

Laws of His Majesty's Province of Upper-Canada in North America. York: Titus G. Simons, Printer to the King's Most Excellent Majesty, 1801.

41 George III – Chapter 5

An Act for granting to his Majesty, his heirs and successors, to and for the uses of this Province the like Duties on goods and merchandize brought into this Province from the United States of America as are now paid on goods and merchandize imported from Great Britain and other places.

[July 9th, 1801.]

MOST GRACIOUS SOVEREIGN,

I. We Your Majesty's most dutiful and loyal subjects the Commons of the Province of Upper Canada in Parliament assembled, for the uses of this Province have freely and voluntarily resolved to give and grant to Your Majesty, your heirs and successors, the several duties herein after mentioned, and in such manner and form as herein after expressed. And therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty by and with the advice and content of the Legislative Council and Assembly of the Province of Upper Canada constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled an Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, entitled "an Act for making more effectual provision for the government of the Province of Quebec in North America, and to make further provision for the government of the said Province" and by the authority of the same, That from and after the passing of this Act there shall be raised, levied, collected and paid into the hands of the Receiver General as Treasurer of this Province to and for the use of Your Majesty, your heirs and successors and to and for the uses of this Province the like duties on all goods and merchandize that may be imported or brought into this Province from any part, port, or place, of or belonging to the citizens of the United States of America, as are now levied and collected under and by virtue of any Act of the Parliament of Great Britain, or levied and collected in the Province of Lower Canada to and for the use and benefit of this Province under and by virtue of any provisional agreement in force between the Provinces of Upper Canada and Lower Canada, and under and by virtue of any Act or Acts passed in the said Province of Lower Canada imposing a duty on goods and merchandize brought into that Province from Great Britain or parts beyond the seas.

II. And be it further enacted by the authority aforesaid, That for the better collecting the said duties, the ports of Cornwall, Johnstown, Newcastle, York, Kingston, Niagara, Queenston, Fort Erie Passage, Turkey Point, Amherstburgh and Sandwich, shall be, and they are hereby declared to be ports of entry and clearance for all goods and merchandize brought into this Province (not being goods entirely prohibited) and for the payment of all duties liable to be paid on all goods and merchandize brought into this Province as aforesaid, which payments shall be made at the respective ports, or some or one of them, in such manner and wise as the Governor, Lieutenant Governor, or person administering the

government of this Province, by and with the advice and consent of the Executive Council thereof, shall for the better collecting of the same, or-der and direct: And that it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the government, under his hand and seal at arms, to nominate and appoint one or more collector or collectors at the said ports of entry and clearance, which said collector or collectors, or his or their deputy or deputies, shall make his or their reports to the said Governor, Lieutenant Governor, or person administering the government, of all entries made at his or their respective port or ports and account to the Receiver General of the said Province for all duties and seizures levied, paid and made under and by virtue of any Act or Acts of the Parliament of Great Britain, or under and by authority of this Act, at or before the expiration of every six months.

III. And be it enacted by the authority aforesaid, That the said collectors shall, and they are hereby authorized to appoint one or more deputy or deputies in their several districts, for the better carrying into effect the provisions of this Act.

IV. And be it further enacted by the authority aforesaid. That it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the government of the said Province, by and with the advice and consent of the said Executive Council, to allow to each collector fifty pounds per centum on the amount of duties so collected, until the same amount to one hundred pounds per annum and no more, and the said collector or collectors shall give security by two sureties in five hundred pounds each, and himself, in one thousand pounds, for the due performance of his office.

V. And be it further enacted by the authority aforesaid, That all goods and merchandize, whole importation into this Province is not, or shall not be entirely prohibited, may freely, for the purposes of commerce, be carried. brought and imported into the same from the said United States in manner aforesaid, by his Majesty's subjects and by the citizens of the said United States, upon the payment of the several and respective duties due and payable by his Majesty's subjects on the importation of the like goods and merchandize from Great Britain or other parts beyond the seas. Provided always, That nothing in this Act shall extend or be construed to extend to permit or allow any such goods or merchandize to be unladen at any place or places, or at any other times or hours than is or are herein after mentioned and allowed.

