

No. 93.

2nd Session, 7th Parliament, 20 Victoria, 1863.

BILL.

An Act respecting Stamps on Law proceedings in this Province, and respecting also Stamps in lieu of Registration Duties in Lower Canada.

Received and read, first time, Wednesday,
4th March, 1863.

Second reading, Friday, 6th March, 1863.

Hon. Mr. Sol. Gen. WILSON.

QUEBEC :

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An Act respecting Stamps on Law proceedings in this Province, and respecting also Stamps in lieu of Registration Duties in Lower Canada.

WHEREAS it is expedient that all Fees and Charges, payable to the Crown, for or upon any proceeding in this Act mentioned shall be made in the manner herein provided: Preamble.

Therefore, Her Majesty by and with the advice and consent of the Legislative Council and assembly of Canada, enacts as follows :

1. Upon, from and after the first day of next, Stamps either to be attached to or impressed upon any paper or parchment to be used in or for any proceeding as is herein provided, shall be issued by Order of the Governor in Council, and in such form as shall be thereby directed, corresponding in amounts to the different fees and charges which are due and payable to the Crown, under and by virtue of the following Consolidated Statutes for Upper Canada, that is to say: Chapters sixteen, nineteen, thirty-three and fifty, and section twenty-nine of chapter ten, and section eleven of chapter twelve, and under or by virtue of this act, or any other act or acts whatsoever in Upper Canada; and also Stamps to be issued by the Governor in Council, to be used in payment of dues to the Crown on legal proceedings.

2. Upon, from and after the first day of next no money shall be paid to or shall be received by any Court, or to or by the Officer of any Court, for any such sum so due and payable to the Crown, under any of the said Acts. No money to be received for such fees.

3. Upon, from and after the first day of next, no proceeding whatever upon which any fee or charge is due or payable to the Crown as aforesaid shall be issued or shall be received or acted upon by any Court or by any Officer of any court, until a Stamp under this Act for the sum corresponding in amount with the amount so due or payable to the Crown as aforesaid, for upon or in respect of such proceeding, and in lieu of such sum so due and payable to the Crown has been attached to or impressed upon the same. No such proceedings to be valid until dues are paid by stamps.

4. Every proceeding whatever, upon which any such fee or charge is due or payable to the Crown, as aforesaid, and which is not so duly stamped shall, if not afterwards stamped under the provisions of this act, be absolutely void for all purposes whatsoever. Proceedings not stamped to be void.

5. No Sheriff or other Officer or person shall serve or execute any proceeding, or the copy of any proceeding, upon which any such fee or charge is due or payable, and which is not duly stamped under this Act, and every such service and execution contrary to this Act shall be void, and no recompense shall be allowed therefor. Sheriff, &c., not to serve unstamped Proceedings.

6. No proceeding which may have been duly stamped for the purpose for which it may have been used, shall be considered as stamped for any other purpose, in case another fee or charge is due or payable thereon for any other or further use of the same proceeding. Proceedings to be stamped for each purpose for which a charge is payable.

Courts to prevent action on unstamped proceedings.

7. The Court in which any such proceeding is, or is pending, which ought to be, but is not so duly stamped, shall not, nor shall any Judge of such Court take or allow any proceedings to be had or taken upon, or in respect of such proceeding, although no exception be raised thereto by any of the parties, until such proceeding has been first duly stamped. 5

Courts may allow proceedings to be subsequently stamped in certain cases, and on certain terms.

8. Any party to any proceeding which ought to be but is not so duly stamped may apply to the Court in which such proceeding is pending, or to any Judge having jurisdiction in the case for leave to have the same duly stamped, and in case this act has not been knowingly and wilfully violated, an order shall be made for the duly stamping of such proceeding, upon payment of such sum as may be thought reasonable, not exceeding ten times the amount of the stamp, and also the costs of the application. 10

And give retrospective effect to such stamping.

9. In all cases where the proceeding has been duly stamped under any order made for that purpose, the Court or Judge may give such retrospective operation to such proceeding so duly stamped as may be thought just and reasonable, under the circumstances. 15

Fees or dues to the Crown increased.

10. All fees now payable or hereafter at any time to become payable to the Crown for or in respect of any such proceedings as aforesaid, or for or in respect of such fees, dues, or emoluments now payable or hereafter to be payable to any Clerk or Officer of any Court whose fees shall be funded, and who shall be paid a salary in lieu thereof, shall after the passing of this Act, or after the fees of any such Clerk or Officer are directed to be funded, be at the following rates: 20

Rate of increase.

