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No.

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1st Session, 2nd Parliament, 8 Victoria, 1845.

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## **B I L L .**

An Act to provide for the Management  
of the Customs and of matters rela-  
tive to the Collection of the Provin-  
cial Revenue.

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Printed by order of the Legislative Assembly.

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**HON. MR. ATTY. GENL. SMITH.**

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PRINTED BY LOVELL AND GIBSON.

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## BILL.

An Act to provide for the Management of the  
Customs and of matters relative to the  
Collection of the Provincial Revenue.

**W**HEREAS by an Act passed during the  
present Session, it is enacted that the  
several Provincial Acts relative to the Cus-  
toms and to other departments and matters  
relative to the collection and management of  
the Provincial Revenue, shall be repealed  
from and after the            day of  
in the year of our Lord one thousand eight  
hundred and forty           , to the end that the  
provisions of law relative to the matters afore-  
said may be amended, consolidated, and  
made uniform throughout this Province, and  
it is expedient to make legislative provision  
accordingly : Be it therefore enacted, &c.,

Preamble.

Commence-  
ment of this  
Act.

and it is hereby enacted by the authority  
of the same, That this Act shall commence  
and have force and effect from and after the  
day of            in the year of  
our Lord one thousand eight hundred and  
and not before.

II. And be it enacted, That all commis-  
sions and appointments of any officers or  
persons employed in the collection or man-  
agement of the Revenue, or in accounting  
for the same, in force at the time this Act  
shall commence, shall continue in force, and  
the nature of the duties and local extent of  
the powers of each office, shall, until they be  
expressly altered, remain the same as if  
granted or made under the authority of this  
Act, subject always to the provisions and en-  
actments thereof; and that all bonds which  
shall have been given by such officers or per-  
sons, or their sureties shall remain in full  
force and effect.

Present com-  
missions to  
continue in  
force.

III. And be it enacted, That in so far as  
may be consistent with the Acts of the Par-

In so far as  
may be consis-  
tent with the

Acts of the Imperial Parliament, the Governor in Council shall determine what officers are necessary and fix their salaries.

Proviso ; amount of salaries limited.

liament of the United Kingdom in force in this Province, it shall be lawful for the Governor of this Province in Council from time to time to determine what officers or persons it may be necessary to employ in collecting, managing, or accounting for the Provincial Revenue, and in carrying into effect the laws thereunto relating, or for preventing any contravention of such laws, and to assign their names of office, and to grant to such officers or persons as aforesaid such salaries or pay for their labour and responsibility in execution of the duties of their respective offices and employments, as to the said Governor in Council shall seem reasonable and necessary, and to appoint the times and manner in which the same shall be paid ; Provided always, that, except the Commissioner of Provincial Customs and Excise, the Collectors of the Customs at the Ports of Quebec and Montreal, and the Surveyor of the Port of Quebec while that office shall be held by the present incumbent, the salary or pay to be allowed to any such officer or person as aforesaid; under the authority of this Act, shall not exceed the rate of  
currency per annum.

Salaries to be in lieu of all other emoluments, and officers to give their whole time to the duties of their offices.

Exception.

IV. And be it enacted, That the salary or pay allowed to any such officer or person as aforesaid shall be in lieu of all fees, allowances or emoluments of any kind whatsoever, except actual and authorised disbursements, and that excepting any Collector receiving a salary less than two hundred pounds currency, per annum, no such officer or person, whether appointed before or after this Act shall come into force, who shall receive a salary at or exceeding the rate of one hundred pounds, currency, per annum, shall exercise any other calling, profession, trade or employment whatsoever, with a view to derive profit therefrom, directly or indirectly, or shall hold any other office of profit whatsoever, except it be an office relating to the management and collection of the Revenue and the accounting for the same, and held by such officer or person with the permission of the Governor in Council.

