

And be it further enacted,

[SECT. 8.] That, if any person or persons shall hereafter be convicted of false swearing in any case in this act mentioned, he or they shall be liable to the same pains and penalties as is already by law provided against wilful[1] perjury.

False swearing punished as perjury.

[SECT. 9.] This act to continue and be in force for the space of three years from the publication thereof, and no longer. [*Passed January 30; * published January 31, 1761.*]

CHAPTER 18.

AN ACT FOR GRANTING UNTO HIS MAJESTY SEVERAL RATES AND DUTIES OF IMPOST AND TUNNAGE OF SHIPPING.

WE, his majesty's most dutiful and loyal subjects, the representatives of the province of the Massachusetts Bay, in New England, being desirous of lessening the publick debts, have cheerfully and unanimously given and granted, and do give and grant, to his most excellent majesty, for the service of this province, as they shall hereafter apply it, the several duties of impost upon all liquors, wares, goods and merchandize that shall be imported into this province, and tannage of shipping, hereafter mentioned; and pray that it may be enacted,—

Preamble.

And be it accordingly enacted by the Govern[er], Council and House of Representatives,

[SECT. 1.] That from and after the twenty-fifth day of March, one thousand seven hundred and sixty-one, to the twenty-sixth day of March, one thousand seven hundred and sixty-two, there shall be paid by the importers of all wines, rum and other liquors, goods, wares and merchandize that shall be imported into this province by any of the inhabitants thereof (except what is by this act hereafter exempted), the several duties of impost following; vizth.,—

Rates of impost.

For every pipe of wine of every sort, ten shillings.

For every hogshead of rum containing one hundred gallons, eight shillings.

For every hogshead of sugar, fourpence.

For every hogshead of molasses, fourpence.

For every hogshead of tobacco, ten shillings.

For every pound of tea that shall be imported from any of his majesty's plantations in America, one shilling.

—And so, proportionably, for a greater or less quantity.

And for all other commodities, goods or merchandize not mentioned or not excepted, fourpence for every twenty shillings value: excepting such goods as are the product or manufacture of Great Britain.

[SECT. 2.] And for any of the above-mentioned liquors, goods, wares and merchandize (excepting tea, which shall pay only one shilling), that shall be imported into this province by any of the inhabitants of the other provinces or colonies on this continent, or of the English West-India Islands, in any ship or vessel to them belonging, on the proper account of any of the said inhabitants of the said provinces, colonies or islands, there shall be paid by the importers double the impost laid by this act: *provided, always*, that every thing which is the growth or produce of the provinces or colonies aforesaid (tobacco and bar-iron excepted), and all provisions, salt, cotton-wool, pig-iron, mahogany, brazillito, black-walnut, lignum-vit[ee][æ], red-cedar,

Double impost to be paid for goods imported by the inhabitants of other colonies.

Proviso.

* Signed January 31, according to the record.

logwood, hemp, raw skins and hides, and also all prize goods brought into and condemned in this province, are and shall be exempted from every the rates and duties aforesaid.

And be it further enacted,

Drawback of the whole impost to the importer, in case.

[SECT. 3.] That all goods, wares and merchandize, the property of any of the inhabitants of any of the neighbouring provinces or colonies on this continent, that shall be imported into this province, and shall have paid, or on which there shall have been secured to be paid, the duty of impost by this act provided to be paid, and afterwards shall be exported and landed in any of the said provinces or colonies on this continent, then and in such case the exporter, producing a certificate from some officer of his majesty's customs, that the same has been landed in some of the provinces or colonies aforesaid, shall be allowed a drawback of the whole duty of impost by him paid, or secured to be paid, as by this act provided.

And be it further enacted,

Master of vessels to make report.

[SECT. 4.] That the master of every ship or vessel coming into this province from any other place, shall, within twenty-four hours after his arrival in any port or harbour, and before bulk is broken, make report and deliver a manifest, in writing, under his hand, to the commissioner aforesaid, of the contents or loading of such ship or vessel, therein particularly expressing the species, kind and quantities of all wines, liquors, goods, wares and merchandize imported in any such ship or vessel, with the marks and numbers thereof, and to whom the same are consigned; and make oath before the commissioner that the same manifest contains a just and true account of all the lading taken on board and imported in such ship or vessel, so far as he knows or believes; and that if he knows of any more wines, liquors, goods, wares or merchandize laden on board such ship or vessel, and imported therein, he will forthwith make report thereof to the commissioner aforesaid, and cause the same to be added to his manifest.

