

Laws of Her Majesty's Province of Newfoundland, passed in the year 1849.

12 Victoria – Chapter 4

An Act to provide for the Regulation, Management, and Collection, of all Duties Granted to Her Majesty, Her Heirs, or Successors, on Goods, Wares, and Merchandise, imported into this Island and its Dependencies. (Passed 23d April, 1849.)

Whereas it is expedient and necessary that the Officers appointed to Collect the Duties now granted or that may hereafter be granted to Her Majesty Her Heirs or Successors, on Goods, Wares and Merchandise, Imported into this Island and its Dependencies, should have full cognizance of all Ships coming into any Port or Place therein, and of all Goods on board, or which may have been on board, such Ship.

Be it therefore enacted, by the Governor, Council and Assembly, in Legislative Session convened, that the Master of every Ship arriving in any Port or Place in this Island or its Dependencies, whether laden or in ballast, shall come directly, and before bulk is broken, to the Office of the Collector of the said Duties, of the Port or District where he arrives, and there make a Report in writing, to the said Collector or other proper Officer, of the arrival and voyage of such Ship, stating her Name and Tonnage, the name of the Master, and the number of the Crew of such Ship, and whether she be laden or in ballast, and if laden, the Marks, Numbers and Contents of every Package and Parcel of Goods on board, and where the same were respectively laden, and where and to whom Consigned, and where any and what Goods, if any, had been unladen during the voyage, as far as any such particulars can be known to him; and the Master shall further answer all such questions concerning the Ship and Cargo, and the Crew and the Voyage, as shall be demanded of him by such Officer; and if any Goods be unladen from any Ship before such Report be made, or if the Master fail to make such Report, or make an untrue Report, or do not truly answer to the questions demanded of him, he shall forfeit the sum of One Hundred Pounds; and if any Goods be not Reported, such Goods shall be Forfeited.

II. And be it enacted, that the Master of every Ship shall, at the time of making such Report, deliver to the said Collector or other proper Officer, a Manifest of the Cargo of such Ship; and every such Manifest shall set forth the Name and Tonnage of the Ship, the Name of the Master, and the Place or Places where the Goods, if any, were respectively taken on board, and of the Place or Places for which they are respectively destined, and shall contain a particular account and description of all the Packages on board, with the Marks and Numbers thereon, and of the sorts of Goods, and of the different kinds of each sort contained therein, to the best of the Master's knowledge and belief; and the particulars of such Goods as are stowed loose; and the names of the respective Consignees, so far as the same can be known to the said Master; and to such particular account shall be subjoined a general Account or Recapitulation in words at length, of the total number of the Packages of each sort, describing the same by their usual names, or by such description as the same can be known by, and the different Goods therein, and also the total quantities of the different Goods stowed loose; and that all Goods not so Manifested shall be Forfeited.

III. And be it enacted, that it shall be lawful for the Tide Surveyor, or other Proper Officer, to board any such Ship arriving at any Port or Place in this Island or its Dependencies, and freely to stay on board until all the Goods laden therein shall have been duly delivered from the same; and such Officers shall have free access to every part of the Ship; with power; to fasten down Hatchways, and to Mark any Goods before landing, and to Lock up, Seal, Mark, or otherwise secure, any Goods on board such Ship; and if any place, or any box or chest be locked, and the keys be withheld, such Officers, if they be of a degree superior to Tidesmen or Boatmen, may open any such place, box or chest, in the best manner in their power, and if any Goods be found concealed on board of any such Ship, they shall be Forfeited; and if the Proper Officer shall place any Lock, Mark, or Seal upon any Goods on board any such Ship, and such Lock, Mark, or Seal, be wilfully opened, altered, or broken, before due delivery of such Goods, or if any such Goods be secretly conveyed away, or if the Hatchways, after having been fastened down by such Officer, be opened, the Master of such Ship shall Forfeit a sum not exceeding One Hundred Pounds.

IV. And be it enacted, that no Goods shall be unladen from on board any Ship, in any Port or Place in this Island or its Dependencies, until due Entry shall have been made of such Goods, and Warrant granted for the unloading of the same; and that no Goods shall be so unladen, except at some Place at which an Officer is appointed to attend the unloading of Goods, or at some place for which a Sufferance shall be granted by the Collector, or other principal Officer of the Port or District, for the unloading of such Goods; and that no Goods shall be so unladen except in the presence, or with the permission, in writing, of the proper Officer; and that all Goods unladen contrary to the regulations of this Act shall be forfeited.

