

ACTS

PASSED AT THE SESSION BEGUN AND HELD AT BOSTON,
ON THE TWENTY-FIFTH DAY OF MAY, A.D. 1737.

CHAPTER 1.

AN ACT FOR GRANTING UNTO HIS MAJESTY AN EXCISE UPON WINES
AND SPIRITS DISTILLED, SOLD BY RETAIL, AND UPON LEMMONS AND
LIMES.

WE, his majesty's most loyal and dut[*i*][*y*]ful subjects, the represent-
atives of the province of the Massachusetts Bay, in general court assem-
bled, being desirous to lessen the present debt of the province by draw-
ing in a number of the bills of credit, in pursuance of a grant of this
court to his late majesty King George the First, in the year one thousand
seven hundred twenty-seven,* and of several grants unto his present
majesty, in the years one thousand seven hundred and thirty-three, one
thousand seven hundred and thirty-five and one thousand seven hun-
dred and thirty-six, to be levied and collected in this present year, have
cheerfully and unanimously granted, and do hereby give and grant, unto
his most excellent majesty, for the ends and uses abovementioned, and
for no other uses, an excise upon all brandy, rum and other spirits dis-
tilled, and upon all wines whatsoever, sold by retail, and upon lemmons
and limes taken in and used in making of punch or other liquors mixed
for sale, or otherwise consumed in taverns or other licensed houses
within this province, to be raised, levied, collected and paid by and upon
every taverner, innholder, common victualler and retailer within each
respective county, in manner following,—

*And be it accordingly enacted by His Excellency the Governour, Council
and Representatives in General Court assembled, and by the authority of
the same,*

[SECT. 1.] That from and after the twenty-ninth day of June, one
thousand seven hundred and thirty-seven, for the space of three years,
every person licensed for retailing brandy, rum or other spirits or wine,
shall pay the dut[*ie*][*y*]s following; vizt.,—

For every gallon of brandy, rum and spirits distilled, twelvepence. Rates of excise.

For every gallon of wine of every sort, twelvepence.

For every hundred of lemmons, eight shillings and fourpence.

For every hundred of limes, three shillings.

And so proportionably for any other quantity or number.

And for the due and orderly collecting and receiving of the excise
aforesaid,—

Be it further enacted by the authority aforesaid,

[SECT. 2.] That every taverner, innholder, common victualler and
retailer shall, after the twenty-ninth day of June, one thousand seven
hundred and thirty-seven, take an exact account of all brandy, rum and

Preamble.

Time limited for
the continuance
of this act.

Rates of excise.

Taverners, &c.,
to give an ac-
count, on oath,
of their liquors.

* NOTES to 1727-28, resolve (b).

other distilled spirits and wine then by him, and give an account of the same, upon oath if required, unto the person or persons to whom the duties of excise in the respective count[*ie*][*y*]s shall be let or farmed, as in and by this act is hereafter directed; and such other persons as shall be licensed during the continuance of this act, shall also give an account upon oath as aforesaid, of what brandy, rum and other distilled spirits and wine he or they shall have by him or them at the time of his or their licence; which oath the person or persons farming the dut[*ie*][*y*]s aforesaid, shall have power to administer in the words following; vizt.,—

Form of the oath.

You, A. B., do swear that the account exhibited by you is a true and just account of all brandy, rum and other distilled spirits and wine now by you. So help you God.

Six months' account to be delivered on oath.

[SECT. 3.] That every taverner, innholder, common victualler and retailer shall make a fair entry in a book, of all such brandy, rum and other distilled spirits and wine as he or they, or any for him or them shall buy, distill or take in for sale after such account taken, and of all lemmons and limes taken in and consumed or used as abovesaid, and at the end of every six months deliver the same, in writing under his or their hands, to the farmer or farmers of the dut[*ie*][*y*]s aforesaid, who are empowered to administer an oath to him or them, that the said account is *bona fide* just and true, and that he or they do not know of any brandy, rum or other distilled spirits or wine sold directly or indirectly, or of any lemmons or limes used in punch or otherwise by him or them, or any under him or them, or by his or their privity or consent, but what is contained in the account now exhibited; and shall pay him the duty thereof, excepting such part as the farmer shall find is still remaining by him or them; twenty per cent to be allowed on the liquors aforementioned for leakage and other waste, for which no duty is to be paid.

Twenty per cent leakage.

Provided, always,

Excise to be paid by those that buy of taverners, &c.

[SECT. 4.] And it is the true intent and meaning of this act, that if any taverner, retailer or common victualler shall buy of another taverner or retailer such small quantity of liquors as this act obliges him to account for to the farmer, and pay the excise, the taverner, retailer or common victualler, shall, notwithstanding, be accountable, and pay the excise as if none had been paid by the person he bought the same of.

