent, unavoidable accident excepted.

Which affidavit and certificate shall be filed in the office where taken: Provided always, that no drawbacks shall be allowed and paid in less than one month after the sailing of the vessel in which the cattle for which the same are claimed were shipped, nor unless the cattle reported for exportation shall be actually exported within three months from the time of their importation: Provided always, that if any cattle shall be fraudulently re-landed in this Province after shipment for exportation as aforesaid, the same shall be forfeited, and may be sold forthwith without further process by the Treasurer or nearest deputy Treasurer, and the proceeds applied, one half to the informer, the residue to His Majesty for the use of the Province; and the owner or consignee of such cattle, and the master of the vessel from which they have been fraudulently re-landed, shall severally forfeit and pay a fine of one hundred pounds.

L. And be it further enacted, That the importer or consignee of any goods or articles subject to duty under and by virtue of any Act of the General Assembly of this Province, the duties upon which would amount to twenty five pounds or upwards, may have his option either to secure the duties on the same in the manner prescribed in and by this Act or to warehouse such articles and pay the duties thereon from time to time as the same may be sold or entered for home consumption, and before delivery thereof as hereafter provided.

LI. And be it further enacted, That before the owner, agent or consignee of any such articles shall have the benefit of the option hereinbefore provided, it shall be the duty of the owner, importer or consignee of any such articles, to enter the same for warehousing, and to provide a good and sufficient warehouse to be approved of by the Treasurer or deputy Treasurer as the case may be, and fitted and prepared to the satisfaction of the said Treasurer or deputy Treasurer; and before any such articles shall be admitted into any such warehouse, the owner, importer or consignee of the same shall, instead of the bonds hereinbefore required, give bonds with two sufficient sureties to be approved of by the said Treasurer or deputy Treasurer as the case may be, in double the amount of duties payable on such articles in such warehouse mentioned in the entry of the same, and for the payment of the duty on such articles or for the exportation thereof according to the account first taken of such articles upon the landing of the same, with the further condition that no part shall be taken out of such warehouse until cleared from thence upon due entry and payment of duty or upon due entry for exportation, and with the further condition that the whole of such articles shall be so cleared from such warehouse and the duties upon such deficiency (if any) of the quantity according to such first account shall be paid within two years from the date of the first entry thereof.

LII. And be it further enacted, That if any articles which have been entered to be warehoused, shall not be duly carried and deposited in the warehouse or shall afterwards be taken out of the warehouse without due entry and clearance, or having been entered and cleared for exportation from the warehouse shall not be duly carried therefrom and shipped, or shall afterwards be re-

landed except with the permission of the proper officer of the Treasury, such goods shall be forfeited.

LIII. And be it further enacted, That upon the entry outwards of any article to be exported from the warehouse or for removal from one bonded warehouse to another within the Province, the person entering the same shall give security by bond in treble the duty thereon, with two sufficient sureties to be approved by the Treasurer or deputy Treasurer, conditioned that the same shall be landed at the place for which they be entered outwards, or be otherwise accounted for to the satisfaction of the said Treasurer or deputy Treasurer; and all articles deposited in any warehouse or removed from one bonded warehouse to another within the Province pursuant to this Act, shall be taken out for home consumption or for exportation within two years from the date of the original report and entry of such articles.

LIV. And be it further enacted, That upon the entry of any goods of foreign growth or produce subject to provincial duties, and which are also subject to duties and intended to be warehoused under the provisions of any Act or Acts of the Imperial Parliament, the importer of such goods may instead of paying or securing the provincial duties as directed in and by this Act, shall give bond with at least one good and sufficient surety to be approved of by the Treasurer or deputy Treasurer, in double the amount of duties payable at the Treasury thereupon, with condition for safe depositing the goods in the warehouse and for payment of such duties before taking the same out of the warehouse for home consumption or for the exportation thereof, and with further condition that if the goods be not taken out of the warehouse in two years, the duties shall at the expiration of that period be paid.

LV. And be it further enacted, That if any goods which shall have been so warehoused shall be fraudulently concealed in or removed from the warehouse except for exportation, without payment of the provincial duties imposed thereon, such goods shall be forfeited and may be seized and disposed of in the manner directed by this Act; and if any importer or proprietor of any goods warehoused, or any person in his employ, shall by any contrivance fraudulently open the warehouse or gain access to the goods, such importer or proprietor shall forfeit and pay for every such offence the sum of fifty pounds.

LVI. And be it further enacted, That when any goods or chattels shall be seized as forfeited, and prosecuted to condemnation and sale by the Treasurer or any deputy Treasurer under the provisions of this or any other Act relating to revenue, notice of such sale shall be given to the principal officer of the customs nearest to where such condemnation and sale shall take place, and if it shall appear that such goods and chattels so condemned as forfeited are subject to duties by means and powers of any Act or Acts of the Imperial Parliament for the general regulation of trade, and that such duties have not been paid, then and in such case it shall be the duty of the Treasurer or deputy Treasurer as the case may be, to deduct the amount of such Parliamentary duties from the proceeds of the sale of such goods and chattels so condemned and sold as aforesaid, and account for the same in the same manner as if the amount thereof had been received by such principal officer of the customs as aforesaid, and the residue of such proceeds

shaft be applied in the same manner as the proceeds of other seizures are under the provisions of this Act.

LVII. And be it further enacted, That all vessels and boats of fifteen tons and under, and all carriages, horses and cattle which may be seized under this or any other Act relating to the revenue of the Province, may be prosecuted upon information of the Treasurer or any deputy Treasurer, or the commander of any revenue vessel, agreeably to the provisions of this Act.

LVIII. And be it further enacted, That all articles which shall have been seized, condemned and forfeited under and virtue of this Act, shall, under the direction of the Treasurer or deputy Treasurer at the port or place where such articles shall have been so seized, condemned and forfeited, be sold by public auction to the highest bidder, and the proceeds of such sales disposed of as is provided in and by this Act.

LIX. And be it further enacted, That the Treasurer of the Province and the deputy Treasurers respectively are hereby authorised and empowered to administer all the oaths required to be made and taken for carrying the provisions of this or any other Act relating to the revenue of the Province into effect; and every person who shall be convicted of making a false oath to any of the particulars required of him to be sworn to, shall be liable to all the pains and penalties to which persons are liable for wilful and corrupt perjury.

LX. And be it further enacted, That the clerk in the office of the provincial Treasury at the City of Saint John, appointed or to be appointed by the Treasurer of the Province, while in such office, is hereby empowered to administer all oaths required to be administered by the Treasurer of the Province upon entries, manifests, or other proceedings in the said office, in like manner as the Treasurer of the Province is authorised to administer the same; and any person who shall make a false oath before such clerk in such office shall be deemed guilty of perjury, and liable to the pains and penalties of the same: Provided always, that the Treasurer of the Province shall first publish in the Royal Gazette the name of such clerk.

LXI. And be it further enacted, That the liability of any article or articles to seizure under and by virtue of this or any other Act relating to revenue shall be and continue for the term of two years from the time the same are imported or brought into the Province and no longer.

LXII. And be it further enacted, That the right of recovering any of the duties, penalties and forfeitures imposed, inflicted, or incurred under the provisions of any former Act or Acts relating to revenue, and all securities taken by virtue of the same are hereby expressly saved.

LXIII. And be it further enacted, That this Act shall continue and be in force for ten years.