V. And be it enacted, that whenever Goods are entered to pay Duty- according to the value thereof, such value shall be stated in the Entry, and shall be affirmed by the declaration of the Importer, or his known Agent, written upon the Entry and attested by his signature; and if any person shall make such declaration, not being the Importer or Proprietor of such Goods, nor his Agent duly authorised by him, such person shall forfeit the Sum of One Hundred Pounds; and such declaration shall be made in manner and form following, and shall be binding on the person by or on behalf of whom the same shall be made; that is to say,—

I, A. B., do hereby declare that the Articles mentioned in the Entry above written, and contained in the Packages therein specified, are of the value of _____ Pounds _____ Shillings and _____ Pence Sterling, and I do now tender the same for all Duties.

Witness my hand the _____ day of _____ One Thousand Eight Hundred and Forty

A. B.

B.

The above declaration signed the _____ day of _____ Eighteen Hundred and Forty _____ in presence of C. D., Collector.

VI. And be it enacted, that at the time of entering such Goods, Wares, or Merchandise, the Importer thereof, or his known Agent, shall, if required; by the Collector or other proper Officer, produce the Invoice of such Goods, Wares, or Merchandise, and shall answer on Oath all such questions relating to

the value thereof, as shall be put to him by such Receiver or Officer aforesaid, who are hereby authorised to administer such Oath; and in case of failure or refusal to produce such Invoice, (unless there be no Invoice,) or to answer such questions, or to answer them truly, or if other than the true and real Invoice be produced, or if such true and real Invoice be altered by such Importer, or his known Agent, then and in every such case, such Importer shall forfeit the Sum of One Hundred Pounds.

VII. And be it enacted, that if upon examination it shall appear to the Collector, Landing Waiter, or other proper Officer, that such Articles are not valued according to the true value thereof, it shall be lawful for such Collector or Officer aforesaid, to detain and secure such Articles, and within Three Days from the landing thereof, to take such Articles for the use of the Crown, and the said Collector or other Officer shall thereupon, in any such case, cause the amount of such valuation, with an addition of Ten Pounds per Centum thereon, and also the Duties paid upon such Entry, to be paid to the Importer or Proprietor of such Articles, in full satisfaction for the same, and shall dispose of such Articles for the benefit of the Crown; and if the produce of the sale shall exceed the sum so paid, and all charges so incurred by the Crown, one moiety of the overplus shall be given to the Officer or Officers who shall have detained or taken such Articles, and the other moiety, detained for the benefit of the Crown, shall be paid to the Treasurer of this Island, to be applied to the public uses of the Colony, as the Legislature shall direct: Provided always, that it shall and may be lawful for the Governor or Officer administering the Government of this Island and its Dependencies for the time being, by and with the advice of Her Majesty's Council, to order the said Articles to be restored in such manner and upon such terms and conditions as he shall think fit to direct; and if the Importer or Proprietor of such Articles shall within Twenty Days accept the terms and conditions prescribed by the said Governor or Officer administering the Government, by and with the advice aforesaid, he shall not have or maintain any action for recompense or damage on account of such detention.

VIII. And be it enacted, that the Person Entering any Goods shall deliver to the Collector or other Proper Officer, a Bill of the Entry thereof, fairly written in words at length, containing the Name of the Importer, and of the Ship, and of the Master, and of the Place whence the Goods were Imported, and of the Place within the Port or District where the Goods are to be unladen, and the particulars of the quality and quantity of the Goods, and the Packages containing the same, and the Marks and Numbers on the Packages, and shall also deliver at the same time, one or more Duplicates of such Bill, in which all Sums and Numbers may be expressed in figures; and the particulars to be contained in such Bill of Entry, shall be Written and arranged in such form and manner, and the number of Duplicates shall be such, as the Collector or other Principal Officer shall require; and such Person shall, at the same time, pay down or otherwise secure all Duties due upon the said Goods; and the Collector, or other Proper Officer, shall thereupon grant his Warrant for the unloading of such Goods.