VI. And be it enacted by the authority aforesaid, That no duty of entry shall be payable or levied or demanded by any collector or deputy on any peltries brought by land or inland navigation into this Province, and that Indians passing or repassing with their proper goods and effects of whatever nature, shall not be liable to pay for such goods and effects any import or duty whatever, unless the same shall be goods in bales or other packages unusual among Indians for their necessary use, which shall not be considered as goods belonging bona side to Indians, or as goods entitled to the foregoing exemption from duties and imposts; that no higher or other tolls or rates of ferriage than what are or shall be payable by his Majesty's subjects, shall be demanded by any person or persons of the citizens of the

United States of America, and that no duties under and by virtue of this Act shall be payable on any goods which shall be merely carried over any of the portages, or carrying places within this Province, for the purpose of being immediately reimbarcked and carried to some other place or places. Provided nevertheless, That the last mentioned exemption from duty shall extend only to such goods as are carried in the usual and direct road across such portages or carrying places, and are not attempted to be in any manner sold or exchanged during their passage across the same.

VII. And be it further enacted by the authority aforesaid, That it shall not be lawful to make entry of any vessel, boat, raft or carriage, or of any cargo or load, or of any goods, wares or merchandize imported into this Province from the said United States, except at the ports of entry aforesaid. And that the collector or collectors, deputy or deputies of and for the said ports, shall attend every day except Sundays, Christmas day and Good Friday, at a certain place to be named for each port, for the discharge of the duties of their respective offices, between the hours of nine and twelve of the clock in the forenoon, and three and six of the clock in the afternoon, from the first day of May to the first day of October, and from ten to three from the first day of October to the last day of April.

VIII. And be it further enacted by the authority aforesaid, That all vessels, boats, rafts and carriages of what kind or nature soever containing goods, wares or merchandize, passing by or into the said ports or either of them, shall be reported to the collector or his deputy, and be subject to visitation and search by the collector or his deputy established at any of the said ports, and that upon the arrival of any vessel, boat, raft or carriage from any port or place in the said United States at any of the ports aforesaid, the master or other person duly authorized, having the charge or command of such vessel, boat, raft or carriage shall forthwith repair to the place so to be named as aforesaid at each of the said ports and shall there report to the collector or his deputy the arrival of the said vessel, boat, raft or carriage together with the burthen, cargo or load of such vessel, boat, raft or carriage, whether in packages or flowed loose, of the particular marks and numbers of each package, and the place or places, person or persons to and for which or whom they are respectively consigned or intended: and the said master or person having the charge or the command of any such vessel, boat, raft or carriage shall further declare that no part of the cargo or load of such vessel, boat, raft or carriage, since the departure of such vessel, boat, raft or carriage from the port or place in the said United States, from which the said vessel, boat, raft or carriage shall have sailed or departed has been landed or unloaded, or otherwise removed, except as he shall then specify together with the cause, time, place and manner, which said reports and declarations respectively shall be made in writing, signed by the party making the same, and shall be attested by his oath, or affirmation if one of the persons called Quakers, which the said collector or his deputy is hereby authorized and required to administer: and if the said master or person having the charge or command of any such vessel, boat, raft or carriage, shall neglect, or omit to make the said reports and declaration or either of them, or to attest the same or either of them on oath or affirmation aforesaid, as the case may require, he shall for every such offence forfeit and pay a sum not less than five pounds, nor more than two hundred and fifty pounds.

IX. And be it further enacted by the authority aforesaid, That in all cases where any duties are or shall be by law imposed and payable on any goods, wares or merchandize imported from the said United States, so entered at any of the ports aforesaid, the collector or deputy of the port where the same shall be entered, shall make an estimate of the amount of such duties, and the amount of the said duties according to the said estimate having been first paid or secured to be paid, pursuant to the provisions herein after contained, the said collector or his deputy shall give a certificate thereof, and grant a permit to land or unload the said goods, wares or merchandize whereof such entry shall have been so made, and then, and not otherwise, it shall be lawful to land or unload the said goods or proceed therewith.

