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REVISED CUSTOMS ACT,

49 Vic., Chap. 32,

AS AMENDED BY

51 VIC., CHAP. 14

AND 52 VIC., CHAP. 14.

PUBLISHED BY THE CUSTOMS DEPARTMENT

WITH ANALYTICAL INDEX FOR USE OF COLLECTORS
AND OFFICERS OF CUSTOMS.

J. JOHNSON,

Commissioner.



49 VICTORIA.

CHAPTER 32.

An Act respecting the Customs.

A. D. 1886.

A. D. 1888.

As amended by 51st Victoria, Chapter 14,
and by 52nd Victoria, Chapter 14.

A. D. 1889.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

1. This Act may be cited as "*The Customs Act.*" 46 Short title.
V., c. 12, s. 1.

INTERPRETATION.

2. In this Act, or in any other laws relating to the Customs, unless the context otherwise requires:—

(a.) The expression "port" means a place where vessels or vehicles may discharge or load cargo; "Port."

(b.) The expression "collector" means the collector of the Customs at the port or place intended in the sentence, or any person lawfully deputed, appointed or authorized to do the duty of collector thereat; "Collector."

(c.) The expression "officer" means an officer of the Customs; "Officer."

(d.) The expression "vessel" means any ship, vessel or boat of any kind whatsoever, whether propelled by steam or otherwise, and whether used as a sea-going vessel or on inland waters only, unless the context is manifestly such as to distinguish one kind or class of vessel from another, and the word "vessel" includes "vehicle"; "Vessel."

(e.) The expression "vehicle" means any cart, car, wagon, carriage, barrow, sleigh or other conveyance of what kind soever, whether drawn or propelled by steam, by animals, or by hand or other power, and includes the harness or tackle of the animals, and includes also the fittings, furnishings and appurtenances of the vehicle; "Vehicle."

- "Master." (f.) The expression "master" means the person having or taking charge of any vessel or vehicle ;
- "Conductor." (g.) The expression "conductor" means the person in charge, or having the chief direction of any railway train ;
- "Owner," &c. (h.) The expression "owner," "importer," or "exporter" means the owners, importers or exporters, if there are more than one in any case, and includes persons lawfully acting on their behalf ;
- "Goods." (i.) The expression "goods" means goods, wares and merchandise, or movable effects of any kind, including carriages, horses, cattle and other animals, except where these latter are manifestly not intended to be included by the said expression ;
- "Warehouse." (j.) The expression "warehouse" means any place, whether house, shed, yard, dock, pond or other place in which goods imported may be lodged, kept and secured without payment of duty ;
- "Customs warehouse." (k.) The expression "Customs warehouse" includes sufferance warehouse, bonding warehouse and examining warehouse ;
- "Oath." (l.) The expression "oath" includes declaration and affirmation ;
- "Seized and forfeited," &c. (m.) The use of the expressions "seized and forfeited," "liable to forfeiture," or "subject to forfeiture," or any other expression which might of itself imply that some act subsequent to the commission of the offence is necessary to work the forfeiture, shall not be construed as rendering any such subsequent act necessary, but the forfeiture shall accrue at the time of and by the commission of the offence in respect of which the penalty of forfeiture is imposed ; 46 V, c. 12, s. 4.
- "Value." (n.) The expression "value" in respect to any penalty or forfeiture imposed by this act and based upon the value of any goods or articles, means the duty-paid value of such goods or articles at the time of the commission of the offence by which such penalty or forfeiture is incurred ;
- "Commissioner of Customs." (o.) Except in section four, the expression "Commissioner of Customs" includes the Assistant Commissioner of Customs ;
- "Frontier Port." (p.) The expression "frontier port" means the first port at which the vehicle carrying the goods to be entered arrives by land in Canada after crossing the frontier, and the sea, lake or river port at which the vessel in which the goods are carried arrives direct from a port or place out of Canada ;
- "Court." (q.) The expression "court" means the Exchequer Court of Canada, or any Superior Court, or Court of Vice-Admiralty ; 51 V., c. 14, s. 2.
- General Provisions. All the expressions and provisions of this Act, or of any such law as aforesaid, shall receive such fair and liberal construction and interpretation as will best insure the protection of the revenue and the attainment of the purpose

for which this Act or such law was made, according to its true intent, meaning and spirit. 46 V., c. 12, s. 4.

DEPARTMENT OF CUSTOMS.

3. There shall be a department of the Civil Service which shall be called the "Department of Customs," over which the Minister of Customs, for the time being, appointed by the Governor General, by commission under the Great Seal, shall preside. 31 V., c. 43, s. 1. Department constituted.

4. There shall be a Commissioner of Customs, who shall be the Deputy of the Minister of Customs, and an Assistant Commissioner, appointed by the Governor in Council, both of whom shall hold office during pleasure, and shall have such powers and perform such duties, respectively, as are assigned to them by the Governor in Council, or by the Minister of Customs: 31 V., c. 43, s. 2. Commissioner and Assistant Commissioner.

2. There shall be a Board of Customs, which shall consist of the Commissioner of Customs, the Assistant Commissioner of Customs and the Dominion Custom Appraisers and Assistant Dominion Customs Appraisers hereinafter mentioned, and the said board shall have such powers and perform such duties, respectively, as are assigned to it by this Act, by the Governor in Council or by the Minister of Customs. 51 V., c. 14, s. 3. Board of Customs.

5. The Department of Customs shall have the control and management of the collection of the duties of Customs, and of matters incident thereto, and of the officers and persons employed in that service. 31 V., c. 43, s. 3, *part*. Of what matters the Department shall have the control.

DUTIES OF CUSTOMS.

6. The duties imposed by any Act relating to the Customs shall be held to be duties within the meaning of "*The Consolidated Revenue and Audit Act*," and of any Act amending the same, and shall, with all matters and things thereunto relating, be subject to the provisions of the said Act or Acts, and to the regulations and orders of the Governor in Council, made under the authority thereof, in so far as the same are not inconsistent with this Act; and all moneys arising from such duties, or from any penalties hereby imposed, and belonging to Her Majesty, shall be paid over by the officer receiving the same to the Minister of Finance and Receiver-General, and shall form part of the Consolidated Revenue Fund of Canada. 46 V., c. 12, s. 14. Duties to be within the Audit Act and orders under it.

7. The true amount of Customs duties payable to Her Majesty with respect to any goods imported into Canada or exported therefrom, and the additional sum, if any, payable under the next following section of this Act, shall, from Duties and penalties if any, to be a debt to Her Majesty, and how recoverable.

and after the time when such duties should have been paid or accounted for, constitute a debt due and payable to Her Majesty, jointly and severally, from the owner of the goods at the time of the importation or exportation thereof, and from the importer or exporter thereof, as the case may be ; and such debt may, at any time, be recovered with full costs of suit, in any court of competent jurisdiction. 46 V., c. 12, s. 15.

Additional duty in cases of undervaluation.

8. If in any case the true value for duty of any goods, as finally determined under this Act, or as determined in any action or proceeding to recover unpaid duties, exceeds by fifteen per centum, or more, the value for duty as it appears by the bill of entry thereof, there shall be levied and collected upon the same, in addition to the *ad valorem* duty payable on such goods, when properly valued, a sum equal to the same percentage of the whole *ad valorem* duty so payable as the percentage of undervaluation in the original bill of entry ; and if the owner, importer or consignee refuses or neglects to pay the said duty and additional sum within six days after notice so to do has been served upon him personally, or by leaving the same at his domicile or place of business, the goods shall be seized and forfeited. 51 V., c. 14, s. 4.

Board of Customs may, in doubtful cases, declare the duty, or that goods are free.

9. Whenever any difference arises as to whether any or what rate of duty is payable on particular goods, and there is no previous decision in the matter by any competent tribunal, or there are decisions inconsistent with each other, the Board of Customs may declare the rate of duty payable on the kind of goods in question, or that such goods are exempt from duty, subject in each case to an appeal, by any person interested, to the Governor in Council ; and any decision of the Board of Customs when approved by the Minister of Customs, or any Order in Council made upon appeal, containing such declaration and fixing such rate of duty, if any, shall have the same force and effect as if such rate of duty had been fixed and declared by statute ; and every Order in Council made under this section shall be published in the *Canada Gazette*. 51 V., c. 14, s. 5.

Effect of order.

What must appear in invoices of goods.

What currency to be used.

10. All invoices of goods shall be made out in the currency of the country whence the goods are imported, and shall contain a true statement of the value of such goods ; and in computing the value for duty of such currency the rate thereof shall be such as has been ordered and proclaimed, from time to time, by the Governor in Council, who is hereby empowered to make such order ; and the rate ordered shall be based upon the actual value of the standard coins or currency of such country as compared with the standard dollar of Canada, in so far as such comparative values are known ; and whenever the value of a currency has not been pro-

claimed, or whenever there is no fixed standard value, or whenever from any cause the value of such currency has become depreciated, there shall be attached to the invoice of the goods imported the certificate of some consul resident in such place or country, showing the extent of such depreciation, or the true value of the currency in which such invoice is made out, then and there, as compared with the standard dollar of Canada: Provided, however, that whenever the value of a depreciated currency is dependent upon the rate of exchange on London it shall be optional with the importer, with the consent of the collector of Customs, to compute the value for duty at the rate of exchange certified by the bank through which the same is drawn, as current at the time and place when and whence the goods were exported to Canada: Provided also, that when the currency value is so determined at the time of entry, either by a consul's certificate, or by the certificate of the bank as hereinbefore provided, such rate or value shall be final, and not open to any re-adjustment by reason of the subsequent production of any certificate not corresponding in rate or value with that adopted. 46 V., c. 12, s. 12, *part*.

Value of such currency, how ascertained.

Proviso: when value depends on rate of exchange.

Further proviso.

11. Whenever duties are imposed according to any specific quantity or to any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value, and to any fractional part of such specific quantity. 46 V., c. 12, s. 13.

Greater or less quantities.

12. Whenever duties are charged according to the weight, tale, gauge or measure, such allowances shall be made for tare and draft upon the packages as are prescribed by regulations made by the Governor in Council. 51 V., c. 14, s. 6.

Allowance for tare or draft to be regulated by O. C.

13. On each and every non-enumerated article which bears a similitude, either in material or quality, or the use to which it may be applied, to any enumerated article chargeable with duty, the same rate of duty shall be payable which is charged on the enumerated article which it most resembles in any of the particulars before mentioned. 46 V., c. 12, s. 6.

Duties on non-enumerated articles resembling enumerated.

14. If any non-enumerated article equally resembles two or more enumerated articles on which different rates of duty are chargeable, the duty on such non-enumerated article shall be the same as that on the enumerated article which it resembles, paying the highest duty. 46 V., c. 12, s. 7.

On articles resembling more than one enumerated.

15. On all articles manufactured from two or more materials, the duty shall be that charged on the article, if there is a difference of duty, which is charged with the highest duty. 46 V., c. 12, s. 8.

Made of more than one material.

Enumerated under more than one name.

16. If an article is enumerated in the tariff under two or more names or descriptions, and there is a difference of duty, the highest duty provided shall be charged and collected thereon. 46 V., c. 12, s. 9.

Spirits and strong waters.

17. Spirits and strong waters, from whatsoever substance distilled or prepared, having the flavor of any kind of spirits or strong waters, subject to a higher duty than whiskey, shall be liable to the duty imposed on spirits or strong waters of which they have the flavor. 46 V., c. 12, s. 10.

Goods wrecked or derelict.

18. Goods derelict, flotsam, jetsam or wreck, or landed or saved from any vessel wrecked, stranded or lost, brought or coming into Canada, shall be subject to the same duties and regulations as goods of the like kind imported are subject to. 46 V., c. 12, s. 60.

Sale if duty is not paid within eighteen months.

19. If the duties on goods referred to in the next preceding section are not paid within eighteen months from the time when the same were delivered to the proper officer, as hereinafter mentioned, the same may be sold in like manner and for the same purposes as goods imported may, in such default, be sold; and if they are sold for more than enough to pay the duty and charges thereon the surplus shall be paid over to the person entitled to receive it. 51 V., c. 14, s. 7.

Samples may be taken.

20. The collector or any appraiser may take samples of any goods imported, for the purpose of ascertaining whether any and what duties are payable on such goods; and such samples shall be disposed of as the Minister of Customs directs. 46 V., c. 12, s. 65.

REPORT AND ENTRY INWARDS.

Goods not to be unladen except after due entry.

21. No goods shall be unladen from any vessel arriving at any port or place in Canada, from any place out of Canada, or from any vessel having dutiable goods on board brought coastwise, nor shall bulk be broken within three leagues of the coast, until due entry has been made of such goods, and warrant granted for the unloading of the same; and no goods shall be so unladen (unless for the purpose of lightening the vessel in crossing over or getting clear from a shoal, rock, bar or sand-bank), except between sunrise and sunset, and on some day not being a Sunday or statutory holiday, and at some hour and place at which an officer of the Customs is appointed to attend the unloading of goods, or at some place for which a sufferance has been granted by the collector or other proper officer, for the unloading of such goods; and if, after the arrival of the vessel within three leagues of the coast, any alteration is made in the stowage of the cargo, so as to facilitate the unlawful unloading of any part thereof, or if

Exception.

And at the hours and places appointed for the purpose.

Stowage of cargo not to be altered.

any part thereof is fraudulently staved, destroyed or thrown overboard, or any package is opened, it shall be deemed a breaking of bulk; and all goods unladen contrary to this Act shall be seized and forfeited; and if bulk is broken contrary to this Act the master shall forfeit two hundred dollars, and the vessel may be detained until the said sum is paid or satisfactory security is given for the payment thereof; and unless payment is made or security is given within thirty days such vessel may, at the expiration thereof, be sold to pay the said sum. 46 V., c. 12, s. 16.

Forfeiture for contravention and detention until security is given.

22. The Governor in Council may, by regulation from time to time, appoint the ports and places of entry for the purposes of this Act, and may, in like manner, increase or diminish the number, or alter the position or limits thereof. 46 V., c. 12, s. 17.

Governor in Council may appoint places of entry.

23. All goods imported into Canada, whether by sea, land, coastwise, or by inland navigation, whether dutiable or not, shall be brought in at a port of entry where a Custom house is lawfully established. 46 V., c. 12, s. 18.

Goods imported to be brought in at a place of entry.

24. In the case of every vessel bound for any sea-port in Canada, from any port out of Canada, the collector or proper officer of such Canadian port may cause such vessel to be boarded by an officer of Customs detailed by him for such service, at any place within three marine miles of the anchorage ground, and such officer may demand from the master or purser of such vessel a correct copy of the report inwards intended by such master or purser to be presented at the Custom house on arrival; and such boarding officer may remain on board the vessel until she anchors; and the copy of the report so received by him shall be deposited by him at the Custom house as the vessel's report inwards, for comparison with that to be presented by the master or purser in person. 46 V., c. 12, s. 26.

Vessels may be boarded when within 3 miles of anchorage and report demanded.

Officer may remain on board.

25. The master of every vessel coming from any port or place out of Canada, or coastwise, and entering any port in Canada, whether laden or in ballast, shall go without delay, when such vessel is anchored or moored, to the Custom house for the port or place of entry where he arrives, and there make a report in writing to the collector or other proper officer of the arrival and voyage of such vessel, stating her name, country and tonnage, the port of registry, the name of the master, the country of the owners, the number and names of the passengers, if any, the number of the crew, and whether the vessel is laden or in ballast, and if laden, the marks and numbers of every package and parcel of goods on board, and where the same was laden, and the particulars of any goods stowed loose, and where and to whom consigned, and where any and what goods, if any,

Report to be made by master of vessel arriving from sea or coastwise.

Contents of such report.

have been laden or unladen, or bulk has been broken, during the voyage, what part of the cargo and the number and names of the passengers which are intended to be landed at that port, and what and whom at any other port in Canada, and what part of the cargo, if any, is intended to be exported in the same vessel, and what surplus stores remain on board—as far as any of such particulars are or can be known to him. 46 V., c. 12, s. 25.

Duty of master of a vessel arriving by inland navigation.

26. The master or person in charge of any vessel, whether laden or in ballast, arriving by inland navigation in any port or place of entry in Canada, from any place beyond the limits of Canada, and having any goods therein (whether any duty is payable on such goods or not), shall go without delay, when such vessel is anchored or moored, directly to the Custom house for such port or place of entry, and make a report in writing, in such form as is appointed for that purpose by competent authority, to the collector or other proper officer, of the arrival of such vessel, stating in such report the marks and numbers of every package and parcel of goods in such vessel, or in the charge and custody of such person, from what place the same are respectively brought, and to what place and to whom they are consigned or belong, as far as such particulars are known to him; and he shall then and there produce such goods to the collector or other proper officer, and shall declare that no goods have been unladen from such vessel or have been put out of his possession, between the time of his coming within the limits of Canada and of his making his report and affidavit, and shall further answer all such questions concerning such vessel or goods as are demanded of him by such collector or officer. 46 V., c. 12, s. 27.

Report for entry.

Production of goods and declaration by master.

Production of bills of lading

27. The master shall, at the time of making his report, if required by the officer of Customs, produce to him the bills of lading of the cargo, or true copies thereof, and shall make and subscribe an affidavit referring to his report, and declaring that all the statements made in the report are true; and shall further answer all such questions concerning the vessel and cargo, and the crew, and the voyage, as are demanded of him by such officer, and shall, if required, make the substance of any such answer part of his report. 46 V., c. 12, s. 28.

Answering questions, &c.

Penalty for contravention.

28. If any goods are unladen from any vessel before such report is made, or if the master fails to make such report, or makes an untrue report, or does not truly answer the questions, demanded of him, as provided in the next preceding section, he shall incur a penalty of four hundred dollars, and the vessel may be detained until such penalty is paid (46 V., c. 12, s. 29), and unless payment is made within thirty days, such vessel may, after the expiration of such

Sale of vessel to pay penalty.

delay, be sold to pay such penalty, and any expenses incurred in detaining, keeping and selling such vessel. 51 V., c. 14, s. 8.

29. All goods not reported, found on board of any vessel or landed, shall be seized and forfeited, unless it appears that there was no fraudulent intention,—in which case the master shall be allowed to amend his report; but the necessary discharging of any goods for the purpose of lightening the vessel in order to pass any shoal, or otherwise for the safety of such vessel, shall not be deemed an unlawful landing or breaking of bulk. 46 V., c. 12, s. 30.

Goods not reported liable to forfeiture.

Proviso.

30. If the contents of any package intended for importation into another port, or for exportation, are unknown to the master, the officer may open and examine it, and cause it for that purpose to be landed, if he sees fit; and if any prohibited goods are found therein, all the goods in such package shall be seized and forfeited. 46 V., c. 12, s. 31.

As to goods intended for another port.

31. If any goods are brought in any decked vessel, from any place out of Canada to any port of entry therein, and not landed, but it is intended to convey such goods to some other port in Canada in the same vessel there to be landed, the duty shall not be paid or the entry completed at the first port, but at the port where the goods are to be landed, and to which they shall be conveyed accordingly under such regulations, and with such security or precautions for compliance with the requirements of this Act as the Governor in Council, from time to time directs. 46 V., c. 12, s. 45.

Provision as to goods not intended to be landed at the first port.

Where the entry shall be completed.