IX. And be it enacted, that no Entry nor any Warrant for the landing of any Goods or for the taking of any Goods out of any Warehouse, shall be deemed valid, unless the particulars of the Goods and Packages in such Entry shall correspond with the particulars of the Goods and Packages purporting to be the same in the Report and Manifest of the Ship, or in the Certificate, or other Document, where any is required, by which the Importation or Entry of such Goods is authorised, nor unless the Goods shall have been properly described in such Entry by the denominations and with the characters and circumstances according to which such Goods are charged with Duty or may be Imported; and any

Goods taken or delivered out of any Ship or out of any Warehouse by virtue of any Entry or Warrant not corresponding or agreeing in all such respects, or not properly describing the same, shall be deemed to be Goods landed, or taken without due Entry thereof, and shall be Forfeited.

X. And be it enacted, that if the Importer of any Goods shall make and subscribe a Declaration before the Collector, or other Proper Officer, that he cannot, for want of full information, make perfect Entry thereof, it shall be lawful for the Collector, or other Proper Officer, to receive an Entry by Bill of Sight for the Packages or Parcels of such Goods by the best description that can be given, and to grant a Warrant thereupon, in order that the same may be landed and secured to the satisfaction of the Proper Officer, and at the expense of the Importer, and may be seen and examined by such Importer in the presence of the Proper Officers; and within Three Days after the Goods shall have been so landed, the Importer shall make a perfect Entry thereof, and pay down or otherwise secure all Duties due thereon, and in default of such Entry, such Goods shall be secured by the Proper Officer; and if the Importer shall not within One Month after such landing, make perfect Entry of such Goods, and pay down, or otherwise secure the Duties due thereon, together with charges of Removal and Warehouse Rent, such Goods shall be sold for the payment thereof, and the overplus, if any, shall be paid to the Proprietor of the Goods.

XI. And be it enacted, that it shall and may be lawful for the Proper Officers to take such Samples of any Goods as shall be necessary for ascertaining the amount of any Duties payable on the same, and that all such Samples shall be disposed of and accounted for in such manner as the Governor or Officer Administering the Government for the time being, shall, with the advice of Her Majesty's Council, direct.

XII. And be it enacted, that in cases where the Duty set forth in any Entry shall not amount to Twenty-five Pounds, the Collector or other Proper Officer shall forthwith collect the same before granting his Warrant for the removal of the Articles Imported; and in case such Duty shall amount to Twenty-five Pounds, then such Collector or Officer aforesaid, shall be at liberty to secure the said Duties by taking Bond from the Importer, Owner, or Consignee, to Her Majesty, Her Heirs, and Successors, with two sufficient Securities for the payment thereof, in Four Months from the date of such Bond.

XIII. And be it enacted, that no Goods shall be Imported into this Island and its Dependencies, as being Imported from Places beyond the Seas, if any advantage attach to such distinction, unless such Goods appear by the Cocket, Clearance, or other proper Document for the same, to have been duly Shipped and Cleared Outwards at the Port of Exportation.

XIV. And be it enacted, that the surplus Store or Stores remaining unconsumed on board of any Ship arriving from Ports beyond the Seas in this Island or its Dependencies, shall be subject to the same Duties, Restrictions and Regulations as the like sort of Goods shall be subject to when Imported by way of Merchandise: Provided always, that if it shall appear to the Collector or Principal Officer in charge of the Port or District where such Ship shall arrive, that the quantity or description of such Stores is not excessive or unsuitable under all the circumstances of the voyage, such Stores, if not landed, shall be Duty Free.

XV. And be it enacted, that every Importer of any Goods shall, within Twenty Days after the arrival of the Importing Ship, make due Entry of such Goods, and land the same; and in default of such Entry and landing, it shall be lawful for the Proper Officers to land and convey such Goods to the Crown's Warehouse; and if the Duties due upon such Goods be not paid 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, and next of the Duties, and the overplus, if any, shall be paid to the Proprietor of the Goods, or any other Person authorised to receive the same.

XVI. And be it enacted, that if any Goods, Wares, or Merchandise, which are rated to pay Duty according to the Tale, Weight, Guage, or Measure thereof, shall receive damage during the voyage, an abatement of such Duties shall be allowed in proportion to the damage so received; provided proof be made to the satisfaction of the Officer in charge of the Port or District in which the Vessel importing such Goods, Wares, or Merchandise, shall have arrived, that such damage was received after such Goods, Wares, or Merchandise, were shipped, and before they were landed in this Island or its Dependencies, and that such abatement be claimed at the time of the first examination of such Goods, Wares, or Merchandise.