X. And be it further enacted by the authority aforesaid, That when any person or persons shall have occasion to remove by land or water from any port of entry aforesaid, to any other port or place within this province, any goods, wares or merchandize liable to pay duty, duly imported into any port aforesaid from the United States of America, on which the duties imputed by law shall have been paid or secured to be paid, the collector or deputy of any such port upon requisition in writing for that purpose made and signed by such person or persons, and to such collector or deputy delivered, specifying the particular goods, wares and merchandize to be removed, and the number of packages in which the same are contained, with their marks and numbers, shall, and he is hereby required to give a protection in writing signed by him the said collector OR deputy, specifying the particular goods, wares and merchandize to be removed, the number of the packages containing such goods, wares and merchandize, with the marks and numbers, and certifying that such goods, wares and merchandize have been duly entered in that port or harbour, and that the duties thereon have been paid or secured to be paid: And the collector or deputy giving such protection, shall limit therein the time within which such goods, wares or merchandize shall be removed from such port, and also the time within which the said protection shall be in force.

XI. And be it further enacted by the authority aforesaid, That any goods, wares, or merchandize imported, or brought in or upon any vessel, boat, raft, or carriage, from any port or place in the said United States, shall not be unladen or delivered from such vessel, boat, raft or carriage, at any port or harbour but in open day, that is to say, between the rising and setting of the sun, except by special licence for that purpose from the Collector or Deputy of the port or harbour: And if any goods, wares or merchandize shall be unladen or delivered contrary to the directions aforesaid, or either of them, the master or person having the command or charge of such vessel, boat, raft or carriage, and every other person who shall knowingly be concerned, or aiding therein, or in removing or otherwise securing the said goods, wares, or merchandize, shall forfeit and pay a sum not less than five pounds, nor exceeding fifty pounds for each offence, and all such goods, wares and merchandize so unladen or delivered, shall become forfeited, and may be seized by the said Collector or his Deputy: And where the value, according to the highest market price of the same, shall amount to twenty pounds, the vessel, boat, raft or carriage, with the tackle, apparel,

furniture, cattle, harness, and horse or horses thereto respectively belonging, shall also become forfeited, and shall and may be seized by the said Collector or Deputy, subject nevertheless to condemnation by due course of law.

XII. And be it further enacted by the authority aforesaid, That no goods, wares or merchandize liable to pay duty, imported or brought into this Province in or upon any vessel, boat, raft or carriage, from any port or place in the United States of America in or upon any vessel, boat, raft or carriage, requiring to be weighed, gauged, taled, or meted, in order to ascertain the duties thereon, shall be removed from any wharf or place upon which the same may be landed, put, or delivered, before the same shall have been weighed, gauged, taled, or meted by, or under the direction of the Collector or Deputy, which he is hereby directed and required to perform with all convenient speed: And if any such goods, wares, or merchandize shall be removed from such wharf or place, before the same shall have been so weighed, gauged, taled, or meted, the same shall be forfeited, and may be seized by such Collector or Deputy; subject nevertheless to condemnation by due course of law.

XIII. And be it further enacted by the authority aforesaid; That before the unloading of any goods, wares or merchandize imported, or brought into this Province from the said United States, on which any rates or duties are by law imposed, the said rates and duties shall be paid or secured to be paid to his Majesty, his heirs and successors, in like manner as the same are now raised, levied, collected and recovered under and by virtue of any Act of the British Legislature, relating to the customs and trade of his Majesty's Colonies in America, and under and by virtue of any Act of the Provincial Parliament of the Province of Lower Canada.