32. The conductor of every railway train carrying freight arriving at any port in Canada, from any foreign port, shall come directly, and before bulk is broken, to the Custom house at such port, and report all merchandise on board his train or in any particular car belonging to such train, stating the marks and numbers of every package and parcel of goods on board, and where the same was laden, and where and to whom it is consigned, and what part thereof, if any, is intended to pass *in transitu* through Canada to some port or place in the United States, or to be transhipped at some other port in Canada, to be exported to a port or place out of Canada; and if any goods are unladen before such report is made, except by written permission of the collector or proper officer of Customs, or if the conductor fails to make such report, or makes an untrue report, or does not truly answer any questions put to him respecting the same, he shall incur a penalty of four hundred dollars. 46 V., c. 12, s. 33.

Report to be made by conductor on importation by railway.

Penalty for contravention.

33. No goods shall be imported into Canada in any vehicle, otherwise than in a railway carriage, nor on the person, between sunset and sunrise on any day, nor at any

time on a Sunday or a statutory holiday, except under a written permit from a collector of Customs and under the supervision of an officer of Customs:

2. The person in charge of any vehicle other than a railway carriage, arriving by land in any place in Canada and containing goods, whether any duty is payable on such goods or not, and the person in charge of any such vehicle so arriving, if the vehicle or its fittings, furnishings or appurtenances, or the animals drawing the same, or their harness or tackle, is or are liable to duty, and every person whosoever so arriving in Canada from any port or place out of Canada, on foot or otherwise, and having with him or in his charge or custody, any goods, whether such goods are dutiable or not, shall come to the Custom house nearest to the point at which he crossed the frontier line, or to the station of the officer of Customs nearest to such point, if such station is nearer thereto than any Custom house, before unloading or in any manner disposing of the same, and there make a report in writing to the collector or proper officer of Customs, stating the contents of each and every package and parcel of such goods, and the quantities and values of the same; and shall also then truly answer all questions respecting such goods or packages, and the vehicle, fittings, furnishings and appurtenances and animals, and the harness or tackle appertaining thereto, as the said collector or proper officer of Customs requires of him, and shall then and there make due entry of the same, in accordance with the law in that behalf:

3. All goods imported contrary to the provisions of this section, and the vehicle in which the same are imported, and every vehicle in respect of which any contravention of this section has been committed, together with the fittings, furnishings and appurtenances, and the animals and the harness or tackle appertaining thereto, in which or by means of which such goods have been imported, shall be forfeited, and may be seized and dealt with accordingly; and if the articles so forfeited, or any of them, are not found, the owner at the time of importation and the importer and every other person who has been in any way connected with the importation of such articles, who in any manner contravenes any of the provisions of this section, shall forfeit a sum equal to the value of the articles and shall be further liable, on summary conviction, to the penalties provided by section one hundred and ninety-two of this Act." 52 Vic., c. 14, s. 3.

Within what
time entries
shall be made
if imported by
sea, &c.

34. Every importer of goods by sea, or from any place out of Canada shall, within three days after the arrival of the importing vessel, make due entry inwards of such goods, and land the same; and every importer of goods

imported by inland navigation in a decked vessel of one hundred tons burthen or more, shall, within twenty-four hours of the arrival of the importing vessel, make due entry inwards of such goods, and land the same; and every importer of goods imported by inland navigation in any undecked vessel, or in any vessel less than one hundred tons burthen, or by land, shall, forthwith, after the importation of such goods, produce the same to the proper officer and make due entry thereof. 46 V., c. 12, s. 40.

If by inland navigation or by land.

35. The person entering any goods inwards shall deliver to the collector or other proper officer, an invoice of such goods, showing the place and date of purchase and the name or style of the firm or person from whom the goods were purchased, and a full description thereof in detail, giving the quantity and value of each kind of goods so imported, and the bill of entry thereof, in such form as is appointed by competent authority, fairly written or printed, or partly written and partly printed, and in duplicate, containing the name of the importer,—and if imported by water, the name of the vessel and of the master, and of the place to which bound, and of the place within the port where the goods are to be unladen,—and the description of the goods, and the marks and numbers and contents of the packages, and the place from which the goods are imported, and of what country or place such goods are the growth, produce or manufacture. 46 V., c. 12, s. 41.

Bills of entry inwards: what to show.

Duplicate.

If importation is by water.

36. Unless the goods are to be warehoused in the manner by this Act provided, the importer shall, at the same time, pay down, or cause to be so paid, all duties upon all goods entered inwards; and the collector or other proper officer shall, immediately thereupon, grant his warrant for the unloading of such goods, and grant a permit for the conveyance of such goods further into Canada, if so required by the importer. 46 V., c. 12, s. 42.

Duties to be paid down unless goods are warehoused.

Warrant and permit.

37. In default of such entry and landing, or production of the goods, or payment of duty, the officer of Customs may convey the goods to a Customs warehouse, or some secure place appointed by the collector for such purpose, there to be kept at the risk and charge of the owner;—and if such goods are not duly entered within one month from the date of their being so conveyed to the Customs warehouse, or other appointed place, and all charges of removal and warehouse rent duly paid at the time of such entry, the goods shall be sold by public auction to the highest bidder, and the proceeds thereof shall be applied, first to the payment of duties and charges; and the overplus, if any, after discharging the vessel's lien, or other charges for transportation, shall be paid to the owner of the goods, or to his lawful agent:

In default of entry, goods may be taken to warehouse and sold if duties are not paid within a certain time.

Proviso ; as to goods not worth the charges on them.

Provided always, that if the same cannot be sold for a sum sufficient to pay the duties and charges if offered for sale for home consumption, or the charges if offered for sale for exportation, such goods shall not be sold, but shall be destroyed. 46 V., c. 12, s. 43.

Quantity and value to be stated in entry.

38. The quantity and value of any goods shall always be stated in the bill of entry thereof, although such goods are not subject to duty, and the invoice thereof shall be produced to the collector. 46 V., c. 12, s. 49.

Entries by bill of sight, how and in what cases made.

39. If the importer of any goods whereon an *ad valorem* duty is imposed, or the person authorized to make the declaration required with regard to such goods, makes and subscribes a declaration before the collector or other proper officer, that he cannot, for want of full information, make perfect entry thereof, and takes the oath in such cases provided, then the collector or officer may cause such goods to be landed on a bill of sight for the packages and parcels thereof, by the best description that can be given, and to be seen and examined by such person and at his expense, in the presence of the collector or other proper officer, or of such other officer of the Customs as is appointed by the said collector or other proper officer, and to be delivered to such person, on his depositing in the hands of the collector or officer a sum of money sufficient in the judgment of the collector or officer to pay the duties thereon; and if the importer does not complete a perfect entry within the time appointed by the collector, the money so deposited shall be taken and held to be the duty accruing on such goods, and shall be dealt with and accounted for accordingly. 46 V., c. 12, s. 79.

Deposit of money for duty.

Provision if perfect entry is not made as stipulated.

If importer swears that no invoice has been or can be produced.

40. Such sight entry may be made as aforesaid, and the goods may be delivered, if such importer or person as aforesaid makes oath or affirms that the invoice has not been and cannot be produced, and pays to the collector or proper officer aforesaid a sum of money sufficient, in the judgment of such collector or officer, to pay the duties on such goods; and such sum shall then be held to be the amount of such duties. 46 V., c. 12, s. 80.

Entry not perfect, without invoice, unless ordered by O. C.

41. No entry shall, except in cases in which it is otherwise provided herein, or by regulation of the Governor in Council, be deemed perfect unless a sufficient invoice of the goods to be entered, duly certified in writing thereon as correct by the person, firm or corporation from whom the said goods were purchased, has been produced to the collector, and duly attested as required by this Act, and, in the case of consigned goods, verified by the oath of the consignee. 51 V., c. 14, s. 9.

42. With the bill of entry of any goods, there shall be produced and delivered to and left with the collector an invoice of the goods, as provided in the next preceding section, attested by the oath of the owner, and if the owner is not the person entering such goods, then verified by the oath of the importer or consignee, or (subject to the provision hereinafter made) other person who may lawfully make such entry and verify such invoice in the form or to the effect of the oath or oaths prescribed by the Governor in Council in that behalf,—which oath or oaths shall be written or printed, or partly written and partly printed on such invoice, or on the bill of entry, as the case may be, or shall be annexed thereto, and shall in either case distinctly refer to such invoice so that there can be no doubt as to its being the invoice to which such oath is intended to apply, and shall be subscribed by the person making it and certified by the signature of the person before whom it is made; and the bill of entry shall also contain a statement of the quantity and value for duty of the goods therein mentioned, and shall be signed by the person making the entry, and shall be verified in the form or to the effect of the oath prescribed by the Governor in Council in that behalf. 46 V., c. 12, s. 82.

Invoice to be attested on oath, and by whom.

Form of oath.

Contents and attestation of bill of entry.

43. If there are more than one owner, importer or consignee of any goods, any one of them cognizant of the facts may take the oath required by this Act; and such oath shall be sufficient, unless the goods have not been obtained by purchase in the ordinary way, and some owner, resident out of Canada, is the manufacturer or producer of the goods, or concerned in the manufacture or production thereof,—in which case the oath of such non-resident owner, or one of them, if there are more than one, cognizant of the facts, shall be requisite to the due attestation of the invoice. 46 V., c. 12, s. 83.

As to cases where there are more than one owner of the goods.

44. The invoice of any goods produced and delivered to the collector, with the bill of entry thereof, shall, if required by the collector, be attested by the oath of the owner or one of the owners of such goods, and shall also be verified by the oath of the importer or consignee, or other person who may, under this Act, lawfully make entry of such goods and verify such invoice, if the owner or one of the owners is not the person entering such goods, and shall, also, if required by the collector, be attested by the oath of the non-resident owner, being the manufacturer or producer of such goods, in the case mentioned in the next preceding section, although one of the owners is the person entering the goods and verifying the invoice on oath. 46 V., c. 12, s. 84.

Invoice to be attested by the owner of the goods, and by importer or consignee.

And by non-resident owner, &c.

45. If the owner, importer or consignee of any goods is dead, or a bankrupt or insolvent, or if, for any cause, his personal estate is being administered by another person, his executor, curator, administrator or assignee, or person

Provision in case of death, &c., of owner, &c.

administering as aforesaid, may, if cognizant of the facts, take any oath, and make any entry which such owner, importer or consignee might otherwise have taken or made. 46 V., c. 12, s. 85.

No person but the owner, &c., to take the oath; unless a certain declaration is attached to bill of entry.

46. No person other than the owner, consignee or importer of the goods of which entry is to be made, shall be allowed to take any oath connected with the entry, unless there is attached to the bill of entry therein referred to, a declaration by the owner, consignee or importer of the said goods, or his attorney and agent duly appointed to transact business with the collector, pursuant to the provisions in that behalf of this Act, to the same effect as the oath, distinctly referring to the invoice presented with such bill of entry, and signed by such owner, importer or consignee, or by his attorney and agent appointed as aforesaid, either in presence of the agent making the entry or of a justice of the peace or notary public, who shall attest the signature. 46 V., c. 12, s. 89.

Declaration to be kept by collector: penalty for false statement in it.

47. Such declaration shall be kept by the collector, and if there is any wilfully false statement in such declaration, the goods shall be liable to seizure and forfeiture in the same manner and with the same effect as if such false statement were contained in the oath, and the person making such false statement shall be subject to the same penalties, forfeitures and punishments as if he had himself taken the oath and had made such false statement therein; but such written declaration may be dispensed with under the order of the Governor in Council, when it is deemed advisable, in the interests of commerce, to dispense therewith. 46 V., c. 12, s. 90.

Collector to retain and file invoices.

Certified copies to be evidence.

48. The collectors of Customs at all ports in Canada, shall retain and put on file, after duly stamping the same, all invoices of goods imported at such ports respectively—of which invoices they shall give certified copies or extracts, whenever called upon so to do by the importers,—and such copies or extracts so duly certified by the collector or other proper officer, and bearing the stamp of the Custom house at which they are filed, shall be considered and received in all courts of justice as *prima facie* evidence of the contents thereof; and the collector shall be entitled to demand for each certificate a fee of fifty cents before delivering the same; but in no case shall an invoice be shown to or a copy thereof given to any person other than the said importer, or an officer of Customs, except upon the order or subpoena of a court of justice. 46 V., c. 12, s. 95.

Fee.

Proviso.

GOODS DAMAGED OR LOST.

Abatement of duties on goods imported and damaged.

49. If any goods imported by water, or partly by water and partly by land, on which duties (*ad valorem* or specific, or both) are payable, receive damage during the voyage of

importation, between the actual departure of the vessel in which they are laden from the foreign port of exportation and the actual arrival of the goods at the port of destination in Canada, whereby such goods have become lessened in value, an abatement may be made, in the manner hereinafter provided, in the duty payable upon such goods, or if duty has been paid thereon, a refund of a part of such duty may be made proportionate to the damage sustained, if the claim therefor is made in due form and is properly substantiated at the first landing from such vessel of the said goods, and while they are in the custody of the Crown, or as soon after such first landing as they can be examined: Provided always, that such examination is completed and certified by the collector of Customs, Customs appraiser or other proper officer, who shall assess such damage within ten days of such landing. 46 V., c. 12, s. 53.

Time for making claim limited.

Proviso.

50. If any goods imported by railway, or by any other vehicle,—on which goods duties (*ad valorem* or specific, or both) are payable, receive damage during the course of transportation, after they are laden on such railway or other vehicle, and before they arrive at the port of destination in Canada, whereby they become lessened in value, an abatement may be made, in the manner hereinafter provided in the duty payable upon such goods, if the claim for such abatement is made in due form within ten days of the arrival of such goods at the port of destination in Canada, and is substantiated in the same manner as is provided in the next preceding section. 46 V., c. 12, s. 54.

If imported by railway or other land conveyance.

Time for claim.

51. The collector of Customs, or appraiser, or other proper officer whose duty it is to examine and assess the amount of damage sustained in course of importation, shall do so with all possible despatch on being notified so to do, and shall certify the exact cause and extent of such damage with reference to the value of the goods in the principal markets of the country whence imported, and not according to the value in Canada. 46 V., c. 12, s. 55.

Duty of collector or appraiser.

Certificate.

52. The collector or appraiser shall not regard as evidence of the existence or amount of damage any price realized at an auction or forced sale of the goods,—nor shall he estimate, nor shall any damage be allowed which has originated from decay, dampness or other cause existing before the voyage commenced, and which has rendered the goods unfit to withstand the ordinary risks of the voyage of importation,—nor shall he estimate, nor shall any allowance be made for or duty refunded for rust on iron or steel or any manufacture thereof, except manufactured articles composed in whole or in part of polished steel, and on polished Russia iron and Canada plates, and on such only to the extent of fifty per cent,—nor shall any allowance be made for stains

Evidence of and allowance for damage.

As to sugar.

or injury to any packages holding liquids, or the labels thereon, unless the contents of such packages have, at the same time, received actual specific damage by the admixture therewith of water or other foreign substance,—nor shall any allowance be made for damage to sugar or any other saccharine product on which the duty is to be computed according to the polariscopic test ; but the Minister of Customs may make a deduction from the percentage of saccharine matter shown by the polariscope to be contained in such sugar or other saccharine product, whenever the same has been damaged by salt water during the voyage of importation, equal to five times the percentage of salt actually present in the excess of water found in such damaged sugar or other saccharine product, over and above that found in samples of the same which have not been so damaged, as established by a certificate from the Customs experts employed by him to make such test. 51 V., c. 14, s. 10.

Percentage of damage to be deducted for duty.

53. When the collector or appraiser has ascertained the percentage of damage, such percentage shall be deducted from the original value of the goods, and duty shall then be levied and collected on such reduced value at an *ad valorem* rate, which shall be equivalent to the rate of specific or specific and *ad valorem* duty which should have been collected upon such goods if they had not been so damaged. 46 V., c. 12, s. 57.

Return of duty on goods lost before landed.

On what condition.

54. Whenever any vessel has reported at the Custom house at any port in Canada, on board of which there are any goods on which any duty has been levied or collected, or on which any duty has been deposited, and thereafter the said goods are lost or destroyed before the same are landed from such vessel, or from any vessel or craft employed to lighten such vessel,—then, on proof being made on the oath of one or more credible witness or witnesses, before and to the satisfaction of the collector or proper officer of the Customs at the place, who shall administer the oath, that such goods, or any part thereof, specifying the same, have been so lost or destroyed before the landing of the same, the duties on the whole or the part thereof so proved to be lost or destroyed shall, if the same have been paid or deposited, be returned to the owner or his agent. 51 V., c. 14, s. 11.

Allowance for damage to certain goods on voyage.

55. An allowance may be made for deterioration by natural decay during the voyage of importation, upon perishable articles, such as green fruits and vegetables, imported into Canada ; but in assessing the same, and in estimating the damage by breakage upon brittle goods, such as crockery, china, glass and glassware, under the provisions

of this Act, such allowance or damage shall only be made and allowed for the amount of loss in excess of twenty-five per cent. of the whole quantity damaged, and only if claim is made therefor and the loss or damage certified upon examination made by the appraiser or proper officer of Customs, within three days of the landing or arrival of such goods at the port of destination thereof; and if the duty has been paid on the full value thereof a refund of such duty may be allowed and paid on application to the Minister of Customs, in the proportion and on fulfilment of the conditions hereinbefore specified, but not otherwise. 47 V., c. 30, s. 4.

APPRAISERS.

56. The Governor in Council may appoint appraisers, Appointment of appraisers and assistant appraisers. to be called Dominion Customs appraisers and assistant Dominion Customs appraisers, with jurisdiction at all ports and places in Canada; and may also appoint Customs appraisers and assistant Customs appraisers, with jurisdiction at such ports and places in Canada as are designated in the Order in Council in that behalf; and every such appraiser and assistant appraiser shall, before acting as such, take and subscribe the following oath of office before any collector or other person duly authorized to administer such oath:— To be sworn.

“I, A. B., having been appointed an appraiser of goods, Form of oath of office. wares and merchandise, and to act as such at the port of “ (or as the case may be) do solemnly “swear (or affirm) that I will faithfully perform the duties “of the said office without partiality, fear, favor or affection, “and that I will appraise the value of all goods submitted “to my appraisement according to the true intent and “meaning of the laws imposing duties of Customs in “Canada; and that I will use my best endeavors to prevent all fraud, subterfuge or evasion of the said laws, and “more especially to detect, expose and frustrate all attempts “to undervalue any goods, wares or merchandise on which “any duty is chargeable. So help me God.

“A. B.,

“Appraiser for
(as the case may be).

“Sworn before me, this _____ day of _____
“ 18 .
(as the case may be.)”

51 V., c. 14, s. 12.

57. If no appraiser is appointed in any port of entry, the collector there shall act as appraiser, but without taking any special oath of office as such; and the Minister of Customs may, at any time, direct any appraiser to attend at any port or place for the purpose of valuing any goods, or of acting as appraiser there during any time,—which Appraiser may be sent to any port to appraise goods.

such appraiser shall accordingly do, without taking any new oath of office; and every appraiser shall be deemed an officer of the Customs. 46 V., c. 12, s. 67.

VALUATION FOR DUTY.

Calculation of value for duty.

58. Whenever any duty *ad valorem* is imposed on any goods imported into Canada, the value for duty shall be the fair market value thereof, when sold for home consumption, in the principal markets of the country whence and at the time when the same were exported directly to Canada. 46 V., c. 12, s. 68.

What shall be deemed the fair market value for duty *ad valorem*.