XVII. And be it enacted, that upon such claim as aforesaid, the Officers appointed to superintend the landing of such Goods, Wares, or Merchandise, shall examine the same with reference to such damage, and shall thereupon state the amount of damage received, and make a proportionate abatement of Duties accordingly: Provided, that if such Officers be incompetent to estimate such damage, or if the Importer of such Goods, Wares, or Merchandise, be not satisfied with the abatement made by them, the Collector or other Principal Officer in charge of the Port or District, shall appoint two disinterested Merchants experienced in the nature and value of such Goods, Wares, or Merchandise, to examine the same, and to report, in Writing, the amount of damage so received as aforesaid, and an abatement of Duties shall thereon be made in proportion to the amount of damage thus ascertained.

XVIII. And be it enacted, that whenever and so often as any Goods, Wares, or Merchandise, subject to Duty, shall be Reported for Importation at a Port or Place within this Island or its Dependencies, other than the Port or Place at which the Importing Ship shall first arrive, or for Exportation, such Goods, Wares, or Merchandise, shall be subject and be under, and liable, to all the Rules and Regulations, Forms, and Restrictions, that the like Articles are subject and liable to, when Exported from the Warehouse.

And Whereas it is expedient to empower the Governor to, constitute and appoint, from time to time, such Ports in this Island and its Dependencies, as occasion may require, to be Warehousing Ports for such Goods as may be legally Imported into such Ports respectively; and it is necessary to make Regulations for the appointing of Proper Warehouses at such Ports, and for the lodging and securing of Goods therein:—

XIX. Be it therefore enacted, that it shall be lawful for the Governor or Officer Administering the Government for the time being, by and with the advice of Her Majesty's Council, to constitute and appoint any Port in this Island or its Dependencies, to be a Warehousing Port for the purposes of this

Act; and for the Collector of any Port so constituted and appointed, by notice in Writing under his hand, to appoint from time to time such Warehouses at such Port as shall be approved by him for the Warehousing and securing of Goods therein, and also in such Notice to declare what sort of Goods may be so Warehoused, and also by like Notice to revoke or alter any such appointment or declaration: Provided always, that every such Notice shall first be transmitted to the Colonial Secretary, and be published in such manner as the Governor, or Officer Administering the Government for the time being, shall direct.

XX. And be it enacted, that it shall be lawful for the Importer of any such Goods into the said Ports, to Warehouse the same in the Warehouses so appointed, without payment of any Duty on the first Entry thereof; subject nevertheless to the Rules, Regulations, Restrictions and Conditions hereinafter contained.

XXI. And be it enacted, that all Goods so Warehoused shall be stowed in such parts or divisions of the Warehouse, and in such manner as the Collector aforesaid shall direct, and that the Warehouse shall be locked and secured in such manner, and shall be opened and visited only at such times, and in the presence of such Officers, and under such Rules and Regulations, as the said Collector shall direct; and that all such Goods shall, after being landed upon Importation, be carried to the Warehouse, or shall, after being taken out of the Warehouse for Exportation, be carried and Shipped, under such Rules and Regulations as the Collector of the Port shall direct.

XXII. And be it enacted that upon the Entry of any Goods to be Warehoused, the Importer of such Goods, instead of paying down, or otherwise securing the Duties due thereon, shall give Bond, with two sufficient Securities to be approved of by the Collector of the Port, in Treble the Duties payable on such Goods, with condition for the safe depositing of such Goods in the Warehouse mentioned in such Entry, and for the payment of all Duties due upon such Goods, or for the Exportation thereof, according to the first account taken of such Goods upon the landing of the same; and with further condition, that no Part thereof shall be taken out of such Warehouse until cleared from thence upon due Entry and payment of Duty, or upon Entry for Exportation; and with further condition, that the whole of such Goods shall be so cleared from such Warehouse, and the Duties upon any deficiency of the quantity according to such first account, shall be paid within Two Years from the date of the first Entry thereof; and if after such Bond shall have been given, the Goods or any Part thereof shall be sold or disposed of, so that the original Bonder shall be no longer interested in or have any control over the same, it shall be lawful for the said Collector to direct fresh Security to be given by the Bond of the new Proprietor or other Person having control over such Goods, with his sufficient Sureties, and to cancel the Bond given by the original Bonder of such Goods, or to exonerate him to the extent of the fresh security given.