All such fees less than ten cents shall be increased to and paid at *ten cents*; all above ten cents and under twenty cents, at *twenty cents*; all above twenty cents and under thirty cents, at *thirty cents*; all above thirty cents and under forty cents, at *forty cents*; all above forty cents and under fifty cents, at *fifty cents*; and so in like manner all other fees which are not of a decimal amount shall be stated and payable at the decimal sum in cents next above the sum at which they are so stated. 30

Penalty on Officers receiving or executing unstamped proceedings, contrary to this Act.

11. Every Officer of any Court who shall knowingly issue to, or shall knowingly receive from any person, or shall knowingly serve or execute any proceeding upon which any such fee or charge is due or payable to the Crown as aforesaid, without the same being first duly stamped under this Act with or for the proper amount of the said fee or charge due or payable thereon, shall be subject for the first offence to a fine not exceeding *ten dollars*, for the second offence to a fine not exceeding *fifty dollars*, and for the third offence to a fine of *two hundred dollars*, and to the forfeiture of his office, together with the costs of the proceedings in every such case. 35 40

Penalty on persons receiving or delivering such unstamped proceedings.

12. Every person who shall knowingly receive from or deliver to any Court, or receive from or deliver to the Officer of any Court, or shall knowingly serve or execute any proceedings whatever upon which any such fee or charge is due or payable to the Crown as aforesaid, without the same being first duly stamped under this Act, with or for the proper amount of the said fee or charge due or payable thereon shall be subject to such fine as the Court in which the proceeding is, or any Judge thereof on any summary application may impose, not exceeding *five dollars* for the first offence and the costs of the proceedings, and not exceeding *twenty dollars* for the second or any future offence, together with the costs of the proceedings. 45 50

13. Every fine imposed by this Act shall be sued or applied for or by order of the Attorney General or Solicitor General, in any Court having competent jurisdiction as to amount, when no other mode of proceeding is by this Act specially mentioned, and the production of any such proceeding unstamped, or stamped for too low and insufficient a sum, or the proof of any such proceeding having been unstamped or not sufficiently stamped at the time when it was so issued or received, or served or executed as aforesaid, shall be sufficient *prima facie* evidence of such proceeding having been knowingly or wilfully so issued, or received, or served or executed without being or having been first stamped.

Recovery of penalties.

Proof in such cases.

14. The Finance Minister shall issue the stamps required under this Act.

Finance Minister to issue stamps.

15. The Clerk of the Process, or some other Officer to be appointed by the Governor, having an office in the city of Toronto, and such Officer or Officers in such part or parts of Lower Canada as shall be appointed by the Governor, shall issue all stamps under this Act, upon the request of any person who may apply to him for the same, payment being first made to him of the price or value of the stamps so required, and such Officer shall find such security for the performance by him of the duties of his office, and for the payment over and accounting for all monies and stamps received by him, as the Governor in Council may direct.

Further provision for the issue of stamps.

16. All fines imposed by this Act shall be paid to such Officers in Upper and in Lower Canada respectively.

To whom fines shall be paid.

17. Such Officers shall monthly render an account, under oath to the Finance Minister, as hereinafter mentioned, of all stamps then in their possession, of all they have issued or sold, and of all moneys received by them under this Act, and they shall pay over at the same time all moneys which are then or should be in their hands as such Stamp Officers.

Accounts of stamps sold, &c.

18. The said accounts before they are sworn to shall, in Upper Canada, be delivered by such Officers to one of the Clerks of the Crown and Pleas at Toronto, and in Lower Canada the same shall be delivered to ; and such persons, respectively, shall examine and audit the same, and they shall at the same time require the sight and production of all the stamps on hand, and of all books, documents and vouchers whatsoever, and they shall certify such accounts to be correct if they find them so, or they shall report them not to be correct if they are so found incorrect, and they shall administer the oath to the said Officers respecting the correctness of their accounts, and they shall then mail or deliver the same to the Finance Minister.

Accounts to be sworn to and audited.

19. The copying or imitating of any stamp, issued under this Act shall be forgery, and shall be punishable as such; and the using again Or reissuing of any stamp as for a new and valid stamp which has before been used, shall be a misdemeanor, punishable by fine not exceeding fifty dollars, or by imprisonment not exceeding one month, at the discretion of the court.

Copying or imitating stamps to be forgery.

20. This Act shall not apply to any Court or Officer established or appointed under chapter one hundred and twenty-eight of the Consolidated Statutes for Upper Canada.

Act not to apply to certain officers.