59. Such market value shall be the fair market value of such goods in the usual and ordinary commercial acceptance of the term, at the usual and ordinary credit, and not the cash value of such goods, except in cases in which the article imported is, by universal usage, considered and known to be a cash article, and so *bonâ fide* paid for in all transactions in relation to such article; and all invoices representing cash values, except in the special cases herein referred to, shall be subject to such additions as to the collector or appraiser of the port at which they are presented appear just and reasonable, to bring up the amount to the true and fair market value, as required by this section. 46 V., c. 12, s. 69.

Proviso: as to cash articles.

Special provision as to the value of certain articles.

60. If any difficulty arises in determining the fair market value for duty of goods imported into Canada, which are the manufacture or production of foreign countries or of Great Britain, such as musical instruments, sewing machines, agricultural machines or implements, medical preparations, commonly called patent medicines, and other similar goods, the prices of which are published by the manufacturers or producers, or persons acting on their behalf, the Governor in Council may, from time to time, fix and determine a certain rate of discount which may be deducted from such published prices of any such manufactures or productions, and the remainder of such published prices, after deducting such rate of discount, shall be deemed and taken to be the fair market values for duty of any such manufactures or productions as are specified in such Order in Council. 37 V., c. 6, s. 9.

Duty on articles imported in parts.

61. When parts of any manufactured article are imported into Canada, each such part shall be charged with the same rate of duty as the finished article, on a proportionate valuation, and when the duty chargeable thereon is specific, or specific and *ad valorem*, an average rate of *ad valorem* duty, equal to the specific or specific and *ad valorem* duty so chargeable, shall be ascertained and charged upon such parts of the manufactured article. 52 V., c. 14, s. 4.

62. The Governor in Council shall, from time to time, establish such regulations, not inconsistent with law, as are required to secure a just, faithful and impartial appraisal of all goods imported into Canada, and just and proper entries of the fair market value thereof, and of the weights, measures or other quantities thereof, as each case requires; and such regulations, whether general or special, so made by the Governor in Council, shall have the full force and authority of law; and the appraisers of Canada and every one of them, and every person who acts as such appraiser, or the collector of Customs, as the case may be, shall, by all reasonable ways and means in his or their power, ascertain, estimate and appraise the true and fair market value (any invoice or affidavit thereto to the contrary notwithstanding), of the goods at the time of exportation and in the principal markets of the country whence the same have been imported into Canada, and the proper weights, measures or other quantities, and the fair market value of every of them, as the case requires. 52 V., c. 14, s. 5.

Governor in Council may make regulations for ensuring fair valuation.

Duty of appraisers.

63. No refund of duty paid shall be allowed because of any alleged inferiority or deficiency in quantity of goods imported and entered, and which have passed into the custody of the importer under permit of the collector of Customs, or because of the omission in the invoice of any trade discount, or other matter or thing, which might have the effect of reducing the value of such goods for duty, unless the same has been reported to the collector of Customs within ten days of the date of entry, and the said goods have been examined by the said collector, or by an appraiser, or other proper officer of Customs, and the proper rate or amount of reduction certified by him after such examination; and if such collector or proper officer reports that the goods in question cannot be identified as those named in the invoice and entry in question, no refund of the duty or any part thereof shall be allowed; and all applications for refund of duty in such cases shall be submitted, with the evidence and all particulars, for the decision of the Minister of Customs, who may order payment on finding the evidence sufficient and satisfactory. 42 V., c. 15, s. 11.

No refund of duty for alleged inferiority of value, &c., except in certain cases.

None if goods cannot be identified.

Minister of Customs to decide.

64. The fair market value of goods shall be taken to include the amount of any drawback which has been allowed by the Government of any other country, also the amount of consideration or money value of any special arrangement between the exporter and the importer or between any persons interested therein because of the exportation or intended exportation of such goods, or the right to territorial limits for the sale or use thereof, and also the amount or money value of any so-called royalty, rent or charge for use of any machine or goods of any description, which the seller or proprietor does or would usually charge

Value to include drawback in another country.

thereon when the same are sold or leased or rented for use in the country whence they have been exported to Canada. When the amount of such drawback, consideration, money value, royalty, rent or charge for use has been deducted from the value of such goods, on the face of the invoice under which entry is to be made, or is not shown thereon, the collector of Customs or proper officer shall add the amount of such deduction, drawback, consideration, money value, royalty, rent or charge for use, and cause to be paid the lawful duty thereon. 52 V., c. 14, s. 6.

No deduction from value by reason of drawback, &c.

65. No deduction of any kind shall be allowed from the value of any goods imported into Canada, because of any drawback paid or to be paid thereon, or because of any special arrangement between the seller and purchaser having reference to the exportation of such goods, or the exclusive right to territorial limits for the sale thereof, or because of any royalty payable upon patent rights, but not payable when goods are purchased for exportation, or on account of any other consideration by which a special reduction in price might or could be obtained: Provided, that nothing herein shall be understood to apply to general fluctuations of market values. 46 V., c. 12, s. 71.

Proviso.

Minister of Customs may fix value in certain cases.

2. Whenever goods are imported into Canada under such circumstances or conditions as to render it difficult to determine the value thereof for duty, either because such goods are not sold for use or consumption in the country of production,—or because a lease of such goods or the right of using the same is sold or given, but not the right of property therein,—or because such goods having a royalty imposed thereon, the royalty is uncertain or is not, from other causes, a reliable means of estimating the value of the goods,—or because such goods are usually or exclusively sold by or to agents, or by subscription, or are sold or imported in or under any other unusual or peculiar manner or conditions,—of all which matters the Minister of Customs shall be sole judge,—the Minister of Customs may determine the value for duty of such goods; and the value so determined shall, until otherwise provided, be the value upon which the duty on such goods shall be computed and levied. 51 V., c. 14, s. 15.

As to deduction for value of packages.

66. No deduction from the value of goods contained in any invoice shall be allowed on account of the assumed value of any package or packages, where no charge for such package or packages has been made in such invoice; and where such charge is made the Customs officer shall see that the charge is fair and reasonable, and represents no more than the original cost thereof. 46 V., c. 12, s. 72.

67. No deduction from the value of goods in any invoice shall be made on account of charges for packing, or for straw, twine, cord, paper, cording, wiring or cutting, or for any expense incurred or said to have been incurred in the preparation and packing of goods for shipment, and all such charges and expenses shall, in all cases, be included as part of the value for duty. 46 V., c. 12, s. 73.

None for packing, straw, cording, &c.

68. The Governor in Council may provide that in the cases and on the conditions to be mentioned in the Order in Council, goods *bonâ fide* exported to Canada from any country, but passing *in transitu* through another country, shall be valued for duty as if they were imported directly from such first mentioned country. 46 V., c. 12, s. 74.

As to goods passing through any country.

2. Goods that have entered for consumption or for warehouse, or that have been permitted to remain unclaimed, or that have been permitted to remain for any purpose, in any country intermediate between the country of export and Canada, shall not be considered as *in transitu* through such intermediate country, but shall be treated as goods imported from such intermediate country and be valued and rated for duty accordingly. 52 V., c. 14, s. 7.

69. The standards or instruments by which the colors and grades of sugar are to be regulated, and the classes to which sugars shall be held to belong, with reference to duty chargeable thereon, shall be selected and furnished, from time to time to the collectors of such ports of entry as are necessary, by the Minister of Customs, in such manner as he deems expedient; and the decision of the appraiser, or of the collector of a port where there is no appraiser, as to the class to which any sugar belongs, and the duties to which it is subject, shall be final and conclusive, unless upon appeal to the Commissioner of Customs, within thirty days, such decision is, with the approval of the Minister, changed; and the decision of the commissioner with such approval shall be final. 46 V., c. 12, s. 75.

Standards for qualities of sugar.

Decision of appraiser valid, unless appealed from.

70. If upon any entry, or in connection with any entry, it appears to any Dominion appraiser or to the Board of Customs that any goods have been erroneously appraised or allowed entry at an erroneous valuation by any appraiser or collector acting as such, or that any of the foregoing provisions of this Act respecting the value at which goods shall be entered for duty have not been complied with, such Dominion appraiser or such board may make a fresh appraisement or valuation, and may require an amended entry and payment of the additional duty, if any, on such goods, or a refund of a part of the duty paid, as the case requires, under the valuation or appraisement so made, subject, in case of dissatisfaction on the part of the importer, to all the provisions of the six sections of this Act next following. 52 V., c. 14, s. 8.

Appraisement may be reviewed.

Amended entry and its effect.

Power of appraiser or collector to examine persons on oath, &c.

71. If the importer, owner, consignee or agent is dissatisfied with the first appraisement, any appraiser, or any collector acting as such, or the person to be selected as hereinafter mentioned, to examine and appraise any goods, may call before him or them and examine upon oath any owner, importer, consignee or other person, touching any matter or thing which such appraiser, collector or persons deem material in ascertaining the true value of any goods imported, and may require the production on oath of any letters, accounts, invoices or other papers or account books relating to the same in the possession of such owner, importer, consignee or other person. 46 V., c. 12, s. 96.

Penalty for refusing to attend or answer.

72. Every person called, as provided in the next preceding section, who neglects or refuses to attend, or declines to answer, or refuses to answer in writing, if required, to any interrogatories, or to subscribe his name to his deposition or answer, or to produce any such papers or account books, as provided by the next preceding section, when required so to do, shall incur a penalty of fifty dollars; and if such person is the owner, importer or consignee of the goods in question, the appraisement which the appraiser or collector acting as such shall make thereof shall be final and conclusive. 46 V., c. 12, s. 97.

Penalty for wilfully false answers.

73. If the owner, importer or consignee of the goods in question, wilfully swears falsely in any such examination, the goods shall be seized and forfeited; and all depositions or testimony in writing taken under either of the two sections next preceding shall be filed in the office of the collector at the place where the same are made or taken—there to remain for future use or reference. 46 V., c. 12, s. 98.

Depositions to be filed.

Importer, &c., dissatisfied may appeal in certain cases.

74. Except as herein otherwise provided, if the importer, owner, consignee or agent, having complied with the requirements of this Act, is dissatisfied with the appraisement made by the appraiser, hereinbefore mentioned, of any such goods, he may, within three days, give notice in writing to the collector of such dissatisfaction: on the receipt of which notice the collector shall at once notify such importer, owner, consignee or agent, to select one disinterested and experienced person familiar with the character and value of the goods in question, and shall select a second person of similar knowledge, and notify such importer, owner, consigner or agent of such appointment:

Revision of appraisement

2. The persons so selected, together with a third selected by the Minister of Customs from among the members of the Board of Customs, shall examine and appraise the goods

in accordance with the provisions of this Act, and the decision of such person, or of a majority of them, if they are not unanimous, shall be reported to the collector and shall be final and conclusive, and the duty shall be levied and collected accordingly :

3. Such decision shall in no way apply to any case, except that submitted for the consideration of such appraisers :

Application
of decision.

4. Every person who acts as an appraiser under this section, except a member of the Board of Customs selected by the Minister of Customs as aforesaid, shall take an oath before a collector of Customs, or a justice of the peace, to act without fear, favor or partiality, and to appraise the goods with reference to which he is called on to act, in accordance with the laws imposing duties of Customs in Canada. 51 V., c. 14, s. 16.

Persons
acting as
appraisers to
be sworn.

75. The said persons appointed to appraise shall each be entitled to the sum of five dollars, which shall be paid by the person dissatisfied with the first appraisalment, if the value ascertained by the second appraisalment is equal to or greater than that ascertained by such first appraisalment or if the value ascertained by such second appraisalment exceeds by ten per cent., or more, the value of goods for duty as appears by the invoice and bill of entry thereof ; otherwise the same shall be paid by the collector out of any public moneys in his hands, and charged in his accounts. 46 V., c. 12, s. 100.

Remunera-
tion of per-
sons called in
and by whom
to be paid.

76. Every person chosen to make an appraisalment required under this Act who, after due notice of such choice has been given to him in writing, declines or neglects to make such appraisalment, shall, for so refusing or neglecting without good and sufficient cause, incur a penalty of forty dollars and costs. 46 V., c. 12, s. 101.

Penalty for
refusing to
act.

WAREHOUSING.

77. The warehousing ports already established, and such ports of entry as the Governor in Council, from time to time, appoints, shall be warehousing ports. 46 V., c. 12, s. 116.

Warehousing
ports.

78. The importer of any goods imported into Canada may, subject to such rules and regulations as are, from time to time, prescribed by the Governor in Council in that behalf, enter the goods for exportation or for warehouse, and shall, by and upon the making of such entry, whether so expressed in such entry or not, become thereby bound to the performance of all of the requirements of this Act, and of such rules and regulations with regard to such exportation or warehousing, under a penalty equal to double the amount of the duty to which such goods are at the time

Goods may
be entered for
exportation or
warehoused
without pay-
ment of duty.

Penalty of double duty for infringement of the Act.

subject, which penalty shall accrue on the commission of any act contrary to this Act, or to any rule or regulation, or on the omission to perform any act required in respect to such goods by this Act, or by such rules or regulations, in addition to any other penalties for forfeitures provided for by this Act; and in the case of any goods so entered for exportation or for warehouse, the above liability shall attach until such exportation is completed or while such goods remain in warehouse. If they are unlawfully taken from such warehouse, wherever or in whosoever possession found, the same shall be seized and detained until the Customs claim for the payment of such double duty has been liquidated, which claim shall have precedence over the claims of all other persons thereon, of whatever nature, and may be enforced by sale or other proceedings. 51 V., c. 14, s. 17.

Penalty for unlawful removal.

Warehoused goods may be removed in bond.

79. The owner of any warehoused goods may remove the goods, under the authority of the collector or other proper officer, from any warehousing port to any other warehousing port in Canada, or from one warehouse to another in the same port, upon passing a removal entry thereof in the usual form, and shall, by and upon the making of such entry, whether so expressed in such entry or not, become thereby bound to the performance of all the requirements of this Act, and of any rules and regulations made under the authority of this Act in respect to such removals, under a penalty equal to double the amount of the duty to which such goods are subject under the tariff in force at the time, which penalty shall accrue on the commission of any act contrary to this Act or to any such rules or regulations, or on the omission to perform any act required to be performed in respect to such goods, in addition to any other penalties and forfeitures provided for by this Act. To any goods so entered for removal there shall, until such removal is completed or while in warehouse, or if unlawfully taken from warehouse, wherever or in whosoever possession found, attach the Customs claim for the payment of such double duty, which claim shall have precedence of the claims of all other persons thereon, of whatever nature, and may be enforced by sale or other proceedings. 51 V., c. 14, s. 17.

Penalty of double duty for infringement of Act.

Enforcement of payment.

Goods may be passed in bond from port of entry to another port or in transit through Canada.

80. Upon the entry at any frontier Customs port, under the authority and with the sanction of the collector or other proper officer of Customs at such port, and subject to such rules and regulations as are or may be made in that behalf under the authority of this Act, the importer may pass the goods on to any Customs port in any other part of Canada, or in transit through Canada by way of any Customs port of exit in Canada, and he shall, by and upon the

making of such entry, whether so expressed in such entry or not, become thereby bound to the performance of all the requirements of this Act, and of any rules and regulations, under a penalty equal to double the amount of the duty to which such goods are at the time subject, which penalty shall accrue on the commission of any act contrary to this Act, or to any rules or regulations, or on the omission to perform any act required to be performed in respect to such goods—in addition to any other penalties and forfeitures provided for by this Act, irrespective of the liability of the carrier under any bond or otherwise. To any goods so entered for transportation there shall, until such transportation is completed, or while such goods are in Canada, or upon such goods being diverted from the designated route of transportation or transit, wherever or in whosoever possession found, attach the Customs claim for the payment of such double duty, which claim shall have precedence of the claims of all other persons thereon, of whatever nature, and may be enforced by sale or other proceedings.” 51 V., c. 14, s. 17.

Penalty of double duty for infringement of Act.

Enforcement of payment.

81. No transfer of the property in goods warehoused shall be valid for the purposes of this Act unless the transfer is in writing, signed by the importer or his duly authorized agent, or is made by process of law, and unless such transfer is produced to the collector or other proper officer of the proper port, and is recorded by him in a book kept for that purpose in the Custom house :

Requirements as to transfer of goods in bond.

2. No such transfer of less than a whole package shall be valid, and no more than three transfers of the same goods shall be allowed before entry thereof for duty or for exportation. 46 V., c. 12, s. 121.

Proviso : for whole packages, &c.

82. Upon any transfer of goods in warehouse being lawfully effected as before provided, the new owner or transferee of any such goods shall, by the act of accepting such transfer, become thereafter subject to all the conditions, liabilities and penalties to which the person making the transfer was theretofore liable in respect to such goods, and shall be bound to the performance of all the requirements of this Act, or of any rules and regulations respecting the warehousing of goods; and to the goods there shall continue to attach the Customs claim for the payment of the double duty provided for by section seventy-eight of this Act, which said claim shall continue to have precedence of the claims of all persons thereon, of whatever nature, and may be so enforced as aforesaid. 51 V., c. 14, s. 18.

Effect of legal transfer.

83. During the regular warehouse hours, and subject to such regulations as the collector or other proper officer of

Owner may sort or repack

Goods and
take samples.

Customs of any warehousing port sees fit to adopt, the owner of any warehoused goods may sort, pack, re-pack or make any lawful arrangements respecting the goods warehoused, in order to the preservation or lawful disposal thereof, and may take therefrom moderate samples, without present payment of duty or entry. 46 V., c. 12, s. 118.

Amount of
duties; how
ascertained.

84. Duties shall be payable in all cases on the quantity and value of goods in the warehouse, as ascertained and stated on first entry, or as originally warehoused. 46 V., c. 12, s. 132.

Duty on ware-
housed goods.

85. All goods taken out of warehouse shall be subject to the duties to which they would be subject if then imported into Canada, and not to any other. 46 V., c. 12, s. 129.

Unshipping
and landing
goods.

86. The unshipping, carrying and landing of all goods, and the taking of the same to and from a Custom warehouse or proper place after landing, shall be done in such manner and at such places as is appointed by the collector or other proper officer of Customs, and the collector or other proper officer of Customs shall at all times have free access to any warehouse wherein are stored goods subject to duty. No lock or other fastening placed upon any such warehouse or upon, on or in any premises necessary to be passed through in order to obtain access to such warehouse, shall constitute a bar to the entrance of such collector or other proper officer of Customs in the performance of his duty. 51 V., c. 14, s. 19.

Access by
officers.

Warehouse
rent, &c., by
whom pay-
able.

87. Unless otherwise provided by the Governor in Council, warehouse rent and expenses of safe-keeping in warehouse, and all expenses connected with the unshipping, carrying and landing of goods, and the taking of the same to and from a Custom warehouse or proper place after landing shall be borne by the importer; and if any such goods are removed from the place so appointed without leave of such collector or other proper officer, they shall be seized and forfeited. 46 V., c. 12, s. 134.

Penalty for
unlawful
removal.

As to quan-
tity of goods
to be taken
out of ware-
house at one
time.

88. The Governor in Council may, from time to time, make regulations for the ex-warehousing of goods, either for consumption, removal, exportation or ship's stores, in any quantity not less than a whole package as originally warehoused, unless the said goods are in bulk, and then in quantities not less than one ton in weight, except when a less weight is the balance remaining of the original entry thereof for warehouse. 46 V., c. 12, s. 135.

Goods enter-
ed for ware-
housing to be
deemed ware-
housed for
certain pur-
poses.