XXIII. And be it enacted, that if any Goods which have been Entered to be Warehoused shall not be duly carried into 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 and Shipped, or shall afterwards be relanded, except with the permission of the Proper Officer, such Goods shall be Forfeited.

XXIV. And be it enacted, that upon the Entry and Landing of any Goods to be Warehoused, the Proper Officer shall take a particular Account of the same, and shall Mark the Contents on each Package, and shall enter the same in a Book to be kept for that purpose; and no Goods which have been so Warehoused shall be taken or delivered from the Warehouse, except upon due Entry and under the care of the Proper Officer for Exportation, or upon due Entry and payment of Duty for Home Use; and whenever the whole of the Goods Warehoused under any Entry shall be cleared from the Warehouse, or whenever further Time shall be granted for any such Goods to remain Warehoused, an Account shall be made out of the Quantity upon which the Duties has been paid, and of the Quantity Exported, and of the Quantity (to be then ascertained) of the Goods still remaining in the Warehouse, as the case maybe, deducting from the whole the quantity contained in any Original Package, if any, which may have been abandoned for Duties; and if upon such Account there shall in either case appear to be any Deficiency of the Original Quantity, the Duty payable upon the Amount of such Deficiency shall then be paid.

XXV. And be it enacted, that it shall be lawful for the Collector of the Port, under such Regulations as he shall see fit, to permit moderate Samples to be taken without Entry of any Goods so Warehoused, and without Payment of Duty, except as the same shall eventually become payable, as on a Deficiency of the Original Quantity.

XXVI. And be it enacted, that it shall be lawful for the Collector of the Port, under such Regulations as he shall see fit, to permit the Proprietor or other Person having control over the Goods so Warehoused, to sort, separate and pack and repack any such Goods, and to make such lawful alterations therein, or Arrangements and Assortments thereof, as may be necessary for the Preservation of such Goods, or in order to the Sale, Shipment, or legal Disposal of the same, and also to permit any Part of such Goods so separated to be destroyed, without prejudice to the claim for Duty upon the whole Original Quantity of such Goods; Provided always, that it shall be lawful for any Person to abandon any Original Package for the Duties, without being liable to any Duty upon the same.

XXVII. And be it enacted, that all Goods Warehoused at any Warehousing Port in this Island or its Dependencies, being first duly entered, may be delivered, under the authority of the proper Officer, without payment of Duty, except on any deficiency thereof, for the purpose of removal to another Warehouse Port therein, under Bond, to the satisfaction of such Officer, for the due arrival and re-Warehousing such Goods at such other Port.

XXVIII. And be it enacted, that all Goods which have been so Warehoused or re-Warehoused shall be duly cleared, either for Exportation or for Home Consumption, within Two Years from the day of the first Entry for the Warehousing thereof; and if any such Goods be not so cleared, it shall be lawful for the Collector of the Port or District to cause the same to be Sold, and the produce shall be applied, first to the payment of the Duties, next of Warehouse Rent and other charges, and the overplus, if any, shall be paid to the Proprietor: Provided always, that it shall be lawful for the said Collector to grant further time for any such Goods to remain Warehoused, if he shall see fit to do so.

XXIX. And be it enacted, that upon the Entry Outwards of any Goods, to be Exported from the Warehouse, the Person Entering the same shall give security by Bond in Treble the Duties of

Importation on the quantity of such Goods, with Two sufficient Sureties, to be approved by the Collector of the Port or District, that the same shall be landed at the Place for which they are Entered Outwards, or be otherwise accounted for to the satisfaction of the said Collector.

XXX. And be it enacted, that all Vessels, Boats, Carriages, and Cattle, made use of in the removal of any Goods liable to Forfeiture under this Act, shall be Forfeited, and every Person who shall assist, or be otherwise concerned in the Unshipping, Landing, or Removal, or in Harboursing of 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 Officers appointed, or to be appointed, under this Act; and the Averment in any Information or Libel to be exhibited for the Recovery of such Penalty, that the Officer 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.