And be it further enacted,

To forfeit, in case of breaking bulk.

[SECT. 5.] That if the master of any ship or vessel shall break bulk, or suffer any of the wines, liquors, goods, wares and merchandize imported in such ship or vessel to be unladen before report and entry thereof be made as aforesaid, he shall forfeit the sum of one hundred pounds.

And be it further enacted,

Invoice to be produced.

[SECT. 6.] That all merchants and other persons being owners of any wines, liquors, goods, wares or merchandize imported into this province, for which any of the rates or duties aforesaid are payable, or having the same consigned to them, shall make an entry thereof with the commissioner aforesaid, and produce an invoice of all such goods as pay *ad valorem*, and make oath before him in the form following; viz^d.—

Oath.

You, A. B., do swear that the entry of the goods and merchandize by you now made, exhibits the sterling value of said goods, and that, *bonâ fide*, according to your best skill and judgment, it is not less than that value. So help you God.

Duties to be paid before landing.

—which oath the commissioner or receiver appointed in consequence of this act is hereby impowered and directed to administer; and the owners aforesaid shall pay to the said commissioner, or give security to pay, the duty of impost by this act required, before such wines, liquors, goods, wares or merchandize be landed or taken out of the vessel in which the same shall be imported.

[SECT. 7.] And no wines, liquors, goods, wares or merchandize that by this act are liable to pay impost or duty, shall be landed on

any wharf, or in any warehouse or other place, but in the daytime only, and that after sunrise and before sunset, unless in the presence or with the consent of the commissioner or receiver, on pain of forfeiting all such wines, liquors, goods, wares and merchandize, and the lighter, boat or vessel out of which the same shall be landed or put into any warehouse or other place.

[SECT. 8.] And if any person or persons shall not have and produce an invoice of the quantities of rum or other liquors to him or them consign[e]d, then the cask wherein the same are, shall be gauged at the charge of the importer, that the contents thereof may be known.

Provided, nevertheless,—

[SECT. 9.] That the said commissioner shall be and hereby is allowed to give credit to such person or persons whose duty of impost in one vessel shall not exceed six pounds; which credit shall be so limited as that he shall settle and ballance his accompts with every person, on or before the twenty-sixth day of March, one thousand seven hundred and sixty-two, that the said acco[mp][un]ts may be produced to this court as soon as may be after; and for all entries where the impost to be paid doth not exceed three shillings, the said commissioner shall not demand any thing, and not more than sixpence for any other single entry, to what value soever.

Commissioner allowed to give credit.

And be it further enacted,

[SECT. 10.] That the importer of all wines, liquors, goods, wares and merchandize, from and after the twenty-fifth day of March, one thousand seven hundred and sixty-one, and until the twenty-sixth day of March, one thousand seven hundred and sixty-two, by land-carriage, or in small vessels and boats, shall make report and deliver a manifest thereof to the commissioner aforesaid or his deputy, therein particularly expressing the species, kind and quantity of all such wines, liquors, goods, wares and merchandize so imported, with the marks and numbers thereof, when, how, and by whom brought; and shall make oath, before the said commissioner or his deputy, to the truth of such report and manifest, and shall also pay or secure to be paid the several duties aforesaid by this act charged and chargeable upon such wines, liquors, goods, wares and merchandize, before the same are landed, housed, or put into any store or place whatsoever.

Importer by land-carriage or in small vessels, to make report.

And be it further enacted,

[SECT. 11.] That every merchant or other person importing any wines into this province, shall be allowed twelve per cent for leakage: *provided* such wines shall not have been filled up on board; and that every hogshead, butt or pipe of wine that hath two-thirds thereof leaked out, shall be accounted for outs, and the merchant or importer shall pay no duty for the same. And no master of any ship or vessel shall suffer any wines to be filled up on board without giving a certificate of the quantity so filled up, under his hand, before the landing thereof, to the commissioner or receiver of impost for such port, on pain of forfeiting the sum of one hundred pounds.

Allowance for leakage.

[SECT. 12.] And if it may be made to appear that any wine imported in any ship or vessel be decayed at the time of unloading thereof, or in twenty days afterwards, oath being made before the commissioner or receiver that the same hath not been landed above that time, the duties and impost paid for such wines shall be repayed unto the importer thereof.