89. Goods entered as to be warehoused, landed to be warehoused, or entered and examined to be re-warehoused, shall be immediately thereafter transported to and placed in the designated warehouse; but if after any goods have

been duly entered, or landed to be warehoused, or entered and examined to be re-warehoused, and before the same can be actually deposited in the warehouse, the importer further enters the same or any part for home use or for exportation as from the warehouse, the goods so entered shall be considered as warehoused or re-warehoused, as the case may be, although not actually deposited in the warehouse, and may be delivered and taken for home use or for exportation." 52 V., c. 14, s. 9.

90. All warehoused goods shall be finally cleared, either for exportation or home consumption, within two years from the date of the first entry and warehousing thereof; and, in default thereof, the collector or other proper officer may sell such goods for the payment, first of the duties, and secondly of the warehouse rent and other charges; and the surplus, if any, shall be paid to the owner or his lawful agent; and the collector or other proper officer may charge or authorize the occupier of the warehouse to charge a fair warehouse rent, subject to any regulation made by the Governor in Council in that behalf. 46 V., c. 12, s. 123.

Goods to be finally cleared within two years.

Sale for payment of charges.

91. The collector may, if he sees no reason to refuse such permission, permit an importer to abandon to the Crown any whole package or packages of warehoused goods, without being liable to pay any duty on the same; and the same shall then be sold and the proceeds shall belong to the Crown: Provided, that if such goods cannot be sold for a sum sufficient to pay the duties and charges, the same shall not be sold, but shall be destroyed. 46 V., c. 12, s. 124.

Importer may be allowed to abandon packages without payment of duty.

Proviso.

92. Repealed by 51 V., c. 14, s. 49.

93. The importer of any cattle or swine may slaughter and cure and pack the same (or if such cattle or swine are imported in the carcass, may cure and pack the same) in bond; and the importer of any wheat, maize or other grain may grind and pack the same in bond, providing such slaughtering, curing, grinding or packing is done and conducted under such regulations and restrictions as the Governor in Council, from time to time, makes for that purpose; but the said regulations shall not extend to the substitution of other beef, pork, flour or meal for the produce of such imported cattle or swine, wheat, maize or other grain. 45 V., c. 12, s. 130.

Cattle and swine may be slaughtered and grain ground in bond under regulations.

Extent of regulations.

94. The importer or owner of any sugar, molasses or other material from which refined sugar can be produced, may refine the same in bond, provided such refining is done and conducted under such regulations and restrictions as the Governor in Council, from time to time, makes for that purpose. 46 V., c. 12, s. 131.

Sugar may be refined in bond under regulations.

No bond for avoiding or deferring payment.

95. No person shall make, nor shall any officer of Customs accept, any bond, note or other document for the purpose of avoiding or deferring the actual payment of duties legally accruing on goods imported into Canada, or arrange for deferring payment of such duties in any way, unless such goods are entered for warehouse and duly deposited therein according to the laws and regulations governing the warehousing of such goods. 46 V., c. 12, s. 126.

Goods taken out of warehouse for exportation and re-landed &c., to be forfeited.

96. If any goods entered to be warehoused are not duly carried into and deposited in the warehouse, or, having been so deposited, are afterwards taken out of the warehouse without lawful permit, or, having been entered and cleared for exportation from the warehouse, are not duly carried and shipped, or otherwise conveyed out of Canada, or afterwards re-landed, sold, used or brought into Canada without the lawful permission of the proper officer of the Customs, such goods shall be seized and forfeited. 46 V., c. 12, s. 128.

ENTRY OUTWARDS.

Entry of vessel outwards.

97. The master of every vessel bound outwards from any port in Canada to any port or place out of Canada, or on any voyage to any place within or without the limits of Canada, coastwise or by inland navigation, shall deliver to the collector or other proper officer a report outwards under his hand of the destination of such vessel, stating her name, country and tonnage, the port of registry, the name of the master, the country of the owners and the number of the crew; and before any goods or ballast are taken on board such vessel the master shall show that all goods therein imported, except such as were reported for exportation in the same vessel, have been duly entered; except that the proper officer may issue a stiffening order that such goods or ballast as are specified therein may be laden before the former cargo is discharged; and before such vessel departs, the master shall bring and deliver to the collector or other proper officer, a content in writing under his hand of the goods laden, and the names of the respective shippers and consignees of the goods, with the marks and numbers of the packages or parcels of the same, and shall make and subscribe a declaration to the truth of such content as far as any of such particulars can be known to him. 51 V., c. 14, s. 20.

Particulars of entry.

Proof that goods imported have been discharged.

Stiffening order.

Content to be delivered.

Particulars and declaration.

Questions to be answered.

98. The master of every vessel, whether in ballast or laden, shall, before departure, come before the collector or other proper officer, and answer all such questions concerning the vessel, and the cargo, if any, and the crew, and the voyage, as are demanded of him by such officer; and, if required, shall make his answers or any of them part of the

declaration made under his hand; and thereupon the collector or other proper officer, if such vessel is laden, shall make out and give to the master a certificate of the clearance of such vessel for her intended voyage with merchandise or a certificate of her clearance in ballast, as the case may be; and if there is merchandise on board, and the vessel is bound to any port in Canada, such clearance shall state whether any and which of the goods are the produce of Canada, and if the goods are such as are liable to duties, whether the duties thereon have been paid; and in such case the master shall hand the clearance to the collector at the next port in Canada at which he arrives, immediately on his arrival. 46 V., c. 12, s. 142.

Clearance to be granted.

What shall be stated in certain cases.

99. If any vessel departs from any port or place in Canada without a clearance, or if the master delivers a false content, or does not truly answer the questions demanded of him, or if, having received a clearance, such vessel adds to her cargo, or takes another vessel in tow, or performs any work without having mentioned in the report outwards the intention so to do, the master shall incur a penalty of four hundred dollars; and the vessel shall be detained in any port in Canada until the said penalty is paid, 46 V., c. 12, s. 143; and unless payment is made within thirty days, such vessel may, after the expiration of such delay, be sold to pay such penalty, and any expenses incurred in detaining, keeping and selling such vessel. 51 V., c. 14, s. 21.

Penalty for leaving without a clearance.

Detention of vessel.

Sale of vessel.

100. The Governor in Council may, by regulation, dispense with any of the requirements of the two sections next preceding which he deems it inexpedient to enforce, with regard to vessels engaged in the coasting trade or inland navigation. 46 V., c. 12, s. 144.

Dispensation as to coasting vessels.

101. Before a clearance is granted to any vessel bound to a port or place out of Canada, the owners, shippers or consignors of the cargo on board such vessel shall deliver to the collector or other proper officer of Customs, entries of such parts of the cargo as are shipped by them respectively, and shall verify the same by oath; and such entries shall specify the kinds and quantities of the articles shipped by them respectively, and the value of the total quantity of each kind of article, and whether the said goods are of Canadian or of foreign production or manufacture; and such oath shall state that such entry contains a full, just and true account of all articles laden on board of such vessel by such owners, shippers or consignors respectively; and that the values of such articles are truly stated according to their actual cost, or the value which they truly bear at the port and time of exportation; and in case the goods so shipped, or any part thereof, are or is liable by law to any export duty, the amount

Entries of goods to be given to collector and what they shall contain.

Oath of owner &c., what to set forth.

Export duty to be paid.

of such duty shall be stated in such entry ; and no such entry shall be valid, and no clearance shall be granted to such vessel until such duty is paid to the collector or other proper officer of Customs. 46 V., c. 12, s. 145.

Export entry. 102. All goods or merchandise exported by sea, by land or by inland navigation, shall be reported and entered outwards at the nearest Custom house, and a certified copy of the export entry shall be attached to and accompany the way bill of goods ; or, if exported from any place where no Custom house is established, they shall be reported either in like manner at such nearest Custom house or at the port of exit from Canada, according to such regulations as are established by the Governor in Council from time to time. 51 V., c. 14, s. 22.

Exportation
of goods from
warehouse.

Penalty of
double duty
for contraven-
ing condi-
tions, or
relanding
goods, &c.

103. Upon the entry outwards of any goods to be exported from a Customs warehouse, either by sea or by land, or by inland navigation, as the case may be, the person entering the same for such purpose shall, by and upon the making of such entry, whether so expressed in such entry or not, become thereby bound, when the entry aforesaid is for exportation by sea, to the actual exportation thereof, and when the entry aforesaid is for exportation by land or inland navigation, to the actual landing or delivering at the place for which they are entered outwards, or in either case to the otherwise accounting for the same to the satisfaction of the collector or other proper officer of Customs, and to the production within a period to be named in such entry of such proof or certificate that such goods have been so exported, landed or delivered, or otherwise lawfully disposed of, as the case may be, as shall be required by any regulation of the Governor in Council, or by the collector or other proper officer of Customs ; and shall by and upon the making of such entry, become thereby holden to the payment of a sum equal to double the duties of importation on such goods in case of the non-performance of the obligation to so export, land or deliver, and to produce such proof thereof as is hereinabove provided ; and if any such goods are not exported, landed or delivered, or otherwise lawfully disposed of, or are fraudulently relanded in or brought into Canada in violation of the Customs law and regulations, they shall be seized and forfeited, together with any vessel or vehicle from or in which they have been so landed or brought into Canada, or in which they may be found, and the person entering the same for exportation shall whether such goods were seized or not, thereupon be held to the payment of such double duty, in addition to any other penalties or forfeitures to which he may be liable under this Act, which payment may be thereupon enforced. 51 V., c. 14, s. 22.

104. If within the period appointed in the entry for exportation, as provided for in the next preceding section of this Act, there is produced to the collector or other proper officer of Customs the written certificate of some principal officer of Customs or of Colonial Revenue at the place to which the goods were exported, or if such place is in a foreign country, of any proper officer of Customs therein or of any British or foreign consul or vice-consul resident there, showing that the goods named in the said entry were actually landed and left at some place, naming it, out of Canada, as provided for in the said entry, or if it is proved to the satisfaction of the collector or other proper officer of Customs that the said goods were, after leaving Canada, lost and destroyed, the obligation of the person making such export entry to the payment of the double duty on such goods shall terminate and he shall thereby be released from such obligation. 51 V., c. 14, s. 22.

Upon what evidence liable for double duty on exports ceases.

105. Warehoused goods may be delivered as ship's stores for any vessel of the burden of fifty tons or upwards, bound on a voyage to a port out of Canada, the probable duration of which voyage out and home will not be less than thirty days,—also for any vessel bound for and engaged in the deep-sea fishing,—proof being first made by affidavit of the master or owner, to the satisfaction of the proper officer, that the stores are necessary and intended for the purposes aforesaid: Provided, that the Minister of Customs may define and limit the kind, quantity and class of goods which may be so delivered as ship's stores :

As to warehoused goods taken as ship's stores.

2. If such stores or any part thereof, are or is re-landed, sold or disposed of in Canada without due entry and payment of duty, such stores and the vessel for which the same were delivered from warehouse shall be seized and forfeited. 46 V., c. 12, s. 140.

Forfeiture for re-landing, &c., without payment of duty.

106. The owners, shippers or consignors of any goods consigned to a port or place out of Canada, to be transported by railway or other land conveyance, shall enter the same for exportation at the Custom house nearest to the place of lading; and such entry shall specify the kinds and quantities of the articles laden by them respectively, and the proper name, and description of the railway over which such goods are to be transported, or of any other conveyance to be used for the same purpose; and they shall verify the same by oath, and such oath shall be of the same form and tenor as that required from owners, shippers or consignors of goods to be transported by sea; and if any of such goods are liable by law to any export duty, such duty shall be clearly stated upon such entry, and no railway car or other vehicle upon which such goods are laden shall be permitted to leave the limits of the port at which such entry should have been made until such duty is paid to the col-

Entry of goods outwards by railway or other land conveyance.

Form and contents of oath.

Export duty.

Penalty for sending goods without such entry.

lector or other proper officer of Customs ; and if any such car or vehicle is taken out of the limits of such port, contrary to the provisions of this section, the company or person so taking the same shall incur a penalty not exceeding four hundred dollars. 46 V., c. 12, s. 146.

Penalty for non entry.

107. The owner, shipper or consignor of any goods who refuses or neglects to make report and entry of the articles shipped or laden by them respectively, as required by the two sections next preceding, shall incur a penalty not exceeding two hundred dollars for each such offence. 46 V., c. 12, s. 147.

Governor in Council may require statistical information as to exports.

108. The Governor in Council may, by regulations from time to time made in that behalf, require such further information with regard to the description, quantity, quality and value of goods exported from Canada, or removed from one port to another in Canada, or in transit through Canada, to be given to the proper officer of the Customs, in the report and entry of such goods outwards or otherwise, as he deems requisite for statistical or other purposes, whether such goods are exported or removed or transported by sea, land or inland navigation. 52 V., c. 14, s. 10.

Entry outwards of imported goods must correspond with entry inwards.

109. No entry outwards or any shipping warrant or warrant for taking goods from warehouse for exportation shall be deemed valid, unless the particulars of the goods and packages correspond with the particulars in the entry inwards, nor unless they are properly described in the entry outwards by the character, denomination and circumstances under which they were originally charged with duty ; and any goods laden or taken out of warehouse by an entry outwards or shipping warrant not so corresponding, or not properly describing them, shall be seized and forfeited. 46 V., c. 12, s. 149.

Entry outwards by agent in certain cases.

110. If the owner of any goods is resident more than ten miles from the office of the collector at the port of shipment, he may appoint an agent to make his entry outwards and clear and ship his goods, but the name of the agent and the residence of the owner shall be subjoined to the name in the entry and shipping warrant ; and the agent shall make the declaration on the entry which is required of the owner, and shall answer the questions that are put to him ; and any trading corporation or company may appoint an agent for the like purpose. 46 V., c. 12, s. 150.

COASTING VOYAGES.

Governor in Council may declare what shall be a coasting voyage.

111. The Governor in Council may, by regulation, declare any trade or voyage on the seas, rivers, lakes or waters, within or adjacent to Canada, whether to or from any place within or without Canada, to be a coasting trade or a coast-

ing voyage within the meaning of this Act, whether such seas, rivers, lakes or waters are or are not, geographically or for the purposes of other Acts or laws, inland waters; and all carrying by water which is not a carrying by sea or coastwise, shall be deemed to be a carrying by inland navigation; and the Governor in Council may, from time to time, with regard to any such coasting trade, dispense with such of the requirements of this Act as he deems it inexpedient to enforce in any case or class of cases, or may make such further regulations as he deems expedient; and any goods carried coastwise, or laden, waterborne or unladen, contrary to such regulations or to any provision of this Act, and dispensed with by such regulations, shall be seized and forfeited. 46 V., c. 12, s. 37.

What shall be inland navigation.

May relieve coasters in certain cases.

Penalty for contravention.

112. The Governor in Council may grant yearly coasting licenses to British vessels navigating the inland waters of Canada above Montreal, and may direct that a fee of fifty cents shall be payable for each such license, and that the master or person in charge of any vessel navigating the said waters, and not having a coasting license, shall on entering any port in Canada with such vessel, pay a fee of fifty cents if such vessel is not over fifty tons burthen, and of one dollar if she is more than fifty tons burthen, to the collector on each entry, and a like fee of fifty cents, or one dollar, according to the burthen of the vessel, on each clearance of such vessel at any port; and such fee shall be payable accordingly before such vessel shall be entered or cleared: Provided, that the Governor in Council may reduce or readjust such fees, but may not increase them beyond the amount hereby fixed; and provided also, that vessels merely passing through any of the Canadian canals, without breaking bulk, shall not be liable to such fees. 46 V., c. 12, s. 234.

Coasting licenses may be granted.

Fees on vessels having no coasting license.

Proviso.

Proviso.

PROTECTION OF THE REVENUE.

113. If any vessel is found hovering, in British waters, within one league of the coasts or shores of Canada, any officer of Customs may go on board and enter into such vessel, and stay on board such vessel, while she remains within the limits of Canada or within one league thereof; and if any such vessel is bound elsewhere, and so continues hovering for the space of twenty-four hours after the master has been, by such officer of Customs, required to depart, such officer may bring the vessel into port, and examine her cargo; and if any goods, the importation of which into Canada is prohibited are on board, such vessel with her apparel, rigging, tackle, furniture, stores and cargo shall be seized and forfeited; and if the master or person in charge refuses to comply with the lawful directions of such officer, or does not truly answer such questions as are put to him, respecting such ship or vessel or her cargo, he shall incur a penalty of four hundred dollars. 46 V., c. 12, s. 163.

Vessels found hovering within certain limits may be boarded and examined.

Or brought into port for persisting.

Penalty for not obeying officer boarding.

Forfeiture of goods carried past Custom House on importation, without payment.

114. If any goods are imported into Canada at any other place than at some port or place of entry at which a Custom house is then lawfully established, or being brought into such port or place of entry by land or inland navigation, are carried past such Custom house, or removed from the place appointed for the examination of such goods by the collector or other officer of the Customs at such port or place; before the same have been examined by the proper officer, and all duties thereon paid and a permit given accordingly, such goods shall be seized and forfeited; and every person concerned in such unlawful importation or removal, shall incur a penalty equal to the value of such goods. 46 V., c. 12, s. 20.

Vessel forfeited, &c., in certain cases, if worth less than \$800.

115. If any vessel enters any place other than a port of entry, unless from stress of weather or other unavoidable cause, any dutiable goods on board thereof, except those of an innocent owner, shall be seized and forfeited, and the vessel, if of less value than eight hundred dollars, may be seized, and the master or person in charge thereof shall incur a penalty not exceeding four hundred dollars, and the vessel may be detained until such penalty is paid; and unless payment is made within thirty days, such vessel may, after the expiration of such delay, be sold to pay such penalty and any expenses incurred in making the seizure and in the safe keeping and sale of such vessel. 51 V., c. 14, s. 23.

Sale of vessel.

If vessel is worth more than \$800.

116. If any vessel worth more than eight hundred dollars enters any place other than a port of entry, unless from stress of weather or other unavoidable cause, any dutiable goods on board thereof, except those of an innocent owner, shall be seized and forfeited, and the vessel may be seized, and the master or person in charge thereof shall incur a penalty of eight hundred dollars; and the vessel may be detained until such penalty is paid; and, unless payment is made within thirty days, such vessel may, after the expiration of such delay, be sold to pay such penalty, and any expenses incurred in making the seizure and in the safe keeping and sale of such vessel. 51 V., c. 14, s. 23.

Sale of vessel.

Goods unlawfully imported by land.

117. If any goods are unlawfully imported on the person or as luggage or among the luggage of any one arriving in Canada on foot or otherwise, such goods shall be seized and forfeited. 51 V., c. 14, s. 23.

Forfeiture of goods and cars for unlawful importation by railway. Penalty on conductor,

118. If any goods are unlawfully imported on any railway, they shall, in like manner, be seized and forfeited, and the car in which such goods were so imported shall be seized and detached from the train and forfeited; and every conductor, baggage-master, or officer or servant employed on any railway, and every officer or servant employed by any

express company, who is privy to or aids or abets in such &c., in such
 unlawful importation, shall, upon summary conviction, be case.
 liable to a penalty not exceeding two hundred dollars, and
 not less than fifty dollars, or to imprisonment for a term not
 exceeding twelve months, and not less than three months,
 or to both. 46 V., c. 12, s. 24.