XXXI. And be it enacted, That all Goods, and all Ships, Vessels, and Boats, and all Carriages, and all Cattle, liable to Forfeiture under this Act, shall be and may be seized and secured by any Officer appointed under this Act, or other Person employed for that purpose; and any Person who shall in any way hinder, oppose, molest, or obstruct, any Officer, or any Person employed as aforesaid, in the exercise of his Office or Employment, or any Person acting in his aid or assistance, shall, for every such offence, forfeit the Sum of Two Hundred Pounds; and if any Person shall, by force or violence, assault, resist, oppose, molest, hinder, or obstruct, any Officer appointed under this Act, or other Person employed as aforesaid, in the exercise of his Office or Employment, or any Person acting in his aid or assistance, such Person being convicted thereof, shall be adjudged a Felon, and shall be proceeded against as such, and punished at the discretion of the Court before whom such Person shall be tried.

XXXII. And be it enacted, that if any Officer appointed under this Act, or any Person duly employed for the prevention of Smuggling, shall make any Collusive Seizure, or deliver up, or make any Agreement to deliver up, or not to Seize, any Vessel, Boat, Carriage, or any Cattle or Goods, liable to Forfeiture under this Act, or shall take any Bribe, Gratuity, Recompense, or Reward, for the neglect or non-performance of his Duty, every such Officer or other Person shall forfeit, for every such Offence, the sum of Five Hundred Pounds; and every Person who shall give, or offer, or promise to give, or procure to be given, any Bribe, Recompense or Reward to, or shall make any collusive Agreement with, any such Officer or Person, as aforesaid, to induce him in any way to neglect his Duty, or to do, conceal, or connive, at any thing whereby the provisions of this Act may be evaded, shall forfeit the Sum of Two Hundred Pounds.

XXXIII. And be it enacted, that all Vessels, Boats, Goods, and other things which shall be seized as Forfeited under this Act, shall be deemed and taken to be condemned, and may be dealt with in the manner directed by Law in respect of Vessels, Boats, Goods, and other things seized and duly condemned for breach of the provisions of this Act, unless the person from whom such Vessels, Boats, Goods, and other things shall have been seized, or the Owner of them, or some person authorised by him, shall, within One Calendar Month from the day of seizing the same, give Notice in writing to the Person or Persons seizing the same, or to the Officer in charge of the nearest Port or District, that he claims the said Vessel, Boat, Goods, or other things, or intends to claim them.

XXXIV. And be it enacted, that under the authority of a Writ of Assistance granted by the Supreme Court of Justice or Court of Vice Admiralty having Jurisdiction in this Island and its Dependencies, (who are hereby authorised and required to grant such Writ of Assistance, upon application made to them for that purpose by the Principal Officer appointed under this Act,) it shall be lawful for any Officer appointed under this Act, 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 this Act, and, in case of necessity, to break open any Doors, and any Chests or other Packages, for that purpose; and such Writ of Assistance, when issued, shall be deemed to be in force during the whole of the Reign in which the same shall have been granted, and for Twelve Months from the conclusion of such Reign.

XXXV. And be it enacted, that all Vessels, Boats, Goods, and other Things, which shall be Seized as liable to Forfeiture under this Act, shall be forthwith delivered into the custody of the Officer in charge of the Port where the same shall have been Seized; and such Officer, after condemnation of such Vessels, Boats, and other Things, shall cause them to be Sold by Public Auction to the Highest Bidder: Provided always, that it shall be lawful for the Governor, or Officer Administering the Government for the time being, of this Island and its Dependencies, by and with the advice of Her Majesty's Council, to order such Vessels, Boats, Goods and other Things, or the Proceeds of such Sale, to be restored in such manner and upon such conditions as he shall, by and with the advice of Her Majesty's Council, think fit to direct.

XXXVI. And be it enacted, that all Penalties and Forfeitures incurred, and Monies granted, under this Act, shall be deemed and are hereby declared to be Sterling Money of Great Britain, and shall and may be prosecuted, sued for, and recovered in any Court of Record, or of Vice Admiralty, having Jurisdiction in this Island and its Dependencies.

XXXVII. And be it enacted, that no Suit shall be commenced for the recovery of any Penalty or Forfeiture under this Act except in the name of the Principal Officer appointed under this Act, or in the Name of Her Majesty's Attorney-General for this Island and its Dependencies.