And be it further enacted,

[SECT. 13.] That the master of every ship or vessel importing any liquors, wines, goods, wares or merchandize, shall be liable to pay the impost for such and so much thereof, contained in his manifest, as shall not be duly entered, and the duty paid for the same by the person or

Master allowed to detain goods not entered, or the duty not paid.

persons to whom such wines, liquors, goods, wares or merchandize are or shall be consigned. And it shall and may be lawful, to and for the master of every ship or other vessel, to secure and detain in his hands, at the owner's risque, all such wines, liquors, goods, wares and merchandize imported in any ship or vessel, until he receives a certificate from the commissioner or receiver of impost that the duty for the same is paid, and until he be repaid his necessary charges in securing the same; or such master may deliver such wines, liquors, goods, wares and merchandize as are not entered, unto the commissioner or receiver of the impost in such port, or his order, who is hereby impowered and directed to receive and keep the same, at the owner's risque, until the impost thereof, with the charges, be paid, or secured to be paid; and then to deliver such wines, liquors, goods, wares or merchandize as such master shall direct.

And be it further enacted,

Master liable to
be sued.

[SECT. 14.] That the commissioner or receiver of the impost in each port, shall be and hereby is impowered to sue the master of any ship or vessel for the impost or duty of so much of the lading of any wines, liquors, goods, wares or merchandize imported therein, according to the manifest to be by him given upon oath, as aforesaid, as shall remain not entered and the duty of impost therefor not paid or secured to be paid. And where any goods, wares or merchandize are such that the value thereof is not known, whereby the impost to be recovered of the master for the same cannot be ascertained, the owner or person to whom such goods, wares or merchandize are or shall be consigned, shall be summoned to appear as an evidence at the court where such suit for the impost and the duty thereof shall be brought, and be there required to make oath to the value of such goods, wares or merchandize.

And be it further enacted,

Ships, &c.,
liable to be
taken in execu-
tion.

[SECT. 15.] That the ship or vessel, with her tackle, apparel and furniture, the master of which shall make default in anything by this act required to be performed by him, shall be liable to answer and make good the sum or sums forfeited by such master, according to this act, for any such default, as also to make good the impost or duty for all wines, liquors, goods, wares and merchandize not ent[e]red as aforesaid, or for which the duty of impost ha[th][ve] not been paid; and, upon judgment recovered against such master, the said ship or vessel, with so much of the tackle or appurtenances thereof as shall be sufficient to satisfy said judgment, may be taken by execution for the same; and the commissioner or receiver of the impost is hereby impowered to make seizure of the said ship or vessel, and detain the same under seizure until judgment be given in any suit to be commenced and prosecuted for any of the said forfeitures, or for the duty aforesaid; to the intent, that if judgment be rendered for the prosecutors or informer, such ship or vessel and appurtenances may be exposed to sale, for satisfaction thereof, as is before provided: *unless* the owners, or some on their behalf, for the releasing of such ship or vessel from under seizure or restraint, shall give sufficient security to the commissioner or receiver of impost that seized the same, to respond or satisfy the sum or value of the forfeitures and duties, with charges, that shall be recovered against the master thereof, upon such suit to be brought for the same as aforesaid; and the master occasioning such loss or damage unto the owners, through his default or neglect, shall be liable unto their action for the same.

And be it further enacted,

Naval officer
not to clear

[SECT. 16.] That the naval officer within any of the ports of this province shall not clear or give passes to any master of any ship or

vessel, outward bound, until he shall be certified, by the commissioner or receiver of impost, that the duty and impost for the goods last imported in such ship or vessel are paid or secured to be paid.

vessels until
impost be paid.

[SECT. 17.] And the commissioner or receiver of impost is hereby empowered to allow bills of store to the master of any ship or vessel importing any wines or liquors, for such private adventures as shall belong to the master or seamen of such ship or vessel, at the discretion of the commissioner or receiver, not exceeding three per cent of the lading; and the duties payable by this act for such wines or liquors, in such bills of stores mentioned and expressed, shall be abated.

Bills of store
to be allowed.