119. No entry, and no warrant for the landing of any Entry void
 goods, or for the taking of any goods out of any warehouse, unless goods
 as herein provided, shall be deemed valid, unless the particu- correspond
 lars of the goods and packages in such entry or warrant with report.
 correspond with the particulars of the goods and packages
 purporting to be the same in the report of the vessel, or
 other report, where any is required, by which the impor-
 tation or entry thereof is authorized, nor unless the goods
 have been properly described in such entry by the denom-
 inations, and with the characters and circumstances accord-
 ing to which such goods are charged with duty or may be
 imported; and any goods taken or delivered out of any Goods not so
 vessel, or out of any warehouse, or conveyed into Canada correspond-
 beyond the port or place of entry, by virtue of any entry ing to be
 or warrant not corresponding with the facts in all such forfeited.
 respects, or not properly describing the goods, shall be
 deemed to be goods landed or taken without due entry
 thereof, and shall be seized and forfeited; and the collector
 or proper officer, after the entry of any goods, may, on Suspected
 suspicion of fraud, open and examine any package of such packages may
 goods, in the presence of two or more credible witnesses, be opened.
 and if, upon examination, the same are found to agree with
 the entries, they shall be repacked by such collector or
 proper officer, at the public cost, but otherwise they shall
 be seized and forfeited. 46 V., c. 12, s. 48.

120. Any package of which the importer or his agent Packages of
 declares the contents to the unknown to him, may be opened which con-
 and examined by the collector or other proper officer, in the tents are un-
 presence of such importer or agent, and at the expense of known.
 the importer, who shall also bear the expense of re-packing.
 46 V., c. 12, s. 47.

121. The collector shall cause at least one package in Collector to
 every invoice or entry and at least one package in ten if cause one
 there are more than ten in any invoice or entry, and so package in
 many more as he or any appraiser deems it expedient to ten to be
 examine for the protection of the revenue, to be sent to the opened.
 examining warehouse, and there to be opened, examined
 and appraised,—the packages so to be opened being
 designated by the collector. 46 V., c. 12, s. 106.

122. If in any package any goods are enclosed which Forfeiture if
 are not mentioned in the invoice or entry of such package,— fraud is dis-
 such goods if found shall be seized and forfeited; and if covered.
 32—3½

such goods are not found, but the value thereof has been ascertained, the owner, importer or other person who has made entry or caused to be made entry of such package and who neglects on receipt of such package to immediately make report and entry of such enclosure, shall forfeit the value thereof. 52 V., c. 14, s. 11.

Forfeiture of goods for non-correspondence with invoice, &c.

123. If any goods are found which do not correspond with the goods described in the invoice or entry or if the description in the invoice or entry has been made for the purpose of avoiding payment of the duty or for any part of the duty on such goods, or if in any entry any goods have been undervalued for such purpose as aforesaid, such goods shall be seized and forfeited. 46 V., c. 12, s. 108.

As to packages delivered to importer before examination.

124. All the packages mentioned in any one entry, although some of such packages have been delivered to the importer, or some one on his behalf, shall be subject to the control of the Customs authorities of the port at which they are entered, until such of the packages as have been sent to the examining warehouse for examination have been duly opened and the contents examined and approved; and the packages so delivered shall not be opened or unpacked before the goods contained in the package or packages sent to the examining warehouse have been examined and passed as aforesaid, under a penalty equal to the value of the contents of the packages so delivered or the seizure and forfeiture of the goods: Provided, always, that this prohibition shall not extend beyond a period of three days after the goods designated for examination have been actually delivered at the Examining Warehouse. 51 V., c. 14, s. 24.

Penalty.

Penalty. Return of packages and provision for avoiding delay.

125. Any package delivered without examination, or the goods, if lawfully unpacked, shall, if required by the collector of Customs of the port at which they are entered, be returned to the Customs or examining warehouse within ten days of delivery under a penalty equal to the value thereof; and the collector shall use due diligence in causing a proper examination thereof to be made, and may, if he sees no objection, permit the remaining packages to be opened and unpacked as soon as the contents of those sent to the Customs or examining warehouse have been examined and approved. 51 V., c. 14, s. 24.

126. Repealed by 51 Vic., c. 14, s. 49.

Collector may require further proof of proper entry, &c.

127. The collector may require from the importer (or from his agent) of any goods charged with duty, or exempt from duty or conditionally exempt therefrom, before admitting the said goods to entry, such further proof as he deems necessary, by oath or declaration, production of invoice or invoices or bills of lading or otherwise, that such goods are

properly described and rated for duty, or come properly within the meaning of such exemptions. 46 V., c. 12, s. 46.

128. }
 129. } Repealed by 51 V., c. 14, s. 49.
 130. }
 131. }

132. When any person has occasion to remove, from any port or entry to any other port or place, any goods duly entered, and on which the duties imposed by law have been paid, the collector or principal officer of the Customs at such port on the requisition in writing of such person, within thirty days after the entry of such goods, specifying the particular goods to be removed, and the packages in which such goods are contained with their marks and numbers, shall give a permit or certificate in writing, signed by him, bearing date of the day it is made, and containing the like particulars, and certifying that such goods have been duly entered at such port and the duties paid thereon, and stating the port or place at which the same were paid, and the port or place to which it is intended to convey them, and the mode of conveyance, and the period within which they are intended to be so conveyed. 46 V., c. 12, s. 115.

Permit certifying that duties have been paid to be granted on request of owner.

Particulars in permit.

POWERS AND DUTIES OF OFFICERS.

133. Every officer and person who is employed under the authority of any Act relating to the collection of the revenue, or under the direction of any officer of Customs shall be deemed and taken to be duly employed for the prevention of smuggling and for the enforcement of this Act in every respect, whether such officer or person is or is not the holder of a writ of assistance; and in any suit or information, the averment that such person was so duly employed shall be *primâ facie* proof thereof. 51 V., c. 14, s. 25.

Certain officers to be deemed employed for prevention of smuggling, &c.

134. Every such officer or person as mentioned in the next preceding section, and every sheriff, justice of the peace, or person residing more than ten miles from the residence of any officer of Customs and thereunto authorized by any collector of Customs or justice of the peace, may, upon information, or upon reasonable grounds of suspicion, detain, open and examine any package suspected to contain prohibited property or smuggled goods, or goods respecting which there has been any violation of any of the requirements of this Act, and may go on board of and enter into any vessel or vehicle of any description whatsoever, and may stop and detain the same, whether arriving from places beyond or within the limits of Canada, and may rummage and search all parts thereof, for such goods; and if any such

Powers and duty of such officers.

Searching and detaining vessels and vehicles.

goods are found in any such vessel or vehicle, the officer or person so employed may seize and secure such vessel or vehicle, together with all the sails, rigging, tackle, apparel, horses, harness and all other appurtenances which, at the time of such seizure, belong to or are attached to such vessel or vehicle, with all goods and other things laden therein or thereon; and the same shall be seized and forfeited. 46 V., c. 12, s. 172.

Power to search the person for smuggled goods.

Penalty for resistance.

Questions to be answered.

Penalty for false answer.

Proviso: as to search of person.

Females.

Penalty for searching without cause.

Power to enter buildings, &c., in the day time.

135. Any officer of Customs, or person by him authorized thereunto, may search any person on board any vessel or boat within any port in Canada or on or in any vessel, boat or vehicle, entering Canada by land or inland navigation, or any person who has landed or got out of such vessel, boat or vehicle, or who has come into Canada from a foreign country in any manner or way, if the officer or person so searching has reasonable cause to suppose that the person searched has goods subject to entry at the Customs, or prohibited goods, secreted about his person; and every one who obstructs or offers resistance to such search, or assists in so doing, shall incur a penalty of one hundred dollars; and any person who is on board of or has landed from or got out of such vessel, boat or vehicle, or who has entered Canada from a foreign country in any manner or way, may be questioned by such officer, as to whether he has any such goods about his person, and if he denies having any such goods, or does not produce such as he has, and any such goods are found upon him on being searched, the goods shall be seized and forfeited, and he shall forfeit treble the value thereof: Provided, that before any person can be searched, as aforesaid, such person may require the officer to take him or her before some police magistrate, justice of the peace, or before the collector or chief officer of the Customs at the port or place, who shall, if he sees no reasonable cause for search, discharge such person, but if otherwise he shall direct such person to be searched; and if such person is a female, she shall not be searched by any but a female; and any such magistrate, justice of the peace or collector of the Customs may, if there is no female appointed for such purpose, employ and authorize a suitable female person to act in any particular case or cases. 46 V., c. 12, s. 180.

136. Every officer required to take any person before a police magistrate, justice of the peace, or chief officer of Customs as aforesaid, shall do so with all reasonable despatch; and if any officer requires any person to be searched without reasonable cause, such officer shall incur a penalty not exceeding forty dollars. 46 V., c. 12 s. 181.

137. Any officer of Customs having first made oath before a justice of the peace that he has reasonable cause to suspect that goods liable to forfeiture are in any particular

building, or in any yard or other place, open or inclosed, may, with such assistance as is necessary, enter therein at any time between sunrise and sunset; but if the doors are fastened admission shall be first demanded, and the purpose for which entry is required declared, when, if admission is not given, he may forcibly enter; and after in either case entry is made, the officer may search the premises and seize all goods which he has reasonable grounds to believe are subject to forfeiture; and such acts may be done by an officer of Customs without oath or the assistance of a justice of the peace, in places where no justice of the peace resides, or where no justice of the peace can be found within five miles at the time of search. 51 V., c. 14, s. 26.

Without application to a justice of the peace in certain cases.

138. If any building is upon the boundary line between Canada and any foreign country, and there is reason to believe that dutiable goods are deposited or have been placed therein, or carried through or into the same, without payment of duties and in violation of law, and if the collector or proper officer of Customs makes oath before any justice of the peace that he has reason to believe as aforesaid, such collector or officer may search such building and the premises belonging thereto, so far as the same are within the limits of Canada, and if any such goods are found therein, the same shall be seized and forfeited; and every person who is guilty of a violation of the provisions of this section shall incur a penalty not exceeding one thousand dollars and not less than two hundred dollars. 46 V., c. 12, s. 176.

As to building on or near the boundary line.

Penalty for contravention of this section.

139. Officers of Customs may board any vessel at any time or place and stay on board until all the goods intended to be unladen have been delivered; and they shall have free access to every part of the vessel, with power to fasten down hatchways, the forecastle excepted, and to mark and secure any goods on board; and if any place, box or chest is locked, and the keys are withheld, the officer may open the same: 46 V., c. 12, s. 165.

Officers may board vessels and have free access to every part.

2. If any goods are found concealed on board they shall be seized and forfeited, and if any mark, lock or seal upon any goods on board is wilfully altered, opened or broken before the delivery of the goods, or if any goods are secretly conveyed away, or if hatchways fastened down by the officer are opened by the master, or with his assent, the master shall incur a penalty of four hundred dollars, and the vessel may be detained until the said penalty is paid, or satisfactory security is given for the payment thereof; and unless payment is made within thirty days, such vessel may, after the expiration of such delay, be sold to pay such penalty and any expenses incurred in detaining, keeping and selling the same. 51 V., c. 14, s. 27.

Penalty if concealed goods are found on board vessel.

Officers may be stationed on board.

140. The collector or other proper officers of the Customs may station officers on board any ship while within the limits of a port, and the master shall provide every such officer with suitable accommodation and food, and, in default of so doing, shall incur a penalty of two hundred dollars. 46 V., c. 12, s. 166.

Writs of assistance in the several provinces.

141. Any judge of the Exchequer Court of Canada, or any judge of any of the superior courts in any Province of Canada, having jurisdiction in the province or place where the application is made, shall grant a writ of assistance upon application made to him for that purpose by Her Majesty's Attorney General of Canada or by a collector of Customs, or by any superior officer of Customs; and such writ shall remain in force so long as any person named therein remains an officer of the Customs, whether in the same capacity or not: 46 V., c. 12, s. 177.

Duration of writ.

As to district of Keewatin.

2. For the purposes of this section, any judge of the Court of Queen's Bench, in the Province of Manitoba, shall have jurisdiction over the district of Keewatin, and shall grant a writ of assistance for use therein, in like manner and with like effect as he might grant such writ for use in the Province of Manitoba. 51 V., c. 14, s. 28.

Existing writs to remain in force.

142. Every writ of assistance granted before the coming into force of this Act, under the authority of Acts relating to the Customs now repealed shall remain in force, notwithstanding such repeal, in the same manner as if such Acts had not been repealed. 46 V., c. 12, s. 178.

Searching for smuggled goods.

143. Under the authority of a writ of assistance any officer of the Customs, or any person employed for that purpose with the concurrence of the Governor in Council, expressed either by special order or appointment or by general regulation, may enter, at any time in the day or night, into any building or other place within the jurisdiction of the court from which such writ issues, and may search for and seize and secure any goods which he has reasonable grounds to believe are liable to forfeiture under this Act, and in case of necessity may break open any doors and any chests or other packages for that purpose. 51 V., c. 14, s. 29.

Power to call for aid.

144. Any officer or person in the discharge of the duty of seizing goods, vessels, vehicles or property liable to forfeiture under this Act, may call in such lawful aid and assistance in the Queen's name, as is necessary for securing and protecting such seized goods, vessels, vehicles or property; and if no such prohibited, forfeited or smuggled goods are found, such officer or person, having had reasonable cause to suspect that prohibited, forfeited or smuggled goods would be found, shall not be liable to any prosecution,

Reasonable suspicion to justify officers.

action or other legal proceeding on account of any such search, detention or stoppage. 46 V., c. 12, s. 173.

PROTECTION OF OFFICERS.

145. No action, suit or proceeding shall be commenced, and no writ shall be sued out against, nor a copy of any process served upon any officer of the Customs or person employed for the prevention of smuggling for anything done in the exercise of his office, or against any person in possession of goods under authority of any officer of the Customs, so long as any proceeding for the enforcement of this Act in relation to the matter forming the ground of such action, suit, proceeding, writ or process is pending, nor until one month after notice in writing has been delivered to him, or left at his usual place of abode, by the attorney or agent of the person who intends to sue out such writ or process :

Action for things done under this Act, &c.

2. In such 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 any cause of such action shall be produced except of such as is contained in such notice, and no verdict or judgment shall be given for the plaintiff, unless he proves on the trial that such notice was given; and in default of such proof, the defendant shall receive a verdict or judgment and costs. 51 V., c. 14, s. 30.

Notice thereof.

What the notice shall contain.

Evidence on trial.

146. Any such officer or person against whom any action, suit or proceeding is brought on account of anything done in the exercise of his office, may, within one month after such notice, tender amends to the person complaining, or his agent, and plead such tender in bar to the action, together with other pleas; and if the court or jury, as the case may be, find the amends sufficient, judgment or verdict shall be given for the defendant; and in such case, or if the plaintiff becomes non-suited, or discontinues his action, or judgment is given for the defendant upon demurrer or otherwise, such defendant shall be entitled to full costs of defence :

Defendant may tender amends and plead tender in bar.

Costs to defendant if successful.

2. The defendant, by leave of the court in which the action is brought, may, at any time before issue joined, pay money into court as in other actions. 46 V., c. 12, s. 227.

Payment into court.

147. Every such action, suit or proceeding shall be brought⁺ within three months after the cause thereof, and laid and tried in the place or district where the acts complained of were committed; and the defendant may plead the general issue, and give the special matter in evidence. 46 V., c. 12, s. 228.

Action must be brought within a certain time.

If probable cause is certified on record damages and costs to be limited.

148. If in any such action, suit or proceeding, the court or judge before whom the action is tried certifies that the defendant in such action acted upon probable cause, the plaintiff in such action shall not be entitled to more than twenty cents damages nor to any costs of suit, nor in case of a seizure shall the person who made the seizure be liable to any civil or criminal suit or proceeding on account thereof: 46 V., c. 12, s. 229.

When action for recovery of thing seized may be commenced.

2. No action, suit or proceeding shall be commenced against the Crown or against any officer of Customs or person employed for the prevention of smuggling, or against any person in possession of goods under authority of an officer of Customs, for the recovery of the thing seized, until a decision has been first given either by the Minister of Customs or by a court of competent jurisdiction in relation to the condemnation of the thing seized. 51 V., c. 14, s. 31.

Prescription.

3. Every such action, suit or proceeding shall be brought within three months after such decision has been given. 51 V., c. 14, s. 31.

Report inwards or outwards may be made by purser of steamer.

149. The report, inwards or outwards, required by this Act, may, in the case of any steam vessel carrying a purser, be made by such purser with the like effect in all respects, and subject to the like penalty on the purser and on the vessel, and the like forfeiture of the goods in case of any untrue report, as if the report was made by the master;— and the word “master,” for the purposes of this section, shall be construed as including the purser of any steam vessel; but nothing herein contained shall preclude the collector or other proper officer of Customs from calling upon the master of any steam vessel to answer all such questions concerning the vessel, passengers, cargo and crew, as might be lawfully demanded of him if the report had been made by him, or to exempt the master or the vessel from the penalties imposed by this Act for failure to answer any such question, or for answering untruly, or to prevent the master from making such report if he sees fit so to do. 51 V., c. 14, s. 32.

But master may be called to answer questions.

Time of importation defined;

150. Whenever on the levying of any duty, or for any other purpose, it becomes necessary to determine the precise time of the importation or exportation of any goods, or of the arrival or departure of any vessel, such importation, if made by sea, coastwise or by inland navigation in any decked vessel, shall be deemed to have been completed from the time the vessel in which such goods were imported came within the limits of the port at which they ought to be reported, and if made by land or by inland navigation in any undecked vessel, then from the time such goods were brought within the limits of Canada; and the exportation of any goods from Canada shall be deemed to have been commenced from the time of the legal shipment of

And of exportation;

such goods for exportation, after due entry outwards, in any decked vessel, or from the time the goods were carried beyond the limits of Canada, if the exportation is by land or in any undecked vessel; and the date of exportation in a decked vessel of any goods to Canada from any port or place out of Canada shall be deemed and taken to be the date at which such goods actually left such port or place out of Canada for their destination in Canada, which date may be established by the production of the clearance of the vessel from such port or place out of Canada, or the oath of the master as to the date of sailing, if such sailing was subsequent to the date of the clearance; and the time of the arrival of any vessel in a Canadian port shall be deemed to be the time at which the report of such vessel was, is or ought to have been made, and the time of the departure of any vessel from a Canadian port to be the time of the last clearance of such vessel on the voyage on which she departed." 52 V., c. 14, s. 12.

Of arrival or departure.

151. Whenever the person required to take any oath under any Act or regulation relating to the Customs, is one of the persons entitled by law to take a solemn affirmation instead of an oath in civil cases, such person may, instead of the oath hereby required, make a solemn affirmation to the same effect; and every person before whom any oath is by any such Act or regulation, required or allowed to be taken, or solemn affirmation to be made, shall have full power to administer the same. 46 V., c. 12, s. 238, *part*.

Oath to include affirmation in certain cases.

152. Every oath required under the provisions of this Act connected with the entry of goods may be made in Canada before the collector, sub-collector, surveyor or chief clerk at the port where the goods are entered, or if the person making such oath is not resident there, then before the collector or proper officer of some other port; and when such oath is required to be made out of the limits of Canada, it may be made at any place within the United Kingdom, or at any place in Her Majesty's possessions abroad, before the collector or before the mayor or other chief municipal officer of the place where the goods are shipped, or before a notary public, and at any other place before a British consul, or if there is no British consul, then before a foreign consul at such place. 46 V., c. 12, s. 87.

Before whom attestations of papers for entry may be made.

153. The Commissioner of Customs or other person acting as deputy head of the department, and all officers holding under Order in Council the rank of chief clerk of the inside service in the said department, and all duly appointed Inspectors of Customs ports, shall, by virtue of their office, have full authority to administer all oaths and receive all affirmations and declarations required or authorized by this Act, and also to administer all oaths of allegiance and

Who may administer oaths.