XXXVIII. And be it enacted, that if any Goods shall be seized for non-payment of the Duties due thereon, or any other cause of Forfeiture, and any dispute shall arise whether the Duties have been paid on the same or whether the same have been lawfully Imported, the Proof thereof shall be on the Owner or Claimant of such Goods, and not on the Officer by whom the same shall have been Detained or Seized.

XXXIX. And be it enacted, that no Claim to any Thing Seized under; this Act, and returned into any of Her Majesty's Courts 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 any Person making a false Oath thereto, shall be deemed guilty of a Misdemeanor, and shall be liable to the Pains and Penalties to which such Persons are liable to for a Misdemeanor.

XL. And be it enacted, that no Person shall be admitted to enter a Claim to any thing Seized in pursuance of this Act, until sufficient Security shall be given in the Court where such Seizure is prosecuted, in a Penalty not exceeding Sixty Pounds, to answer and pay the Costs occasioned by such Claim; and in default of giving such Security such Things shall be adjudged to be Forfeited and Condemned.

XLI. And be it enacted, that no Writ shall be sued out against, nor a Copy of any Process served upon, any Officer appointed under this Act, or other Person as aforesaid, for anything 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 of 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.

XLII. And be it 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.

XLIII. And be it enacted, that in case any Information or Suit shall be brought to Trial, on account of any Seizure made under this Act, 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 things 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 in such Prosecution be fined more than One Shilling.

XLIV. And be it 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 non-suited, 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.

XLV. And be it 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, then the Plaintiff in such Action shall not be entitled to more than Two Pence Damages, nor to any Costs of Suit.

XLVI. And be it enacted, that all Penalties and Forfeitures recovered under this Act shall be paid into the hands of the Collector of the Port of Saint John's, and shall be divided, paid and applied as follows, that is to say: after deducting the Charges of Prosecution and Sale, and the amount of Duty from the produce thereof, One Moiety of the net produce shall be paid by the said Collector to the Person who shall Inform for the same, and the other Moiety to the Officer who shall Seize and Sue for the same; Provided that when the said Officer who shall so Seize and Sue for the same, shall also be the Informer, he shall be entitled to and paid the full Net Produce.

XLVII. And be it enacted, that all Actions or Suits for the recovery; of any of the Penalties or Forfeitures imposed by this Act, may be commenced or prosecuted at any time within Three Years after the Offence committed by reason whereof such Penalty or Forfeiture shall be incurred; any Law, Usage, or Custom, to the contrary thereof notwithstanding.

And Whereas it is expedient and necessary to provide for the due Collection, Safe Keeping and Management of the Duties granted to Her Majesty, Her Heirs and Successors, as aforesaid, and for the appointment of Proper Persons to give effect to the several provisions of this Act:

XLVIII. Be it therefore enacted, that it shall be lawful for the Governor, or Officer Administering the Government for the time being, to appoint Proper Persons to execute the duties of the several Offices necessary to the due Collection and Management of the Revenue now levied, or which may hereafter be levied, on Goods, Wares, and Merchandise, Imported into this Island and its Dependencies, that is to say:—

The Collector	Saint John's,
Landing and Tide Surveyor	"
Two Landing Waiters	"
First Clerk and Warehouse Keeper	"
Second Clerk	"
Two Lockers	"
Sub-Collector at Lamaline,	
" Fogo,	
" Lapoile,	
" Greenspond,	
" Galtois,	
Preventive Officer at Bay of Bulls,	
Tide Waiters,	
Boat and Hands.	

XLIX. And be it enacted, that it shall be lawful for the Governor, or Officer Administering the Government for the time being, by and with the advice of Her Majesty's Council, to appoint, from time to time, such Additional or Extra Officers as shall, in consequence of the Repeal of Imperial Duties, be necessary for the due Security and Collection of the Revenue, and to grant to such Additional or Extra Officers so appointed such Salaries or Allowances as may be deemed reasonable: Provided always, that no Salary or Allowance so granted shall exceed in amount the Salary or Allowance payable to the like Officer: Provided also, that a Copy or Copies of the Warrantor Warrants appointing such Extra or Additional Officer or Officers shall be laid before the Legislature, if then in Session, or if not then in Session, then within One Month from the commencement of its next following Session.