XIV. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Collector or Deputy of any port or harbour aforesaid, after entry made of any goods, wares or merchandize, on suspicion of fraud, to open and examine in the presence of two or more reputable persons, any package or packages thereof, and if upon examination they shall be found to agree with the entries, the said Collector or Deputy shall cause the same to be repacked and delivered to the said owner or claimant forthwith, and the expence of such examination shall be paid by the said Collector or Deputy; but if any of the packages so examined shall be found to differ in their contents from the entry, then the goods, wares, and merchandize contained in such package or packages shall be forfeited; subject nevertheless to condemnation according to due course of law. Provided always, That the said forfeiture shall not be incurred if it shall be made appear to the satisfaction of the said Collector or Deputy, or of the court in which a prosecution for the forfeiture shall be had, that such difference proceeded from mistake or accident, and not from an intention to defraud the Revenue.

XV. And be it enacted by the authority aforesaid, That all goods, wares or merchandize which shall be imported or brought by land or by inland navigation into this Province from the said United States and which shall not be entered according to the direction of this Act at the port or harbour where any goods, wares or merchandize shall arrive or be brought,

shall be forfeited, together with the vessel, boat, raft or carriage in or upon which the same shall be found or shall have been imported, and the tackle, apparel, furniture, cattle, horse or horses and harness thereunto respectively belonging. And the collector or deputy of the said port or harbour and all other collectors and deputies or other person or persons by them for that purpose especially appointed shall have full power and authority to enter into and upon any vessel, boat, raft or carriage, in which he or they shall have reason to suspect any goods, wares or merchandizes not entered as aforesaid to be concealed, and therein to search for, seize and secure any such goods, wares or merchandize; and if he or they shall have cause to suspect that any such goods, wares, or merchandize are concealed in any particular dwelling house, store, building or other place, they or either of them shall upon application upon oath to any Justice of the Peace be entitled to a warrant to enter, taking with them a peace officer such store or other place (in the day time only) and thereto search for such goods, wares or merchandize, and if any shall be found to seize and secure the same for trial: and if any person or persons shall conceal, or shall buy any goods, wares or merchandize, knowing them to be liable to seizure by this Act, such person or persons on conviction thereof, shall forfeit and pay double the value of the goods, wares, or merchandize so concealed, purchased or exchanged.

XVI. And be it enacted by the authority aforesaid, That all goods, wares and merchandize whereof the importation is not, and shall not be entirely prohibited, may freely, for the purposes of commerce be carried and exported free and exempt of all duties whatsoever from and out of this Province into the said United States, as well by his Majesty's subjects as by the citizens of the said United States.

XVII. And be it further enacted by the authority aforesaid, That it shall be the duty of all collectors and deputies whatsoever to seize and secure any vessel, boat, raft, or carriage, goods, wares or merchandize which shall be liable to seizure by virtue of this Act, as well without as within their respective districts within this Province, and all goods, wares and merchandize which shall be seized by virtue of this Act, shall remain in the custody of the person seizing the same, until such proceedings shall be had as by law are required to ascertain whether the same have been forfeited or not: And all, penalties and forfeitures enacted by this Act, shall be recovered and declared in his Majesty's Court of King's Bench in this Province, in the same manner and form, and upon the same evidence and by the same rules and regulations as any penalties and forfeitures incurred for any offences against the laws relating to the customs and trade of his Majesty's colonies in America may now be recovered and declared forfeited in such courts respectively. And in all cases of condemnation or of penalties and forfeiture incurred by virtue of this Act, after deducting the charges of prosecution from the gross produce thereof, the remainder shall be divided as follows, one half to his Majesty and the other half to the person seizing the same.

XVIII. And be it further enacted by the authority aforesaid, That all vessels, boats, rafts or carriages which shall be seized in pursuance and by virtue of this Act, or of any Act or Acts of the Parliament of Great Britain and which shall be condemned in his Majesty's Court of King's Bench, shall be sold by public auction to the best bidder by the collector or deputy of

the port or harbour where the same shall be seized, and at the place where such vessels, boats, rafts or carriages shall be seized.