V. And be it enacted, That it shall be lawful for the Governor in Council, from time to time, to make all such new divisions of the Province into Districts or otherwise, as may be required with regard to the collection or management of the Revenue, and to assign the officers or persons by whom any duty or service relative to any such purpose shall be performed within or for any such District or Division, and the place or places within the same, where such duty or service shall be performed; and to make all such regulations concerning such officers and persons, and the conduct and management of the business to them intrusted, as may be consistent with the law, and as he may deem expedient for carrying it into effect, in the manner best adapted to promote the public good; and any general regulation or order made by the Governor in Council for any purpose whatever for which an order or regulation may be so made under the provisions of this Act, shall apply to each particular case within the intent and meaning of such general regulation or order, as fully and effectually as if the same had been made with reference to such particular case, and the officers, functionaries or parties concerned had been specially named therein; Provided also, that a printed copy of any regulation or order of the Governor in Council, printed by the Queen's printer, or a written copy thereof attested by the signature of the Clerk of the Executive Council, shall be evidence of such regulation or order; and any order in writing, signed by the Provincial Secretary and purporting to be written by command of the Governor, shall be received in evidence as the order of the Governor.

Certain powers with regard to the Management of the Customs vested in the Governor in Council.

General regulations how to apply.

Provided as to proof of regulations, orders, &c.

VI. And be it enacted, That every person employed on any duty or service relating to the collection or management of the Revenue, by the orders or with the concurrence of the Governor in Council (whether previously or subsequently expressed) shall be deemed to be the proper officer for that duty or service; and that every act, matter

Persons employed with the concurrence of the Governor in Council to be deemed the proper officers.

or thing, required by any law at any time in force to be done or performed by, to, or with any particular officer nominated in such law for that purpose, being done or performed by, to, or with any person appointed or authorised by the Governor in Council to act for or in behalf of such particular officer, shall be deemed to be done or performed by, to, or with such particular officer ; and every act, matter or thing required by any law, at any time in force, to be done or performed at any particular place within any port, or within any such District or division of this Province, as aforesaid, being done or performed at any place within such port, District or division, appointed by the Governor in Council for such purpose, shall be deemed to be done or performed at the particular place so required by law.

Same as to places.

Officers employed in one branch may be employed in another.

VII. And be it enacted, That any officer or person employed in the collection, management or accounting for any branch of the Revenue, may be employed in the collection, management or accounting for any other branch thereof, whenever it may be deemed advantageous for the public service so to employ him.

Hours of office and seasons for certain business how appointed.

VIII. And be it enacted, That it shall be lawful for the Governor in Council, from time to time, to appoint the hours of general attendance of the officers and persons employed in the collection and management of the Revenue at their proper offices and places of employment, and also to appoint the times during such hours, or the seasons of the year, at which any particular parts of the duties of such officers or other persons shall be performed by them respectively.

What days shall be kept as holidays.

IX. And be it enacted, That no day shall be kept as a public holiday by the officers and persons employed in the collection and management of the Revenue, except Christmas day, New Year's day and Good Friday in every year, any days appointed by Proclamation of the Governor for the purpose of a general fast, or of a general thanksgiving.

and such days as shall have been appointed for the celebration of the birth-days of Her Majesty and Her Royal Successors, and such other days as may be from time to time appointed as holidays by the Governor in Council.

X. And be it enacted, That it shall be lawful for the Governor in Council, from time to time to appoint the times and mode in which any officer or person employed in the collection, management or accounting or any part of the Revenue, shall account for and pay over the public monies which may come into his hands, to the officer appointed to receive the same, and to determine the times, manner and form in which, and the officer by whom all Licences on which any duty shall be payable are to be issued.

Governor in Council to appoint the mode and times in which monies shall be received and paid over.

XI. And be it enacted, That it shall be lawful for the Governor in Council, to allow to any officer or person employed in the collecting, managing or accounting for any part of the Revenue, such sums as they shall deem necessary to defray the actual and authorised disbursements of such person or officer, for his travelling expenses when travelling on duty, office rent, books, stationery or other contingencies and things requisite for the conduct of his official business.

Governor in Council may allow necessary disbursements of officers.