Power of Governor in Council in relation to oaths.

of office required by "*The Civil Service Act*" to be taken by Customs officers; and the Governor in Council may, from time to time, by regulation, appoint or designate such other and additional persons, officers or functionaries, as he sees fit, by name, or by their name of office, in Canada or out of it, as those before whom such oaths may be validly taken, and may, by any Order in Council, relax or dispense with the provisions of this Act touching oaths, affirmations and declarations required or authorized by this Act, with regard to goods imported by land or inland navigation, or to any other class of cases designated in such regulation. 51 V., c. 14, s. 33.

Bonds to be to Her Majesty's use, and when to be given.

154. All bonds and securities, of what kind and nature soever, authorized to be taken by any law relating to Customs, trade or navigation, shall be taken to and for the use and benefit of Her Majesty; and such bonds shall be taken before the performance of any act with regard to which the taking of any such bond or bonds is required. 46 V., c. 12, s. 243.

Forms for bonds and papers.

155. All bonds, documents and papers necessary for the transaction of any business at the respective Custom houses or places or ports of entry in Canada, shall be in such form as the Minister of Customs, from time to time, directs. 46 V., c. 12, s. 244.

Certain certified documents to be *primâ facie* evidence.

156. Certificates and copies of official papers, certified under the hand and seal of any of the principal officers of the Customs in the United Kingdom, or of any collector of Colonial revenue in any of the British Possessions in America or the West Indies, or other British Possessions, or of any British Consul or Vice Consul in a foreign country, and certificates and copies of official papers made pursuant to this Act or any Act in force in Canada relating to the Customs or revenue, shall be received as *primâ facie* evidence in reference to any matter contained in this Act or any Act relating to the Customs, or on the trial of any suit in reference to any such matter. 46 V., c. 12, s. 245.

Persons transacting Customs business for others to produce written authority.

157. Whenever any person makes application to an officer of the Customs to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf the application is made, and in default of the production of such authority, may refuse to transact such business; and any act or thing done or performed by such agent, shall be binding upon the person by or on behalf of whom the same is done or performed, to all intents and purposes, as fully as if the act or thing had been done or performed by the principal. 46 V., c. 12, s. 246.

Their acts to bind their principal.

158. Any attorney and agent duly thereunto authorized by a written instrument, which he shall deliver to and leave with the collector, may in his said quality, validly make any entry, or execute any bond or other instrument required by this Act, and shall thereby bind his principal as effectually as if such principal had himself made such entry or executed such bond or other instrument, and may take the oath hereby required of a consignee or agent, if he is cognizant of the facts therein averred; and any instrument appointing such attorney and agent shall be valid if it is in the form prescribed by the Minister of Customs. 46 V., c. 12, s. 247.

Agent duly authorized may execute bonds for his principal.

Form of appointment.

159. Any partner in or attorney and agent of an unincorporated company, association or co-partnership of persons may, under the name and style usually taken by such company, association or co-partnership, make any entry or execute any bond or other instrument required by this Act, without mentioning the name or names of any of the members or of the other members of the company or association or partnership, and such entry, bond or instrument shall bind them as fully and effectually, and shall have the same effect in all respects as if the name of every such member or partner had been therein mentioned and he had signed the same, and (if it is a bond or other instrument under seal) as if he had thereunto affixed his seal and had delivered the same as his act and deed, and the seal thereunto affixed shall be held to be the seal of each and every such member or partner, as aforesaid; and the provisions of this section shall apply to any instrument by which any company, association or partnership of persons appoint an attorney or agent to act for them under the next preceding section:

Any partner may execute bonds, &c., without mentioning the other members of the co-partnership.

As to seals.

2. The person who, under this section, makes any entry or executes any bond or instrument on behalf of any company, association or partnership, shall, under the name and style usually taken by them, write his own name with the word "by" or the words "by their attorney," or words to the like effect, as the case may be, thereunto prefixed. 46 V., c. 12, s. 248.

Proviso: as to form of signature.

160. All goods exempt from duty as being imported or taken out of warehouse for the use of Her Majesty's troops, or for any purpose for which such goods may be imported free of duty, shall, in case of the sale thereof after importation, become liable to and be charged with the duties payable on like goods on their importation for other purposes; and if such duties are not paid, such goods shall be forfeited and may be seized and dealt with accordingly. 46 V., c. 12, s. 63.

Crown goods or goods exempted from duty to be liable thereto if sold.

161. Goods claimed to be exempt from duty under any Act relating to duties of Customs, shall, in the entry

How goods claimed to be exempt from

duty must be described in the entry.

thereof, be described and set forth in the words by which they are described to be free in the Act; and goods not answering such description shall be seized and forfeited, or if the collector deems it expedient, he may detain the goods and report the case for the action of the Commissioner of Customs and the decision of the Minister of Customs, as provided in this Act. 46 V., c. 12, s. 217.

As to duty on goods in vessels unladen, for the purpose of repairing damages.

162. If any vessel which has received damage puts into a port in Canada to which she is not bound, having dutiable goods on board, which it is necessary to land for the purpose of repairing the vessel in order to enable her to proceed on her voyage, the collector, upon application of the master or agent, may permit such goods to be unladen and deposited in a warehouse in the custody of the collector; and the collector shall cause to be taken an exact account of the packages and contents; and entry of the goods shall then be made by the master or agent, as hereinbefore directed, and they shall remain in the custody of the collector until the vessel is ready for sea, when, upon payment of storage and the reasonable charges of unloading and storing, the collector shall deliver up the same to the master or agent to be exported or carried coastwise as the case may be, under the same security and regulations as if such goods had been imported in the usual manner, and without payment of duty. 46 V., c. 12, s. 59, *part*.

As to such goods if sold.

163. No person shall be entitled to the benefit of the next preceding section who has sold any of such goods except such as it has been necessary to sell to defray the expense of repairs and charges of the vessel, or as have been authorized by the collector of Customs to be sold; and if goods are sold for payment of repairs and charges they shall be subject to duty, and shall be warehoused, or the duties thereon paid by the purchaser. 46 V., c. 12, s. 59, *part*.

Provision as to fish and certain articles.

164. Fresh fish, coin or bullion may be landed without entry or warrant, as may also goods in any stranded or wrecked vessel, provided they are duly reported and entered as soon as possible after being safely deposited on shore, and that the landing is in presence of an officer of the Customs or Receiver of Wreck, or other person authorized to act as such receiver under "*The Wrecks and Salvage Act.*" 46 V., c. 12, s. 35.

Or live stock or perishable goods.

165. If a vessel which has live stock or perishable articles on board arrives after business hours, the collector or any officer at the port may permit the master to unlade the same before report; but report shall in such case be made as soon as possible after the next opening of the Customs office. 46 V., c. 12, s. 36.

166. The surplus stores of vessels arriving in Canada shall be subject to the same duties and regulations as if imported as merchandise ; but if the owner or master desires to warehouse the same for re-shipment for the future use of the vessel, the collector may permit him so to do. 46 V., c. 12, s. 50.

Surplus stores of vessels to be dutiable.

Proviso.

167. The burden of proof that the proper duties payable with respect to any goods have been paid, and that all the requirements of this Act with regard to the entry of any goods have been complied with and fulfilled, shall, in all cases, lie upon the person whose duty it was to comply with and fulfil the same. 46 V., c. 12, s. 113.

Burden of proof of due entry, on whom to lie.

168. Although any duty of Customs has been overpaid, or although, after any duty of Customs has been charged and paid, it appears or is judicially established that the same was charged under an erroneous construction of the law, no such overcharge shall be returned after the expiration of three years from the date of such payment, unless application for repayment has been previously made. 46 V., c. 12, s. 240.

Over-paid duties not returnable after three years.

169. No refund of duty shall be allowed after the lapse of fourteen days from the time of entry, for any alleged misdescription of goods by the importer ; and if any error of the kind is discovered by the importer while unpacking his goods, he shall immediately and without further interference with the goods, report the facts to the collector, in order that the same may be verified. 46 V., c. 12, s. 241.

No refund after 14 days.

As to error discovered while unpacking.

170. No person, unless he is authorized by the Governor in Council, shall import any goods, wares or merchandise from any port or place out of Canada in any vessel which has not been duly registered, and has not a certificate of such registry on board. 46 V., c. 12, s. 38.

Importing vessel must be registered.

171. Fire-arms and munitions of war shall not be imported except from the United Kingdom of Great Britain and Ireland, unless upon application to, and permission given by the Minister of Customs. 31 V., c. 7, s. 8.

Importation of arms, &c.

172. Vessels entering the Gut of Annapolis may be reported and entered, and the duties on goods therein imported paid, either at the port of Digby or Annapolis. 46 V., c. 12, s. 51.

Vessels entering the Gut of Annapolis,

173. Vessels entering the Great Bras d'Or or Little Bras d'Or shall be reported and entered at such place as the Minister of Customs, from time to time, directs. 46 V., c. 12, s. 52.

Or the Great and Little Bras d'Or.

Collector may grant bill of health.

174. Whenever the collector of Customs at any port is satisfied that in such port, as well as in the adjacent city or town and its vicinity, there does not exist an extraordinary, infectious, contagious or epidemic disease, which could be transmitted by the vessel, her crew or cargo, he may grant to any vessel requiring a bill of health a certificate under his hand and seal, attesting the fact aforesaid, for which he shall be entitled to ask and receive a fee of one dollar. 46 V., c. 12, s. 152.

ARTICLES SEIZED—HOW DEALT WITH.

To what place things, &c., seized shall be taken.

175. If any goods, property or vehicle, subject or liable to forfeiture under this Act, or any other law relating to the Customs, are stopped or taken by any police or peace officer or any person duly authorized, such goods, property or vehicle shall be taken to the Custom house nearest to the place where the same were stopped or taken, and there delivered to the proper officer authorized to receive the same, within forty-eight hours after the same were stopped or taken. 46 V., c. 12, s. 182.

How smuggled goods stopped on suspicion of being stolen shall be dealt with.

176. If any such goods, property or vehicles are stopped or taken by such police or peace officer, on suspicion that the same have been feloniously stolen, such officer shall carry the same to the police office to which the offender is taken, there to remain until and in order to be produced at the trial of the said offender; and in such case the officer shall give notice in writing to the collector or principal officer of Her Majesty's Customs, at the port nearest to the place where such goods have been detained, of his having so detained the said goods, with the particulars of the same; and immediately after the trial, all such goods shall be conveyed to and deposited in the Custom house or other place appointed as aforesaid, and proceedings relative to the same shall be had according to law. 46 V., c. 12, s. 183.

Seizure or detention to be reported to Commissioner of Customs.

177. Whenever any vessel, vehicle, goods or thing have been seized or detained under any of the provisions of this Act or of any law relating to the Customs, or when it is alleged that any penalty or forfeiture has been incurred under the provisions of this Act or of any law relating to the Customs, the collector or the proper officer shall forthwith report the circumstances of the case to the Commissioner of Customs. 46 V., c. 12, s. 218.

Commissioner to call upon owner or claimant of thing seized for statement under oath.

178. The Commissioner may thereupon notify the owner or claimant of the thing seized or detained, or his agent, or the person alleged to have incurred the penalty or forfeiture, or his agent, of the reasons for the seizure, detention, penalty or forfeiture, and call upon him to furnish within thirty days from the date of the notice, such evidence in the matter as

he desires to furnish : such evidence may be by affidavit or affirmation, made before any justice of the peace, any collector of Customs, any commissioner for taking affidavits in any court, or any notary public. 46 V., c. 12, s. 219.

179. After the expiration of the said thirty days, or sooner if the person so called upon to furnish evidence so desires, the Commissioner may consider and weigh the circumstances of the case, and report his opinion and recommendation thereon to the Minister of Customs. 46 V., c. 12, s. 220.

Commissioner to report his opinion to Minister.

180. The Minister may thereupon either give his decision in the matter respecting the seizure, detention, penalty or forfeiture, and the terms, if any, upon which the thing seized or detained may be released or the penalty or forfeiture remitted, or may refer the same to the court for decision. 51 V., c. 14, s. 34.

Action of Minister.

181. If the owner or claimant of the thing seized or detained or the person alleged to have incurred the penalty does not, within thirty days after being notified of the Minister's decision, give him notice in writing that such decision will not be accepted, the decision shall be final. 51 V., c. 14, s. 34.

Minister's decision final in default of notice.

182. If the owner or claimant of the thing seized or detained, or the person alleged to have incurred the penalty, within thirty days after being notified of the Minister's decision, gives him notice in writing that such decision will not be accepted, the Minister may refer the matter to the court. 51 V., c. 14, s. 34.

Reference to the court.

183. On any reference of any matter by the Minister to the court—the court shall hear and consider such matter upon the papers and evidence referred and upon any further evidence which the owner or claimant of the thing seized or detained, or the person alleged to have incurred the penalty, or the Crown, produces, under the direction of the court, and shall decide according to the right of the matter ; and judgment may be entered upon any such decision, and the same shall be enforceable and enforced in like manner as other judgments of the court. 51 V., c. 14, s. 34.

Proceedings in court.

184. The service of notice to produce evidence referred to in section one hundred and seventy-eight, and of the Minister's decision referred to in sections one hundred and eighty-one and one hundred and eighty-two, shall be sufficient if it is effected by sending such notice by mail in a registered letter addressed to the owner or claimant at his address, as stated in the report of the seizure ; and the thirty days mentioned in the two sections last cited shall

Service of notice.

be computed from the date of the mailing of such notification. 51 V., c. 14, s. 34.

Production of books and papers in case of seizure of goods, &c.

185. Whenever information has been given under oath to any officer of Customs that goods or things have been unlawfully imported or entered, or whenever any goods have been seized or detained under any of the provisions of this Act, or of any law relating to the Customs, the importer or exporter thereof, or the owner or claimant thereof, shall immediately upon being required so to do by a collector or other proper officer of Customs, produce and hand over all invoices, bills, accounts and statements of the goods so imported, entered, seized or detained, and of all other goods imported into Canada by him at any time *within six years* preceding such request, seizure or detention; and shall also produce for the inspection of such collector or other officer, and allow him to make copies of, or extracts from, all books of accounts, ledgers, day-books, cash-books, letter-books, invoice-books, or other books wherein any entry or memorandum appears respecting the purchase, importation, cost, value or payment of the goods so seized or detained, and of all other goods as aforesaid. 51 V., c. 14, s. 34.

Copies or extracts may be made.

Penalty for withholding such books or papers.

186. If any person required under the next preceding section to produce and hand over invoices, bills, accounts and statements, or to produce for inspection books of account, ledgers, day-books, cash-books, letter-books, invoice-books and other books, or to allow copies or extracts to be made therefrom, neglects or refuses so to do, he shall incur a penalty not exceeding five thousand dollars: 51 V., c. 14, s. 34.

In such cases allegations to be deemed proved in case of non-production.

2. Whenever any suit is instituted under the provisions of this Act or an order of the court is obtained, all invoices, accounts, books and papers relating to any imported goods, to which such suit or order relates, shall be produced in court or to any person whom the court directs, and if the same are not so produced within such time as the court prescribes, the allegations on the part of the Crown shall be deemed to be proved, and judgment shall be given as in a case by default; but this provision shall not relieve the person disobeying any such order from any other penalty or punishment which he may have incurred by disobedience of any such order. 51 V., c. 14, s. 34.

Release of things seized on deposit of a sum equal to value and costs.

187. Any collector or other proper officer of Customs may, as may also the court with the consent of the collector or other proper officer of Customs at the place where the things seized are, order the delivery thereof to the owner, on the deposit with the collector or other proper officer of Customs in money of a sum equal at least to the full duty-paid value (to be determined by the collector or

other proper officer of Customs) of the things seized and the estimated cost of the proceedings in the case; and any collector or other proper officer of Customs may receive from any person charged with any contravention of this Act, although no seizure of goods has taken place, a sum in money equal to the full amount of the penalty or forfeiture to which he may be liable for such contravention (to be determined by the collector or other proper officer of Customs) together with the estimated costs of the proceedings in the case:

Amount of penalty may be deposited.

2. Any sum or sums of money so deposited shall be immediately deposited in some bank appointed for that purpose by competent authority, to the credit of the Minister of Finance and Receiver General, there to remain until forfeited in due course of law or released by order of the Minister of Customs; and if such seized articles are condemned, or such penalty or forfeiture accrues to the Crown, either by suit in a court or by a decision of the Minister of Customs under this Act, the money deposited shall be forfeited: 51 V., c. 14, s. 34.

Disposal of such sum.

Its forfeiture.

3. Any sum or sums of money so deposited shall, unless the same is or are released as in the next preceding subsection provided, become the property of Her Majesty for the public uses of Canada, subject to the provisions of section one hundred and ninety-one of this Act; and no proceedings against the Crown for the recovery thereof shall be instituted except within six months from the date of the deposit thereof; and in any such proceedings the burden of proof that the goods in respect of which such deposit was made had been duly entered and that all the provisions of this Act had been complied with, and that no penalty or forfeiture had accrued in respect thereof, shall lie upon the person seeking recovery of the sum or sums so deposited and not upon the Crown. 52 V., c. 14, s. 13.

Moneys not released to belong to the Crown.

Burden of proof.

188. If the thing seized is an animal or a perishable article, the collector at whose port the same is, may sell the same so as to avoid the expense of keeping it or to prevent its becoming deteriorated in value; and the proceeds of such sale shall be deposited in some chartered bank to the credit of the Minister of Finance and Receiver General, and shall abide the judgment of the court with respect to the condemnation of the thing seized, if proceedings for condemnation are taken in court, or shall become the property of Her Majesty, if the thing seized becomes condemned without proceedings in court: Provided always, that the collector shall deliver up such animal or perishable article to the claimant thereof, upon such claimant depositing with him a sum of money sufficient in the opinion of the collector to represent the duty paid value of the thing claimed, and the cost of any proceedings to be taken in court for the condemnation of the thing seized; and the money so depo-

Cattle or perishable articles may be sold as if condemned.

Proviso: for delivery of articles seized on sufficient security being given.

As to deposit of money.

sited shall be paid into some chartered bank to the credit of the Minister of Finance and Receiver General, and shall be dealt with in the same manner as above provided for in the case of the proceeds of a sale of such thing. 46 V., c. 12, s. 205.

Provision, if notice of claim has been given, and value is not over \$100.

189. If notice of intent to claim has been given and the value of the goods or thing seized does not exceed one hundred dollars, and the prosecutor chooses to proceed under this section, he shall forthwith cause the goods to be valued by a competent appraiser; and if such appraiser certifies them to be under the said value, a summary information in writing may be exhibited in the name of the collector at or nearest to the place of seizure, or in the name of any officer authorized thereto by the Minister of Customs, before two justices of the peace, charging the articles seized as forfeited under some particular Act and section thereof to be therein referred to, and praying condemnation thereof; and the justices shall thereupon issue a general notice for all persons claiming interest in the seizure to appear at a certain time and place there to claim the articles seized, and answer the information, otherwise such articles will be condemned; and a copy of the notice shall, at least eight days before the time of appearance, be served upon the person from whose possession the things were taken, or shall be left at or affixed to the building or vessel in which they were seized, if any, and if there remaining, or at two public places nearest the place of seizure: if any person appears to answer the information, the justices shall hear and determine the matter in a summary manner and acquit or condemn the articles, but if no person appears judgment of condemnation shall be given; and the justices on condemnation shall issue a warrant to the collector to sell the goods; and such two justices shall be deemed a court, and each of them a judge thereof for the purposes of this Act. 46 V., c. 12, s. 206.