And for the more effectual preventing any wines, rum or other distilled spirits being brought into the province from the neighbouring governments by land, or in small boats or vessels, or any other way, and also to prevent wines, rum or other distilled spirits being first sent out of this province, and afterwards brought into the government again, to defraud the government of the duties of impost, —

Be it enacted,

[SECT. 18.] That the commissioner and receiver of the aforesaid duties of impost shall, and he is hereby empowered and enjoined to, appoint one suitable person or persons as his deputy or deputies, in all such places of this province where it is likely that wine, rum or other distilled spirits will be brought out of other governments into this; which officers shall have power to seize the same, unless the owner shall make it appear that the duty of impost has been paid therefor since their being brought into or relanded in this government; and such officer or officers are also empowered to search, in all suspected places, for such wines, rum or other distilled spirits or tea brought or relanded in this government, where the duty is not paid as aforesaid, and to seize or secure the same for the ends and uses as in this act is hereafter provided.

Commissioner
to appoint officers
in places
where wines,
rum, &c., may
be brought out
of other
governments.

And be it further enacted,

[SECT. 19.] That the commissioner or his deputies shall have full power to administer the several oaths aforesaid, and search in all suspected places for all such wines, rum, liquors, tea, goods, wares and merchandize as are brought into this province, and landed contrary to the true intent and meaning of this act, and to seize the same for the uses hereinafter mentioned.

Commissioner
or deputy em-
powered to
administer the
oath, &c.

And be it further enacted,

[SECT. 20.] That if the said commissioner, or his deputy, shall have information of any wines, rum or other distilled spirits, or tea, being brought into and landed in any place in this province, for which the duties aforesaid shall not have been paid after their being brought into or relanded in this government, he may apply to any justice of the peace within the county, for a warrant to search such place; and said justice shall grant such warrant, directed to some proper officer, upon said commissioner or his deputy's making oath that he hath had information as aforesaid; and having such warrant[s], and being attended by such officer, the said commissioner or his deputy may, in the day-time, between sunrise and sun-setting, demand admittance of the person owning or occupying such place, and, upon refusal, shall have right to break open such place; and, finding such liquors or tea, may seize and take the same into his own custody; and the commissioner aforesaid, or his deputy, shall be and hereby is empowered to command assistance, and impress carriages necessary to secure the liquors or tea seized as aforesaid; and any persons refusing assistance, or preventing any of the said officers from executing their office, shall forfeit five pounds to the said commissioner; and he or his deputy shall make reasonable satisfaction for the assistance aforesaid, and carriages made use of, to

The commis-
sioner or depu-
ty, upon infor-
mation of any
liquors being
brought into
this province,
and the duty not
paid, to apply
to a justice for
a warrant to
search, &c.

secure the liquors or tea seized as aforesaid; and the commissioner or his deputy shall then file an information of such seizure in the inferiour court of common pleas for the county wherein such seizure shall be made, which court shall summon the owner of such liquor[s] or tea, or the occupier of such shop, house or warehouse, or distil[^l]-house where the same were seized, to appear and shew cause, if any he has, why such liquors or tea so seized shall not be adjudged forfeited; and if such owner or occupier shall not shew cause as aforesaid, or shall make default, the said liquors or tea shall be adjudged forfeited, and the said court shall order them to be sold at public[^k] vendue; and the nett produce of such sale shall be paid, one half to the province treasurer for the use of this province, and the other half to the said commissioner.

And be it further enacted,

Tonnage of shipping.

[SECT. 21.] That there shall be paid by the master of every ship or other vessel, coming into any port or ports of this province, to trade or traffick, whereof all the owners are not belonging to this province (excepting such vessels as belong to Great Britain, the provinces or colonies of Pennsylvania, West and East Jers[^e], Connecticut, New York, New Hampshire and Rhode Island), every voyage such ship or vessel doth make, one pound of good pistol-powder for every ton such ship or vessel is in burthen: *saving* for that part which is owned in Great Britain, this province, or any of the aforesaid governments, which are hereby exempted; to be paid unto the commissioner or receiver of the duties of impost, and to be employed for the uses and ends aforesaid.

Vessels to be measured, if suspected.

[SECT. 22.] And the said commissioner is hereby impowered to appoint a meet and suitable person, to repair unto and on board any ship or vessel, to take the exact measure and tunnage thereof, in case he shall suspect the register of such ship or vessel doth not express and set forth the full burthen of the same; the charge thereof to be paid by the owner or master of such ship or vessel, before she shall be cleared, in case she shall appear to be of a greater burthen: otherwise, to be paid by the commissioner out of the money received by him for impost, and shall be allowed him, accordingly, by the treasurer in his accounts. And the naval officer shall not clear any vessel until he be certified, also, by the commissioner, that the duty of tunnage for the same is paid, or that it is such a vessel for which none is payable according to this act.