XII. And be it enacted, That it shall be lawful for the Governor in Council, to direct any officer or person employed in collecting, managing or accounting for any branch of the Provincial Revenue, to keep any books or accounts which they may deem it advisable to direct to be kept for the purpose of obtaining any statistical information concerning the trade or commerce of the Province, the public works thereof, or other matters of public interest, and to authorize and allow any necessary expense incurred for such purpose.

May authorize accounts to be kept for statistical purposes.

XIII. And be it enacted, That every person who shall be appointed, after the commencement of this Act, to any office or em-

Officers to an oath of office.

ployment relative to the collection or management of the Revenue, or in accounting for the same, shall at his admission to such office or employment take the following oath, before such officer as the Governor shall appoint to receive the same ; that is to say :

The oath.

“ I, A. B. do swear to be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge, by my appointment as and that I will not require, take or receive any fee, perquisite, gratuity or reward, whether pecuniary or of any other sort or description whatever, either directly or indirectly, for any service, act, duty, matter or thing done or performed or to be done or performed in the execution or discharge of any of the duties of said office or employment, on any account whatever other than my salary, or what shall be allowed me by law, or by order of the Governor of this Province in Council.

“ So help me God.”

Penalty on officers taking, or persons offering any fee, gratuity, &c.

XIV. And be it enacted, That if any officer or any person acting in any office or employment connected with the collection and management of the Revenue or the accounting for the same, shall take or receive any fee, perquisite, gratuity or reward, whether pecuniary or of any other sort or description whatever, directly or indirectly, from any person (not being an officer or person legally authorized to pay or allow the same,) on account of any thing done by him in any way relating to his office or employment, except such as he shall receive by order or with permission of the Governor in Council, every such officer or person so offending shall on proof thereof, to the satisfaction of the Governor, be dismissed from his office or employment, and if any person (not being an officer duly authorized to pay or allow the same,) shall give, offer or promise any such fee, perquisite, gratuity, or reward, such person shall for every such offence, incur a penalty of pounds currency.

XV. And be it enacted, That in all cases wherein proof on oath or by affirmation or declaration shall be required by any law relating to the collection or management of the Revenue or to the accounting for the same, or shall be necessary for the satisfaction or consideration of the Governor in Council, in any matter relating to the collection or management of the Revenue or to the accounting for the same, and no person or officer shall be specially named as the officer or person before whom the same is to be made, it may be made before any Collector or chief officer of the Customs for the port or place where such proof is required, or before the persons acting for them respectively, or before such other officer or person as shall be appointed to receive the same by the Governor, and such officers and persons are hereby authorized and empowered to administer such oath or affirmation; and in any case or class of cases, where an oath is or shall be required by this Act or by any law in force or to be hereafter in force, in any matter relating to the collection or management of the Revenue or the accounting for the same, it shall be lawful for the Governor in Council, if he shall deem it fit, to authorize the substitution for such oath, of a solemn affirmation or of a declaration, which shall then avail to all intents and purposes as such oath would have done.

Before whom oaths in matters relative to the revenue may be made.

Governor in Council may substitute affirmations or declarations for oaths.

XVI. And be it enacted, That upon all examinations and inquiries made by order of the Governor in Council, for ascertaining the truth as to any fact relative to any matter concerning the collection or management of the Revenue, or the accounting for the same, or the conduct of officers or persons employed therein, and upon like examinations and inquiries made by the Collector of the Customs, or by the chief officer employed in the collection and management of the Revenue, in or at any port, district or place, or by any person or officer authorized by the Governor in Council to make such examinations and enquiries, any person to be examined as a witness shall deliver his testimony

Witnesses on certain examinations and inquiries may be examined on oath.

Wilful false  
statement to be  
perjury.

on oath to be administered to him by the officer or person making the examination or enquiry, who is hereby authorized and empowered to administer the same: and any person wilfully making any false statement, in any such examination upon oath or in any solemn affirmation or declaration substituted as aforesaid for an oath, whether such oath shall have been required by this Act or by any other Act relating to the Revenue, shall be deemed guilty of wilful and corrupt perjury, or of a misdemeanour punishable in the same manner as wilful and corrupt perjury, and shall on conviction be liable to be punished accordingly.