Proceeding before Justices of the Peace.

Notice to parties.

Hearing if case is defended, &c.

Justices to be a court.

Sales to be by public auction.

190. Sales of goods forfeited or otherwise liable to be sold under this Act shall be by public auction, and after a reasonable public notice, and subject to such further regulations as are made by the Governor in Council; but in any case, the Minister of Customs may order vessels, goods, vehicles or things forfeited to be disposed of as he sees fit, instead of being sold by public auction. 46 V., c. 12, s. 212.

Exception.

Appropriation and distribution of penalties and forfeitures.

191. The proceeds, after deducting expenses, shall, unless it is otherwise provided, belong to Her Majesty for the public uses of Canada; but the net proceeds or any portion thereof, may be divided between, and paid to the collector or chief officer of the Customs at the port or place where the seizure was made, and the officer or officers by whom the seizure was made, or the information given which led to the seizure and any person who has given information or other-

wise aided in effecting the condemnation of the thing seized, in such proportions as the Governor in Council in any case or class of cases directs and appoints: but nothing herein contained shall be construed to limit or affect any power vested in the Governor in Council or the Minister of Customs to make and ordain any other plan or system for the redistribution of such net proceeds, or with regard to the remission of penalties or forfeiture imposed by this Act or any other law. 46 V., c. 12, s. 213.

Powers of Governor in Council and of Minister of Customs not affected.

FORFEITURES AND PENALTIES.

192. If any person smuggles or clandestinely introduces^s into Canada any goods subject to duty, or makes out or passes or attempts to pass through the Custom house any false, forged or fraudulent invoice, or in any way attempts to defraud the revenue by evading the payment of the duty, or of any part of the duty on any goods, such goods, if found, may be seized and forfeited; or if not found but the value thereof has been ascertained, the person so offending shall forfeit the value thereof as so ascertained; and every such person, his aiders and abettors shall, in addition to any other penalty to which he and they are subject for such offence, forfeit a sum equal to the value of such goods, which sum may be recovered in any court of competent jurisdiction, and shall further be liable on summary conviction before two justices of the peace, or any other magistrate having the powers of two justices of the peace, to a penalty not exceeding two hundred dollars, and not less than fifty dollars, or to imprisonment for a term not exceeding one year, and not less than one month, or to both fine and imprisonment. 51 V., c. 14, s. 35.

Penalty and forfeiture for smuggling, using false invoices, &c.

Additional penalty.

193. If any goods are unladen from any vessel or vehicle or put out of the custody of the master or person in charge of the same, before report is made as required by this Act, or if such master or person fails to make such report, or to produce such goods, or makes an untrue report or does not truly answer the questions demanded of him, he shall for each such offence incur a penalty of four hundred dollars; and if any such goods are not so reported and produced, or if the marks and numbers or other description of any package do not agree with the report made, such goods or package shall be seized and forfeited, and the vessel or vehicle and the animals drawing the same shall be detained until such amount is paid; and unless payment is made within thirty days, such vessel or vehicle and any animals drawing the same may, after the expiration of such delay, be sold to pay such penalty. 51 V., c. 14, s. 36.

Penalty for not reporting goods.

Forfeiture of goods and detention of vessel or vehicle.

194. All goods unladen or landed before due entry thereof and warrant for landing, shall be seized and forfeited, and every person concerned in landing or receiving or concealing

Forfeiture of goods landed without due entry.

goods so landed, shall, for each offence, incur a penalty of four hundred dollars. 46 V., c. 12, s. 44.

Penalties and forfeitures for contravention of regulations.

195. All goods shipped or unshipped, imported or exported, carried or conveyed, contrary to any regulation made by the Governor in Council, and all goods or vehicles and all vessels under the value of four hundred dollars, with regard to which the requirements of any such regulation have not been complied with, shall be forfeited and may be seized; and if such vessel is of or over the value of four hundred dollars, the master thereof shall, by such non-compliance, incur a penalty of four hundred dollars, and the vessel may be detained until the said penalty is paid; and unless payment is made within thirty days, such vessel may, after the expiration of such delay, be sold to pay such penalty, and any expenses incurred in making the seizure and keeping and selling such vessel; and any such forfeitures and penalties shall be recoverable and may be enforced in the same manner and before the same court and tribunal, as if incurred by the violation of any provision of this Act. 51 Vic., c. 14, s. 37.

Recovery.

Vessels used in conveying forfeited goods to be forfeited.

Penalty for assisting in landing, &c., such goods.

196. All vessels with the guns, tackle, apparel and furniture thereof, and all vehicles, harness, tackle, horses and cattle made use of in the importation or unshipping or landing or removal of any goods liable to forfeiture under this Act, shall be seized and forfeited; and every person who assists or is otherwise concerned in importing, unshipping, landing or removing, or in the harboring of such goods, or into whose hands or possession the same knowingly come, shall incur a penalty of two hundred dollars or a penalty equal to treble the value of such goods, at the election of the person who sues for the same; and the averment in any information, petition or pleading for the recovery of such penalty, that such person has elected to sue for the sum mentioned in the information, petition or pleading, shall be sufficient proof of such election, without any other evidence of the fact. 46 V., c. 12, s. 162.

Forfeiture of smuggled goods.

Penalty if goods are not found.

197. If any person knowingly harbors, keeps, conceals, purchases, sells or exchanges any goods unlawfully imported into Canada (whether such goods are dutiable or not), or whereon the duties lawfully payable have not been paid, such goods, if found, shall be forfeited, and may be seized. If such goods are not found, the person so offending shall forfeit the value thereof; and every such person, his aiders and abettors shall, in addition to any other penalty, forfeit a sum equal to the value of such goods, which may be recovered in any court of competent jurisdiction, and shall further be liable, on summary conviction before two justices of the peace or any magistrate having the powers of two justices of the peace, to a penalty not ex-

ceeding two hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding one year and not less than one month, or to both fine and imprisonment. 51 V., c. 14, s. 38.

198. If any two or more persons in company are found together, and they or any of them have any goods liable to forfeiture under this Act,—every such person having knowledge of the fact, is guilty of a misdemeanor, and punishable accordingly. 46 V., c. 12, s. 156.

Persons smuggling goods in company.

199. Every person who is proved to have been on board any vessel or boat liable to forfeiture for having been found within one league of the coasts or shores of Canada, having on board or attached thereto, or conveying or having conveyed anything subjecting such vessel or boat to forfeiture, or who is proved to have been on board any vessel or boat from which any part of the cargo has been thrown overboard or destroyed, or in which any goods have been unlawfully brought into Canada, shall incur a penalty of one hundred dollars, if he has been knowingly concerned in such acts. 46 V., c. 12, s. 164.

Penalty on persons found on board smuggling vessels.

200. Every person, who, by any means, procures, hires or induces any person or persons to be concerned in the landing, unshipping, carrying or conveying any goods the importation of which is prohibited, or for the landing of which permission has not been granted by the collector or other proper officer of Customs, shall, for every person so procured, hired or induced, incur a penalty of one hundred dollars. 46 V., c. 12, s. 157.

Penalty for procuring persons to assist in smuggling.

201. If any person makes or sends, or brings into Canada, or causes or authorizes the making, sending or bringing into Canada, any invoice or paper, used or intended to be used as an invoice for Customs purposes, in which any goods are entered or charged at a less price or value than that actually charged, or intended to be charged for them, or in which the goods are falsely described, no sum of money shall be recoverable by such person, his assigns or representatives, for the price of such goods or any part thereof, or on any bill of exchange, note or other security, unless in the hands of an innocent holder for value without notice, made, given or executed for the price of such goods or any part of such price. 51 V., c. 14, s. 39.

Person making or authorizing false invoice not to recover any part of price of goods.

202. The production or proof of the existence of any other invoice, account, document or paper made or sent by any person, or by his authority, wherein goods or any of them are charged or entered at or mentioned as bearing a greater price than that set upon them in any such invoice as in the next preceding section mentioned or in which the

What shall be evidence of fraud.

goods are falsely described, shall be *prima facie* evidence that such invoice was intended to be fraudulently used for Customs purposes ; but such intention, or the actual fraudulent use of such invoice, may be proved by any other legal evidence. 51 V., c. 14, s. 39.

Penalty on importer presenting such false invoice.

203. Every importer of goods into Canada, and every person on his behalf, who presents or causes to be presented with intent to make entry thereunder, any false or fraudulent invoice, such as described in the two sections next preceding, shall incur a penalty equal in amount to the value of the goods represented in such invoice, and the goods shall also be seized and forfeited. 46 V., c. 12, s. 94.

Forfeiture of goods falsely entered.

204. If any entry passed at any Custom house is false in any particular to the knowledge of any person connected with the making thereof, all the packages and goods included or pretended to be included, or which ought to have been included in such entry, shall be forfeited. 51 V., c. 14, s. 40.

Penalty on persons committing certain offences as to warehoused goods.

205. If any warehoused goods are consealed in or unlawfully removed from any Customs warehouse in Canada, such goods shall be seized and forfeited ; and every person who conceals or unlawfully removes any such goods, or aids or abets such concealment or removal, shall incur the penalties imposed on persons illegally importing or smuggling goods into Canada ; and on discovery of such concealment or removal, all goods belonging to the importer or owner of the concealed or removed goods, then remaining in the same or any other warehouse, shall be placed under detention until the duty payable on the goods so concealed or removed, and all penalties incurred by him have been paid ; and if such duties and penalties are not paid within one month after the discovery of the concealment or removal of such goods, the goods so detained shall be dealt with in the same manner as goods unlawfully imported or smuggled into Canada. 46 V., c. 12, s. 158.

Penalty for fraudulent access to warehouse.

206. If the importer or owner of any warehoused goods, or any person in his employ, by any contrivance, opens the warehouse in which the goods are, or gains access to the goods except in the presence of or with the express permission of the proper officer of the Customs, such importer or owner shall, for every such offence, incur a penalty of one hundred dollars. 46 V., c. 12, s. 159.

Obtaining access to goods in a bonded car, &c.

207. Every person who, by any contrivance gains access to bonded goods in a railway car, or to goods in a railway car—upon which goods the Customs duties have not been paid, or delivers such bonded or other goods without the express permission of the proper officer of Customs, shall,

for every such offence, be liable to imprisonment for a term not exceeding one year and not less than one month. 46 V., c. 12, s. 160.

208. Every person who wilfully alters, defaces or obliterates any mark placed by any officer of Customs on any package of warehoused goods, or goods in transit, shall, for every such offence, incur a penalty of five hundred dollars. 46 V., c. 12, s. 161. Penalty for altering or defacing marks.

209. Every person who makes any entry outwards of goods from warehouse for exportation and who is not the owner or duly authorized by the owner thereof, or the master of the vessel by which they are to be shipped, shall incur a penalty of two hundred dollars. 46 V., c. 12, s. 139. Penalty on others than owner entering goods outwards.

210. Repealed by 51 V., c. 14, s. 49.

211. Every person who counterfeits, falsifies, or uses when so counterfeited or falsified, any paper or document required under this Act, or for any purpose therein mentioned,—whether written, printed or otherwise, or by any false statement procures such document, knowing the same to be so forged or counterfeited, or forges or counterfeits any certificate relating to any oath or declaration or affirmation hereby required or authorized, is guilty of a misdemeanor. 46 V., c. 12, s. 168. Penalty for counterfeiting or using counterfeited papers, &c.

212. Every person who, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away any goods, vessel, vehicle, or other thing which have been seized or detained on suspicion, as forfeited under this Act, before the same have been declared by competent authority to have been seized without due cause, and without the permission of the officer or person who seized the same or of some competent authority, shall be deemed to have stolen such goods, being the property of Her Majesty, and is guilty of felony. 46 V., c. 12, s. 185. Taking away seized goods without authority to be felony.

213. Every person who, under any pretence, either by actual assault, force or violence, or by threats of such assault, force, or violence, in any way resists, opposes, molests or obstructs any officer of Customs, or any person acting in his aid or assistance, in the discharge of his or their duty, under the authority of this Act, or any other law in force in Canada relating to Customs, trade or navigation, or who wilfully or maliciously shoots at or attempts to destroy or damage any vessel belonging to Her Majesty, or in the service of Canada, or maims or wounds any officer of the army, navy, marine or Customs, or any person acting in aid or Punishment of persons assaulting or obstructing officers.
Firing at Her Majesty's vessels.
Wounding persons in Her Majesty's service.

Or having goods liable to seizure and being armed or disguised.
 Or destroying vessels or goods or any Custom House, &c.
 Such offences to be felony.
 Penalty for refusing to stop.
 Or to assist.
 Recovery of penalty.

assistance of such officer, while duly employed for the prevention of smuggling, and in execution of his or their duty,—and every person who is found with any goods liable to seizure or forfeiture, under this Act or any other law relating to Customs, trade or navigation, and carrying offensive arms or weapons, or in any way disguised,—and every person who staves, breaks or in any way destroys any such goods, before or after the actual seizure thereof, or scuttles, sinks or cuts adrift any vessel, or destroys or injures any vehicle or animal, before or after the seizure, or wilfully and maliciously destroys or injures, by fire or otherwise, any Custom house, or any building whatsoever in which seized, forfeited or bonded goods are deposited or kept, is guilty of felony. 46 V., c. 12, s. 186.

214. Every master or person in charge of any vessel, and every driver or person conducting or having charge of any vehicle or conveyance, who refuses to stop such vessel, vehicle or conveyance when required so to do, in the Queen's name, by an officer of Customs or person employed as such, and every person who is present at any such seizure or stoppage, and who, when called upon in the Queen's name by such officer or person to aid and assist him in a lawful way, refuses so to do, shall be liable, on summary conviction before two justices of the peace, to a penalty of two hundred dollars, and in default of payment to imprisonment for a term not exceeding six months. 46 V., c. 12, s. 174.

Forfeiture and penalty for offering for sale goods pretended to be smuggled.

215. If any person offers for sale any goods under pretence that the same are prohibited, or have been unshipped and run on shore, or brought in, by land or otherwise, without payment of duties, all such goods, although not liable to any duties or prohibited, shall be seized and forfeited, and every person who offers the same for sale shall be liable, on summary conviction before two justices of the peace, to a penalty of two hundred dollars, or to a penalty equal to treble the value of such goods, at the election of the prosecutor, and in default of payment, to imprisonment for a term not exceeding sixty days. 46 V., c. 12, s. 154.

Penalty for not truly answering lawful questions.

216. Every person required by this Act or by any other law to answer questions put to him by any officer of the Customs, who refuses to answer or does not truly answer such questions, shall, in addition to any other penalty or punishment to which he is liable, incur a penalty of four hundred dollars. 46 V., c. 12, s. 170.

Penalty for having wrecked goods, &c., without reporting them.

217. Every person who has in his possession, in port or on land any goods derelict, flotsam, jetsam or wreck, and which are dutiable, and does not give notice thereof to the nearest officer of Customs without unnecessary delay, or does

not, on demand, pay the duties thereon or deliver the same to the proper officer, shall incur a penalty of two hundred dollars, in addition to all other liabilities and penalties incurred by him, and the goods shall be seized and forfeited; and every person who removes or alters in quantity or quality, any such goods, or unnecessarily opens or alters any package thereof, or abets any such act, before the goods are deposited in warehouse under the custody of the Customs officers, shall, in addition to all other liabilities and penalties incurred by him, incur a penalty of two hundred dollars. 46 V., c. 12, s. 61.

And for removing or altering them.

218. Repealed by 51 V., c. 14, s. 49.

219. Every police or peace officer, who has detained any goods, property or vehicle subject or liable to forfeiture, and who neglects to convey the same to the Custom house, or to give notice of having stopped the same as herein prescribed, shall be liable, on summary conviction, to a penalty of one hundred dollars, and in default of payment to imprisonment for a term not exceeding thirty days. 46 V., c. 12, s. 184.

Penalty on police officer not conveying detained goods to Custom House.

220. Every collector or other officer of Customs who allows the payment of duties of Customs to be avoided or deferred for any cause or consideration whatsoever, except by regular entry for warehouse, shall be liable to a penalty equal to the full value of such goods, and the duty accruing thereon, which shall be recoverable in any court of competent jurisdiction, from him or his sureties, or either of them; and any goods on which payment of duty has been so avoided or deferred, shall be liable to seizure and be dealt with as goods unlawfully imported into Canada. 46 V., c. 12, s. 127.

Penalty on Collector allowing payment to be avoided or deferred.

Liability of goods.

221. Every officer of the Customs, and every person employed, with the concurrence of the Minister of Customs, for the prevention of smuggling, who makes any collusive seizure, or delivers up, or makes any agreement to deliver up or not to seize any vessel, boat, carriage, goods or thing liable to forfeiture under this Act, or who takes or accepts a promise of any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty, is guilty of a misdemeanor, and liable for every such offence to a fine of five hundred dollars, and to imprisonment for a term not exceeding two years and not less than three months, and shall be incapable of serving Her Majesty in any office whatsoever; and every person who gives, offers or promises to give, or procure to be given, any bribe, recompense or reward to, or makes any collusive agreement with any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to conceal or connive at any act whereby

Penalty on officers of Customs conniving at any evasion of the revenue laws.

Or persons bribing or tempting them so to connive.

the provisions of this Act, or any law relating to the Customs, trade or navigation, may be evaded, is guilty of a misdemeanor, and liable for every such offence to a fine of five hundred dollars, and to imprisonment for a term not exceeding two years and not less than three months. 46 V., c. 12, s. 187.

PROCEDURE.

In what courts penalties and forfeitures are recoverable.

222. All penalties and forfeitures incurred under this Act or any other law relating to the Customs or to trade or navigation, may, in addition to any other remedy provided by this Act or by law, be prosecuted, sued for and recovered with full costs of suit, in the Exchequer Court of Canada or in any Superior Court or Court of Vice-Admiralty, having jurisdiction in that Province of Canada where the cause of prosecution arises, or wherein the defendant is served with process; and if the amount of any such penalty or forfeiture does not exceed two hundred dollars, the same may also be prosecuted, sued for and recovered in any court having jurisdiction to that amount in the place where the cause of prosecution arises, or where the defendant is served with process. 51 V., c. 14, s. 41.

In whose name prosecutions may be brought.

223. All penalties and forfeitures imposed by this Act or by any other Act relating to the Customs or to trade or navigation, shall, unless other provisions are made for the recovery thereof, be sued for, prosecuted and recovered with costs by Her Majesty's Attorney General of Canada, or in the name or names of the Commissioner of Customs, or any officer or officers of the Customs, or other person or persons thereunto authorized by the Governor in Council, either expressly or by general regulation or order, and by no other person. 46 V., c. 12, s. 189.

How such suits or proceedings may be brought in the Province of Quebec.

224. All penalties and forfeitures imposed by this Act or by any other law relating to the Customs or to trade or navigation, may, in the Province of Quebec, be sued for, prosecuted and recovered with full costs of suit by the same proceeding as any other moneys due to the Crown, and all suits or prosecutions for the recovery thereof shall, in that Province, be heard and determined in like manner as other suits or prosecutions in the same Court for moneys due to the Crown, except that in the Circuit Court the same shall be heard and determined in a summary manner; but nothing in this section shall affect any provisions of this Act, except such only as relate to the form of proceeding and of trial in such suits or prosecutions as aforesaid. 46 V., c. 12, s. 190.

Procedure in such suits or prosecutions, in the several courts.