L. And be it enacted, that if any Officer, Clerk or other Person, acting in any Office or Employment under this Act, shall take or receive any Fee, Perquisite, Gratuity or Reward, whether Pecuniary or of any other sort or description whatever, directly or indirectly, from any Person (not being a Person duly appointed to some Office under this Act) on account of any thing done or to be done by him in or in anywise relating to his said Office or Employment, except such as he shall receive under any order or permission of the Governor or Officer Administering for the time being the Government of this Island and its Dependencies, any such Officer so offending shall, on proof thereof to the Governor, or Officer Administering the Government, be dismissed from his Office; and if any Person (not being a Person duly appointed to some Office under this Act) shall Give, Offer, or Promise to Give, any such Fee, Perquisite, Gratuity or Reward, such Person, for every such Offence, shall Forfeit the Sum of One Hundred Pounds.

LI. And be it enacted, that every Person who shall be appointed to any Office or Employment under this Act shall, at their respective admission thereto, make the following declaration, that is to say,—“I, A. B., do declare that I will be true and faithful in the Execution, to the best of my knowledge and power, of the Trust committed to my Charge and Inspection; and that I will not require, take or receive, any Fee, Perquisite, Gratuity or Reward, whether Pecuniary or of any sort or description whatever, either directly or indirectly, for any Service, Act, Duty, Matter or Thing, done or performed, or to be done or performed, in the Execution or Discharge of any of the duties of my Office or Employment, on any account whatever, other than my Salary, and what is or shall be allowed me by Law, or by any Special Order of the Governor or Officer Administering the Government of this Island and its Dependencies.”

LII. And be it enacted, that the several Officers appointed as aforesaid, shall enter into, and they are hereby required to give, such Security by Bond, to Her Majesty, Her Heirs and Successors, with Two sufficient Sureties, for the due Collection and Safe Keeping of such Public Monies as may come into their Hands, and for their good conduct in their respective Offices and Employments, as the Governor or Officer Administering the Government for the time being, shall, by and with the advice of Her Majesty's Council, deem reasonable and necessary.

LIII. And be it enacted, that no Person appointed to any Office or Employment under this Act, shall, during the time of his Acting in such Office or Employment, be compelled to serve in any Corporate or Parochial or other Public Office or Employment, or to serve on any Jury or Inquest; any Law, Usage, or Custom, to the contrary thereof notwithstanding.

LIV. And be it enacted, that no Day shall be kept as a Public Holiday by the Officers appointed under this Act, except Christmas Day and Good Friday in every year, and any Days appointed by the Governor or Officer Administering the Government for the time being of this Island and its Dependencies, by Proclamation, for the purpose of a General Fast, or General Thanksgiving, and also such days as shall have been or shall hereafter be appointed for the Celebration of the Birth-days of Her Majesty and of Her Successors.

LV. And be it enacted, that it shall be lawful for the Governor or Officer Administering the Government for the time being, to nominate One Member of Her Majesty's Council, and Two Members of the House of Assembly, who shall constitute a Board of Audit, and who shall have power to Audit the Accounts of the Collectors appointed under this Act, and finally to settle and close the Accounts of such Collectors: Provided always, that such Accounts so Audited, shall be laid before the Legislature in each Session, within One Month from the commencement thereof.

LVI. And be it enacted, that wherever the several Terms or Expressions following, occur in this Act or in any Act of the General Assembly of this Island, the same shall be construed respectively in the manner hereinafter directed; that is to say, the term "Collector" or terms "Collector or Sub-Collectors of Her Majesty's Customs," shall be construed to mean the Principal or other Proper Officer appointed under this Act; that the Term "Ship" shall be construed to mean "Ship or Vessel" generally; that the Term "Master" of any Ship, shall be construed to mean the Person having or taking charge of such Ship; that the Term "Her Majesty" shall be construed to mean "Her Majesty, Her Heirs and Successors;" and that the Term "Warehouse" shall be construed to mean any place, whether House, Shed, Yard, Timber Pond, or other place, in which Goods, entered to be Warehoused, may be Lodged, Kept, and Secured.

LVII. And be it enacted, that from and after the Fifth Day of July, in this Year of Our Lord One Thousand Eight Hundred and Forty Nine, or in case the Act passed during the present Session of the General Assembly, entitled "An Act to Repeal certain Duties of Customs," shall not, previously to the said Fifth Day of July, have come into operation, then from and after the Day when such Act shall have come into operation, this Act shall come into and be in operation.