Punishment  
of officers or  
persons em-  
ployed in col-  
lecting the re-  
venue, and em-  
bezzling the  
the same or  
any books &c.  
thereunto re-  
lating.

XVII. And be it enacted, That all books, papers, accounts, and documents of what kind soever, and by whom and at whose cost soever the paper and materials thereof may have been procured or furnished, which shall have been kept by or used, or shall have been received or taken into the possession of any officer or person employed or having been employed in the collection or management of the Revenue or in accounting for the same, by virtue of his employment as such, shall be deemed to be chattels belonging to Her Majesty, and all monies or valuable securities which shall have been received or taken into his possession by virtue of his employment shall be deemed to be monies and valuable securities belonging to Her Majesty; and if any such officer or person shall at any time fraudulently embezzle any such chattel, money or valuable security, (and any refusal or failure to pay over or deliver up any such chattel, money or valuable security to any officer or person who being duly authorized by the Governor in Council, shall demand the same after the passing of this Act, shall be a fraudulent embezzlement thereof,) he shall be deemed to have feloniously stolen the same, and may be indicted and proceeded against, and being convicted thereof shall be liable to be punished, in the same manner as any servant who having fraudulently embezzled any chattel, money, or valuable security, received or taken into his possession by virtue

of his employment, for or on the account of his master and being in law deemed to have feloniously stolen the same, may be indicted, proceeded against and punished; Provided always, that nothing herein contained shall prevent, lessen or impeach any remedy which Her Majesty or any other party may have against such offender or his sureties, or against any other party whomsoever; but nevertheless the conviction of any such offender shall not be received in evidence in any suit or action at law or in equity, against him.

Proviso, other remedies not to be impaired.

XVIII. And be it enacted, That if at any time it shall appear clearly, by the books or accounts kept by or in the office of any officer or person employed in the collection or management of the Revenue or in accounting for the same, or by his written acknowledgment or confession, that such officer or person hath by virtue of his office or employment received monies belonging to Her Majesty, and amounting to a sum certain, which he hath refused or neglected to pay over to the officer duly appointed to receive the same, and in the manner and at the time lawfully appointed, then upon affidavit of the facts, made by any officer cognisant thereof, thereunto authorised by the Governor in Council, before a Justice or Judge of any Court having jurisdiction in civil matters to the amount of the sum so ascertained as aforesaid, it shall be lawful for such Justice or Judge to cause to be issued against, and for the seizure and sale of the goods, chattels and lands of the officer or person so in default as aforesaid, such writ or writs as might have issued out of such Court, if the bond given by him had been put in suit, and judgment had been thereupon obtained in favor of Her Majesty, for a like sum, and any delay by law allowed between judgment and execution had expired; and such writ or writs shall be executed by the Sheriff or other proper officer, and such sum as aforesaid shall be levied under them with costs, and all further proceedings shall be had, as if such judgment as aforesaid had been actually obtained.

Summary remedy against officers receiving Revenue and refusing to pay over the same.

Revenue of-  
ficers exempt-  
ed from certain  
charges.

**XIX.** And be it enacted, That no officer or person regularly employed in the collection or management of the Revenue, or in accounting for the same, shall, while he shall be such officer or so employed, be compelled to serve in any other public office, or in any municipal or local office, or on any jury or inquest, or in the militia; any law, usage or custom to the contrary notwithstanding.

Governor emp-  
owered to re-  
mit duties, tolls,  
&c., in cases  
where great in-  
justice and in-  
convenience  
would other-  
wise arise.