225. Every prosecution or suit in the Exchequer Court of Canada, or in any superior court or circuit court or court of competent jurisdiction for the recovery or enforcement of

any penalty or forfeiture imposed by this Act or by any other law relating to the Customs or to trade or navigation may be commenced, prosecuted and proceeded with in accordance with any rules of practice, general or special, established by the court for Crown suits in revenue matters, or in accordance with the usual practice and procedure of the court in civil cases, in so far as such practice and procedure are applicable, and wherever the same are not applicable, then in accordance with the directions of the court or a judge. 46 V., c. 12, s. 191, *part*.

226. The venue in any such prosecution or suit may be laid in any county in the Province notwithstanding that the cause of prosecution or suit did not arise in such county. 46 V., c. 12, s. 191, *part*. As to the venue.

227. Any judge of the court in which any prosecution or suit is brought for the recovery or enforcement of any penalty or forfeiture as aforesaid, may, upon being satisfied by affidavit that there is reason to believe that the defendant will leave the Province without satisfying such penalty or forfeiture, issue a warrant under his hand and seal for the arrest and detention of the defendant in the common gaol of the country, district or place until he has given security, before and to the satisfaction of such judge or some other judge of the same court, for the payment of such penalty with costs, in case judgment is given against him. 46 V., c. 12, s. 192. Arrest of defendant about to leave the Province where the suit is brought.

228. In any declaration, information, statement of claim or proceeding in any such prosecution or suit, it shall be sufficient to state the penalty or forfeiture incurred, and the Act and section of the Act, or the rule or regulation under which it is alleged to have been incurred, without further particulars; and the averment that the person seizing or suing was and is an officer of the Customs, shall be sufficient *primâ facie* evidence of the fact alleged, and no person shall be disqualified as a witness by reason of interest. 51 V., c. 14, s. 42. What shall be sufficient averment.

229. In every prosecution, information, suit or proceeding brought under this Act for any penalty or to declare or enforce any forfeiture or upon any bond given under it, or in any matter relating to the Customs or to trade or navigation, Her Majesty or those who sue for such penalty or forfeiture, or upon such bond, shall, if they recover the same, be entitled also to recover full costs of suit; and all such penalties and costs, if not paid, may be levied on the goods and chattels, lands and tenements of the defendant, in the same manner as sums recovered by judgment of the court in which the prosecution is brought may be levied by execution, or payment thereof may be enforced by *capias* Those who sue for the Crown to recover full costs of suit.
Penalties and costs, how levied.

satisfaciendum against the person of the defendant under the same conditions and in like manner. 46 V., c. 12, s. 194.

Nolle prosequi by Attorney General.

230. If, in any case, the Attorney General of Canada is satisfied that the penalty or forfeiture was incurred without intended fraud, he may enter a *nolle prosequi* on such terms as he sees fit, which shall be binding on all parties; and the entry of such *nolle prosequi* shall be reported to the Minister of Customs with the reasons therefor. 46 V., c. 12, s. 195.

Averment as to place at which any act was done.

231. In any prosecution, suit or other proceeding for the recovery of any penalty or in respect of any forfeiture as aforesaid, or for an offence against this Act or any other law relating to the Customs, or to trade or navigation, the averment that the cause of prosecution or suit arose, or that such offence was committed within the limits of any district, county, port or place, shall be sufficient evidence of the fact without proof of such limits, unless the contrary is proved. 46 V., c. 12, s. 196.

Costs and damages for seizure set aside, to be limited on certificate of probable cause.

232. If, in any prosecution, information or suit respecting any seizure made under this Act or any law relating to the Customs, decision or judgment is given for the claimant, and if the judge or court before whom the cause has been tried or brought, certifies that there was probable cause for 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 is brought against any person on account of his making or being concerned in the making of such seizure, the plaintiff, if probable cause is certified as aforesaid, shall not be entitled to more than twenty cents damages or to any costs, nor shall the defendant in such prosecution in such case be fined more than ten cents. 46 V., c. 12, s. 216.

Burden of proof on owner or claimant of goods.

233. If any prosecution or suit is brought for any penalty or forfeiture under this Act or any other law relating to the Customs or to trade or navigation, and any question arises as to the identity or origin of the goods seized, or as to the payment of the duties on any goods, or as to the lawful importation thereof, or as to the lawful lading or exportation of the same, or as to the doing or omission of any other thing by which such penalty or forfeiture would be incurred or avoided,—the burden of proof shall lie on the owner or claimant of the goods, and not on the Crown, or on the person bringing such prosecution or suit. 51 V., c. 14, s. 43.

Things seized as forfeited to be deemed

234. All vessels, vehicles, goods and other things seized as forfeited under this Act or any other law relating

to Customs, or to trade or navigation, shall be placed in the custody of the nearest collector, and secured by him, or if seized by any officer in charge of a revenue vessel shall be retained on board thereof until her arrival in port, and shall be deemed and taken to be condemned, without suit, information or proceedings of any kind, and may be sold; and all moneys paid to or deposited with any officer of Customs in lieu of any things seized, or as the ascertained value of any things liable to seizure and forfeiture, shall likewise be deemed and taken to be condemned, without suit, information or proceedings of any kind; unless the person in whose possession or custody they were seized, or the owner thereof, or the person paying or depositing any moneys as aforesaid, or some person on his behalf, within one month from the day of seizure, payment or deposit gives notice in writing to the seizing officer or other chief officer of the Customs at the nearest port, that he claims or intends to claim the same; and the burden of proof that such notice was duly given in any case shall lie upon the person so claiming. 52 V., c. 14, s. 14.

condemned, if not claimed within a certain time.

Notice of claim.

235. Proceedings for the condemnation of the things seized or any moneys paid or deposited in lieu thereof or as the ascertained value of things liable to seizure, may be commenced and prosecuted to judgment, whether notice as provided in the next preceding section has or has not been given. 52 V., c. 14, s. 15.

Want of notice not to stay proceedings.

236. Whenever under any provision of this Act any penalty may be recovered or any forfeiture may be enforced by action, suit or proceeding, the seizure by an officer of Customs or person acting in his aid of the goods in respect of which the penalty has been incurred or the forfeiture has accrued, shall be deemed to be a commencement of such action, suit or proceeding. 51 V., c. 14, s. 44.

What shall be deemed a commencement of suit.

237. Repealed by 51 V., c. 14, s. 49.

238. Every person who desires to claim any thing seized after proceedings for condemnation thereof have been commenced shall file his claim in the office of the clerk, registrar or prothonotary of the court: and such claim shall state the name, residence and occupation or calling of the person making it, and shall be accompanied by an affidavit of the claimant or his agent having a knowledge of the facts, setting forth the nature of the claimant's title to the thing seized. 46 V., c. 12, s. 201.

As to claims made after proceedings have been commenced.

239. Before any such claim can be filed the claimant shall give security to the satisfaction of the court or a judge thereof by bond in a penal sum of not less than two hundred dollars, or by a deposit of money not less than that

Bond for payment of costs required.

sum, for the payment of the costs of the proceedings for condemnation. 46 V., c. 12, s. 202.

Limitation
of time for
bringing
suits.

240. All seizures, prosecutions or suits for the recovery or enforcement of any of the penalties or forfeitures imposed by this Act, or any other law relating to the Customs, may be made or commenced at any time within three years, after the offence was committed, or the cause of prosecution or suit arose, but not afterwards. 51 V., c. 14, s. 45.

Appeal from
convictions
before jus-
tices of peace.

241. An appeal shall lie from a conviction by any magistrate, judge, justice or justices of the peace under this Act, in the manner provided by law from convictions in cases of summary conviction, in that Province in which the conviction was had, on the appellant furnishing security by bond or recognizance with two sureties to the satisfaction of such magistrate, judge, justice or justices of the peace, to abide the event of such appeal. 46 V., c. 12, s. 208.

And from
other courts.

242. An appeal shall also lie from the Exchequer Court of Canada, the superior courts and county courts respectively, in cases where the amount of the penalty or forfeiture is such that if a judgment for a like amount was given in any civil case, an appeal would lie; and such appeal shall be allowed and prosecuted on like conditions and subject to like provisions as other appeals from the same court, in matters of like amount; and an appeal shall lie from the Circuit Court to the Court of Queen's Bench in the Province of Quebec, to be allowed and prosecuted in like manner and on like conditions as appeals from the Superior Court in that Province. 46 V., c. 12, s. 209.

If brought by
the Crown.

243. If the appeal is brought by Her Majesty's Attorney General, or a collector or officer of the Customs, it shall not be necessary for him to give any security on such appeal. 46 V., c. 12, s. 210.

Restoration of
goods, &c.,
not prevented
by appeal if
security is
given.

244. In any case in which proceedings have been instituted in any court against any vessel, vehicle, goods or thing, for the recovery or enforcement of any penalty or forfeiture under this Act or any law relating to the Customs, trade or navigation, the execution of any decision or judgment for restoring the thing to the claimant thereof, shall not be suspended by reason of any appeal from such decision or judgment, if the claimant gives sufficient security, approved of by the court or a judge thereof, to render and deliver the thing in question or the full value thereof, to the appellant, in case the decision or judgment so appealed from is reversed. 46 V., c. 12, s. 211.

POWERS OF THE GOVERNOR IN COUNCIL.

Governor in
Council may
make regula-

245. The Governor in Council may, from time to time, and in the manner hereinafter provided, in addition to the

other purposes and matters in this Act mentioned, make regulations for or relating to the following purposes and matters:—

(a.) For the warehousing and bonding of such cattle and swine as may be slaughtered and cured in bond, and of such wheat, maize and other grain as may be ground and packed in bond, and of such sugar as may be refined in bond; 46 V., c. 12, s. 230. Slaughtering cattle, and grinding grain in bond.

(b.) For regulating and declaring what allowances shall be made for tare on the gross weight of goods; 51 V., c. 14, s. 46. As to tare.

(c.) For declaring what shall be coasting trade, or inland navigation, respectively, and how the same shall be regulated in any case or class of cases, and for relaxing or dispensing with any of the requirements of this Act, as to vessels engaged in such trade, on any conditions which he sees fit to impose; Coasting trade and inland navigation.

(d.) For appointing places and ports of entry, and warehousing and bonding ports,—and respecting goods and vessels passing the canals,—and respecting the horses, vehicles and personal baggage of travellers coming into Canada or returning thereto, or passing through any portion thereof; Ports of entry
Passing through Canada.

(e.) For regulating or restricting the importation of spirits, wine and malt liquors, or other goods which require to be weighed, gauged or tested for strength or quantity, and limiting or prescribing the kind and capacity of packages in which the same may be imported, and the conveyances by which, and the ports or places at which the same may be landed and entered; Regulating or restricting importation of spirits, &c.

(f.) For exempting from duty any flour or meal or other produce of any wheat or grain grown in and taken out of Canada into the United States to be ground, and brought back into Canada within two days after such wheat or grain has been so taken out to be ground, or any boards, planks, or scantling the produce of any logs or timber grown in and taken out of Canada into the United States to be sawn, and brought back into Canada within seven days after such logs or timber were so taken out to be sawn; Exempting produce of grain or timber grown in Canada, &c., from duty in certain cases.

(g.) For regulating the quantity to be so taken out or brought in at any one time by any person, and the mode in which the claim to exemption shall be established and proved; Respecting claims to such exemption.

(h.) For authorizing the appointment of warehouses, and regulating the security which shall be taken from warehouse keepers, the forms and conditions subject to which goods are to be warehoused, the mode of keeping goods in warehouse, and of removing such goods therefrom, and the amount of warehouse rent or license fees; Warehousing.
Forms, rents, &c.

(i.) For extending either by general regulation or by special order, the time for clearing warehoused goods, and for the transport of goods in bond from one port or place to another; Extending time for clearing warehoused goods.

Transfers in bond. (j.) For regulating the form in which transfers of goods in warehouse or bond from one person to another shall be entered ;

Exemption of goods from Newfoundland. (k.) For exempting goods from duty as being the growth, produce or manufacture of Newfoundland if such exemption is provided for by any Act relating to Customs, and for regulating the mode of proving such exemption ;

Transferring certain materials for Canadian manufactures to the free list, &c. (l.) For transferring to the list of goods which may be imported into Canada free of duty, any or all articles (whether natural products or products of manufactures) used as materials in Canadian manufactures ; and any such materials transferred to the free list by such Order in Council, shall be free of duty of Customs for the time therein appointed for that purpose ;

Drawback on articles used in manufactures. (m.) For granting a drawback of the whole or part of the duty paid on articles which have been used in Canadian manufactures, or for granting a certain specific sum in lieu of any such drawback ;

Distribution of penalties. (n.) For prescribing the manner in which the proceeds of penalties and forfeitures shall be distributed ;

Taking bond for security of performance of conditions of remission, &c. (o.) For authorizing the taking of such bonds and security as he deems advisable for the performance of any condition on which any remission or partial remission of duty, indulgence or permission is granted to any person, or any other condition made with such person, in any matter relating to

Such bonds to be valid. the Customs or to trade or navigation ; and such bonds, and all bonds taken with the sanction of the Minister of Customs expressed either by general regulation or by special order, shall be valid in law, and upon breach of any of the conditions thereof, may be sued and proceeded upon in like manner as any other bond entered into under this Act or any other law relating to the Customs ;

Other matters. (p.) For any other purpose for which by this Act, or any other law relating to the Customs or to trade or navigation, the Governor in Council is empowered to make orders or regulations ;

General regulations in cases where he may make special. And the Governor in Council may, if he deems it expedient, make general regulations in any matter in which he may make a special order ; and any such general regulation shall apply to each particular case within the extent and meaning thereof, as fully and effectually as if the same referred directly to each particular case within the intent, and meaning thereof, and the officers, functionaries and persons had been specially named therein. 46 V., c. 12, s. 230.

Regulations as to passing of goods through Canadian canals, &c. **246.** The Governor in Council may, from time to time, and as occasion requires, make such regulations as to him seem meet, with respect to goods conveyed directly through the Canadian canals or otherwise by land or inland navigation, or in or on railway cars, from one part of the frontier line between Canada and the United States to another, without any intention of unloading such goods in Canada ;

and he may cause such bonds or security to be given or such precautions to be taken at the expense of the importer, whether by placing officers of the Customs on board any such vessel, railway car or carriage, or otherwise, as to him seem meet; and on the refusal of the importer to comply with the regulations so made, the duty on the goods so imported shall forthwith become payable:

2. The Minister of Customs may, from time to time, and as occasion requires, make such regulations as to him seem meet, with respect to travellers passing through a portion of Canada, or coming into it with their carriages, horses or other cattle drawing the same and personal baggage, with the intention of forthwith returning to the United States, or having gone to the United States from Canada, returning to it with such articles, and may direct under what circumstances duty shall or shall not be paid, and on what conditions it shall be remitted or returned. Every animal or vehicle and goods of any kind, brought into Canada by any traveller, and which have been exempted from duty under such regulations or otherwise, may, if sold or offered for sale in Canada, without payment of the duties thereon, be seized and forfeited, together with the harness or tackle employed therewith or in the conveyance thereof. 54 V., c. 14, s. 47.

Regulations as to travellers.

Forfeiture for sale of animals, &c., without payment of duty.

247. The Governor in Council may, under regulations made for that purpose, allow, on the exportation of goods which have been imported into Canada, and on which a duty of Customs has been paid, a drawback equal to the duty so paid with such deduction therefrom as is provided in such regulations; and in cases mentioned in such regulations, and subject to such provisions as are therein made, such drawback or a specific sum in lieu thereof may be allowed on duty-paid goods manufactured or wrought in Canada into goods exported therefrom as aforesaid; and the period within which such drawback may be allowed, after the time the duty was paid shall be limited in such regulations. 46 V., c. 12, s. 242.

Drawback on duty paid goods exported.

248. The Governor in Council may interpret, limit or extend the meaning of the conditions upon which it is provided in any Act imposing duties of Customs, that any article may be imported free of duty for special purposes, or for particular objects or interest; and may make regulations either for declaring or defining what cases shall come within the conditions of such Act, and to what objects or interests of an analogous nature the same shall apply and extend, and may direct the payment or non-payment of duty in any such case, or the remission thereof by way of drawback if such duty has been paid. 46 V., c. 12, s. 78.

Powers of Governor in Council as to conditions on which any article may be imported.

Governor in Council may make regulations for the appointment of sufferance wharves and warehouses.

249. The Governor in Council may make such regulations as are considered advisable, for the appointment of sufferance wharves and warehouses, at which goods arriving by vessels in transit to other ports or confined to certain days of departure, may be landed and afterward stored before entry—such vessels being duly reported to the Custom house, and the collector's warrant for the purpose being obtained—if such landing is effected between sunrise and sunset, on a day not being Sunday or a statutory holiday, and if the goods on being so landed, are immediately stored in some such approved sufferance warehouse; and such goods shall be thereafter dealt with by the proper officer of Customs as prescribed by law: but nothing in this section shall affect any contract, express or implied, between the master or owner of any such vessel and the owner, shipper or consignee of any such goods as aforesaid, or the rights or liability of any person under such contract:

Proviso.

Sufferance warehouses for goods by railway.

2. The Governor in Council may make similar regulations for the appointment of sufferance warehouses, in which goods arriving by railway may be stored before entry,—such goods having been duly reported to the collector or proper officer of Customs. 46 V., c. 12, s. 32.

Governor in Council may prohibit the exportation, &c., of certain goods.

250. The Governor in Council may, from time to time, prohibit the exportation or the carrying coastwise or by inland navigation, of the following goods: arms, ammunition and gunpowder, military and naval stores, and any articles which the Governor in Council deems capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions or any sort of victual which may be used as food by man; and if any goods so prohibited are exported, carried coastwise or by inland navigation, or water-borne or laden in any railway carriage or other vehicle, for the purpose of being so exported or carried, they shall be seized and forfeited. 46 V., c. 12, s. 233.

Oath or declaration may be required by regulations.

251. Any oath or declaration which the Governor in Council deems necessary to protect the revenue against fraud may, in any regulation made by him under this Act, be prescribed, and any person or officer may be authorized to administer the same; and by any such regulation a declaration may be substituted for an oath in any case in which an oath is required by this Act. 46 V., c. 12, s. 232.

Governor in Council may prescribe and alter forms of oaths.

252. The Governor in Council may prescribe the forms of oaths required under this Act; such forms may, from time to time, be repealed or amended, and the forms of oaths authorized by statute or by the Governor in Council at the time of the coming into force of this Act shall continue to be the authorized forms until altered or dispensed with by the Governor in Council. 46 V., c. 12, s. 91.

253. All general regulations made by the Governor in Council under this Act, shall have effect from and after the day on which the same are published in the *Canada Gazette*, or from and after such later day as is appointed for the purpose in such regulations, and during such time as is therein expressed, or if no time is expressed for that purpose, then until the same are revoked or altered. 46 V., c. 12, s. 23, *part.* Publication of regulations.
Revocation.

ANNUAL REPORT.

254. The Minister of Customs shall annually make to the Governor General, to be laid before Parliament within fifteen days after the meeting thereof, a report and statement of the transactions and affairs of the department during the year then next preceding. 31 V., c. 43, s. 5. Annual report by Minister.

255. The surplus, if any, of the proceeds of the sale of any vessel sold for any penalty over and above the amount of the penalty, and expenses incurred, shall be paid to the owner of the vessel so sold, or to his lawful agent or other persons entitled thereto. 51 V. c. 14, s. 48. Disposal of proceeds of sale of vessel.

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