And be it further enacted,

Drawback for wine, rum and tea allowed, in case.

[SECT. 23.] That when and so often as any wine, rum or tea imported into this province, the aforesaid duty of impost upon which shall have been paid agre[^e]able to this act, shall be re-shipped and exported from this government to any other part of the world, that then and in every such case, the exporter of such wine or rum or tea shall make oath at the time of shipping, before the receiver of impost or his deputy, that the whole of the wine or rum or tea so shipped has, *bonâ fide*, had the duty of impost aforesaid paid on the same, and shall afterwards produce a certificate from some officer of the customs, that the same has been landed out of this government, — or otherwise, in case such rum or wines or tea shall be exported to any place where there is no officer of the customs, or to any foreign port, the master of the vessel in which the same shall be exported shall make oath that the same has been landed out of the government, — and the exporter shall, upon producing such certificate, or upon such oath of the master, make oath that he verily believes no part of said wines, rum or tea has been re-landed in this province, — such exporter shall be allowed a drawback from the receiver of impost as follows; viz^l, —

For every pipe of wine, nine shillings.

For every hogshead of rum, seven shillings and sixpence.

And for every pound of tea, one shilling.

Provided, always,—

[SECT. 24.] That if, after the shipping of such wines or rum or tea to be exported as aforesaid, and giving security as aforesaid, in order to obtain the drawback aforesaid, the wine or rum or tea so shipped to be exported, or any part thereof, shall be relanded in this province, or brought into the same from any other province or colony, that then all such wine, rum and tea so relanded and brought again into this province shall be forfeited, and may be seized by the commissioner aforesaid or his deputy. Proviso.

And be it further enacted,

[SECT. 25.] That there be one fit person, and no more, nominated and appointed by this court, as a commissioner and receiver of the aforesaid duties of impost and tunnage of shipping, and for the inspection, care and management of the said office, and whatsoever relates thereto, to receive commission from the governo[u]r or commander-in-chief for the time being, with authority to substitute and appoint a deputy-receiver in each port, or other places besides that in which he resides, and to grant warrants to such deputy-receivers for the said place, and to collect and receive the impost and tunnage of shipping as aforesaid that shall become due within such port, and to render the account thereof, and to pay in the same, to the said commissioner and receiver: which said commissioner and receiver shall keep fair books of all entries and duties arising by virtue of this act; also a particular account of every vessel, so that the duties of impost and tunnage arising on said vessel may appear; and the same to lie open, at all seasonable times, to the view and perusal of the treasurer or receiver-general of this province (or any other person or persons whom this court shall appoint), with whom he shall account for all collections and payments, and pay all such monies as shall be in his hands, as the treasurer or receiver-general shall demand it. And the said commissioner or receiver and his deputy or deputies, before their entering upon the execution of their said office, shall be sworn to deal truly and faithfully therein, and shall attend in said office from ten of the clock in the forenoon until one in the afternoon. Appointment and duty of the commissioner.

[SECT. 26.] And the said commissioner or receiver, for his labour, care and expences in the said office, shall have and receive, out of the province treasury, at the rate of sixty pounds per annum; and his deputy or deputies shall receive for their service such sums as the commissioner of impost, together with the province treasurer, shall judge necessary for whatever sums they shall receive and pay; and the treasurer is hereby ordered, in passing and receiving the said commissioner's accounts, accordingly, to allow the payment of such salary or salaries, as aforesaid, to himself and his deputies.

And be it further enacted,

[SECT. 27.] That all penalties, fines and forfeitures accruing or arising in consequence of any breach of this act, shall be one half to his majesty for the use of this province, and the other half to him or them that shall seize, inform and sue for the same, by action, bill, plaint or information, in any of his majesty's courts of record, wherein no essoign, protection or wager of law shall be allowed; the whole charge of the prosecution to be taken out of the half belonging to the informer. Disposition of forfeitures.

And be it further enacted,

[SECT. 28.] That from and after the commencement of this act, in all causes wherein any claimer shall appear, and shall not make good the claim, the charges of prosecution shall be borne and paid by the said claimer, and not by the informer. Charges of prosecution, how to be paid, in case. [Passed and published January 31, 1761.]