**XX.** And whereas, it is expedient that the Executive Government should be empowered to relax the strictness of the laws relative to the collection of the Revenue, in cases where without such relaxation great public inconvenience or great hardship and injustice to individuals could not be avoided; Be it therefore enacted, That it shall be lawful for the Governor of this Province when he shall deem it right and conducive to the public good, to remit any duty or toll payable to Her Majesty, imposed, or authorized to be imposed by any Act of the Provincial Legislature, or any forfeiture or pecuniary penalty imposed, or authorized to be imposed by any such Act; for any contravention of the laws relating to the collection of the Revenue or to the management of any public work producing toll or revenue, although any part of such forfeiture or penalty be given by law to the informer or prosecutor, or to any other party;—and such remission may be made by any general regulation or by any special order in any particular case, and may be total or partial, unconditional or conditional, and if conditional, and the condition be not performed, the order made in the case shall be null and void, and all proceedings may be had and taken as if it had not been made.

Such omis-  
sion may be by  
general regu-  
lation.

Remission of  
penalty to act  
as a pardon for  
the offence.

**XXI.** Provided always, and be it enacted, That if the Governor of this Province shall direct, that the whole or any part of any penalty imposed by any Act relating to the Revenue be remitted or returned to the offender, such remission or return shall have the effect of a pardon for the offence for which the penalty shall have been incurred, which shall thereafter have no legal effect prejudicial to the party.

to whom such remission shall have been granted: Provided also, That it shall be lawful for Her Majesty's Attorney General or other law officer to sue for and recover in Her Majesty's name, any penalty or forfeiture imposed by any Act relating to the Revenue, before any Court or other judicial authority, before which such penalty or forfeiture shall be recoverable under such Act, (and in such case, the whole of such penalty or forfeiture, shall belong to Her Majesty for the public uses of the Province, unless the Governor in Council shall, as he is hereby empowered to do, allow any portion thereof to the seizing officer or other person by whose information or aid the penalty or forfeiture shall have been recovered,) or to direct the discontinuance of any suit for any such penalty, by whom or in whose name soever, the same shall have been brought; any thing in any Act, whether passed during the present Session or otherwise, or in any law to the contrary notwithstanding.

Proviso.

XXII. And be it enacted, That the words "Governor" or "Governor of this Province," whenever they occur in this Act, shall be understood to mean and include the Lieutenant Governor, or person administering the Government; and whenever anything is directed to be done by the "Governor in Council," it shall be understood that the same is to be done by the Governor, Lieutenant Governor, or person administering the Government of this Province, by and with the advice and consent of the Executive Council thereof; and the words "Provincial Revenue" or "Revenue," shall be understood to mean and include and apply to all Provincial revenue and branches thereof, and public monies, whether arising from duties of Customs or other duties, or from tolls for the use of any public works, or from penalties or forfeitures, or other source whatsoever, in so far as the collection, management, and accounting for the same, shall be respectively subject to the control of the Provincial Legislature; and any officer, functionary, or person whose duty it shall be to receive any monies form-

Interpretation clause.

Governor in Council.

Revenue.

Revenue officers.

ing part of the Revenue, or who shall be entrusted with the custody or expenditure of any such monies, although he may not be regularly employed in collecting, managing, or accounting for the same, shall be subject to the provisions of this Act, so far as regards the accounting for and paying over such monies, whatever be the office or employment by virtue of which he shall receive or be entrusted with the same;—and words importing the singular number only shall be understood to include several persons, matters or things of the same kind, as well as one person, matter, or thing, unless it be otherwise specially provided, or there be something in the subject or context, repugnant to, or inconsistent with such construction.

Singular number, &c.

Proviso, as to the Act for the disposal of public lands.

XXIII. Provided always, and be it enacted, That nothing in this Act contained, shall be construed to repeal or alter any enactment in the Act passed in the Session held in the fourth and fifth years of Her Majesty's reign, and intituled, "*An Act for the disposal of the Public Lands,*" but this Act shall apply to Revenue derived from the lands in the said Act mentioned, and to the officers and persons employed in collecting, managing, and accounting for the same, in so far only as its provisions shall be consistent with those of the said Act.

Act may be altered during in this session.

XXIV. And be it enacted, That this Act may be altered, varied, or repealed, by any Act to be passed during the present Session.