XIX. And be it enacted by the authority aforesaid, That if any collector or deputy, or other person executing or aiding in the seizure of any vessel, boat, raft, or carriage, cattle, horse, or horses, harness, tackle, apparel or furniture, goods, wares or merchandize, or other thing whatsoever, shall be sued or prosecuted for any thing done in virtue of the powers of this Act; or by virtue of a warrant granted to any Justice of the Peace, pursuant to law, such officer or other person may plead the general issue and give this Act and the special matter in evidence; and if in such suit the plaintiff shall be nonsuited or judgment pass against him, the defendant shall recover double costs, and in case any information shall be commenced and brought to trial on account of the seizure of any vessel, boat, raft or carriage, cattle, horse or horses, harness, tackle, apparel, furniture, goods, wares, merchandize or other things whatsoever as forfeited by this Act, wherein a judgment shall be given for the claimant, and it shall appear to the Court before whom the Case shall be tried, that there was a probable cause of seizure, the court shall certify on the record that there was a probable cause for Seizing the same, and in such case the defendant shall not be entitled to any costs whatsoever, nor shall the persons who seized be liable to any action or prosecution on account of such seizure: And in case any action or prosecution shall be commenced and brought to trial against any person whatsoever on account of the seizing any such vessel, boat, raft or carriage, cattle, horse or horses, harness, tackle, apparel, furniture, goods, wares or merchandize, or other thing where no information shall be commenced or brought to trial to condemn the same, and a judgment shall be given upon such action or prosecution against the defendant or defendants, if the court before whom such action or prosecution may be brought, shall certify in like manner as aforesaid that there was a probable cause for such seizure, then the plaintiff, besides the vessel, boat, raft or carriage, cattle, horse or horses, harness, tackle, apparel, furniture, goods, wares, merchandize or other thing or things so seized, or the value thereof, shall not be entitled to above one shilling damages, nor to any costs of suit, nor shall the defendant in any such action or prosecution be fined above one shilling; Provided always, and be it enacted by the authority aforesaid, That all and every such goods, wares or merchandize, vessel, boat, raft, or carriage, horse or horses, cattle, harness, tackle, apparel, or furniture, which shall be so seized and condemned, shall be advertised for sale, on a day certain, not less than fifteen days after such condemnation.

XX. And be it further enacted by the authority aforesaid, That the collectors and deputies of the said parts and harbours shall cause to be affixed and kept in some public and conspicuous place in their offices, a fair table of the fees to be taken and received by the said collectors and deputies, which fees shall be as follows:

For every Report of the arrival of and Permit to unload any vessel, boat, or batteau under five tons burthen—One Shilling and three Pence.

Ditto of any vessel, &c. of five tons or upwards, and not exceeding fifty tons - Two Shillings and six Pence.

Ditto of any vessel, &c. exceeding fifty tons—Ten Shillings.

Ditto of any waggon, cart, sleigh, or other carriage—Four Pence.

For every Entry of goods imported by water communication—One Shilling and three Pence.

For ditto ditto by any waggon, cart, sleigh, or other conveyance—Six Pence.

For every Certificate of goods having paid duty and Protection—Six Pence.

For every Bond for payment of duties—Two-Shillings and six Pence.

XXI. And be it further enacted by the authority aforesaid, That if any Collector or Deputy at any port or harbour shall demand or receive any greater or other fee, compensation or reward for executing any duty or service required of him by law, he shall forfeit and pay the sum of fifty pounds for each offence, recoverable in his Majesty's Court of King's Bench, to the life of the party grieved.

XXII. And be it further enacted by the authority aforesaid, That the Collectors and their Precincts shall be as follow:—

A Collector at Cornwall for the Eastern District,

At Johnstown for the District of Johnstown.

At Kingston for the Midland District.

At Newcastle for the Counties of Northumberland and Durham.

At York for the remainder of the Home District.

At Niagara for the first second and third Ridings of the County of Lincoln.

At Fort Erie for the remainder of the District of Niagara and County of Haldimand.

At Turkey Point for the District of London.

At Sandwich for the Western District.