And be it further enacted by the authority aforesaid,

Penalty of taverners, &c., giving a false account or refusing to give an account.

[SECT. 5.] That every taverner, innholder, common victualler or retailer who shall be found to give a false account of any brandy, distilled spirits, wine or other the commodities aforesaid, by him or her at the time of his or her taking licence, or bought, distilled or taken in for sale afterwards, or used as aforesaid, or refuse to give in an account on oath as aforesaid, shall be rendered incapable of having a licence afterwards, and shall be prosecuted by the farmer of the excise in the same county, for his or her neglect, and ordered by the general sessions of the peace to pay double the sum of money as they may judge that the excise of the liquors, &c., by him or her sold within such time would have amounted to; to be paid, one moiety thereof to the said farmer, the other moiety to the province treasurer for the use of the province.

And be it further enacted by the authority aforesaid,

Recognizances to be taken.

[SECT. 6.] That the justices in their general sessions of the peace shall take recognizances with sufficient suret[*ie*][*y*]s of all persons by them licensed, both as to their keeping good rule and order, and duly observing the laws relating to persons so licensed; and for their duly

and truly rendring an account in writing under their hands as aforesaid, and paying their excise in manner aforesaid, as also that they shall not use their license in any house beside that wherein they dwell; which recognizance shall be taken within the space of thirty days after the granting such license, otherwise the persons licensed shall lose the benefit of his or her said license. And no person shall be licensed by the said justices that hath not accounted with the farmer, and paid him the excise due to him from such person at the time of his asking for such license.

And whereas notwithstanding the laws made against selling strong drink without license, many persons not regarding the penalties and forfeitures in the said act, do receive and entertain persons in their houses and sell great quantities of spirits and other strong drink without license so to do first had and obtained, by reason whereof great debaucheries are committed and kept secret, the end of this law in a great measure frustrated, and such as take licences and pay the excise greatly wronged and injured,—

Be it therefore further enacted,

[SECT. 7.] That whosoever, after the twenty-ninth day of June, one thousand seven hundred and thirty-seven, shall presume, directly or indirectly, to sell any brandy, rum or other distilled spirits, wine, beer, cyder, perry or any other strong drink in any smaller quantity than a quarter cask (twenty gallons to be accounted a quarter cask) without license first had and obtained from the court of general sessions of the peace, and recognizing in manner as aforesaid, shall forfeit and pay for each offence the sum of ten pounds, one third whereof shall be for the use of the poor of the town where the offence is committed, one third to the farmer, and the other third to him or them who shall inform and sue for the same, and costs of prosecution; and all such as shall refuse or neglect to pay the fine aforesaid, shall stand closely and strictly committed in the common goal of the county for three months at least, and not to have the liberty of the goaler's house or yard; and any goaler giving any person liberty contrary to this act, shall forfeit and pay ten pounds, to be employed in manner as aforesaid, and pay costs of prosecution as aforesaid; and if any person or persons not licensed as aforesaid, shall order, allow, permit or connive at the selling of any strong drink contrary to the true intent and meaning of this law by his or her child or children, servant or servants, or any other person or persons belonging to or in his or her house or family, and be thereof convict, he, she or they shall be reputed the offender or offenders, and shall suffer the same penalties as if he, she or they had sold such drink themselves.

And be it further enacted,

[SECT. 8.] That when any person is complained of for selling strong drink without license, one witness produced to one such fact, and another produced to another, shall be sufficient conviction: *provided*, there be not more than the space of forty days between the facts concerning which such witnesses declare.

[SECT. 9.] That when and so often as it shall be observed that there is a resort of persons to houses suspected to sell strong drink without license, any justice of the peace shall have full power to convene such persons before him, and examine them upon oath of the person suspected of selling or retailing strong drink in such houses, out-houses or other dependencies thereof, and on just ground to bind over the person transgressing, and the witnesses, to the next court of general sessions of the peace for the county where such offence shall be committed.

Preamble.

Penalty for selling without license.

Evidence in the case.

Justices to inspect suspected houses.

And be it further enacted,

Penalty on persons refusing to give evidence.

[SECT. 10.] That if any person or persons shall be summoned to appear before the grand jury to give evidence relating to any person's selling strong drink without license, or to appear before the court of general sessions of the peace or other court proper to try the same, to give evidence on the trial of any person informed against, presented or indicted for the selling [of] strong drink without licence, and shall neglect or refuse to appear or to give evidence in that behalf, every person so offending, shall forfeit the sum of twenty pounds; the one half to be for his majesty, the other half to and for the use of him or them who shall sue for the same as aforesaid. And when it shall so happen that witnesses are bound to sea before the setting of the court where any person or persons informed against for selling drink without license, is or are to be prosecuted for the same, in every such case the deposition of any witness or witnesses, in writing, taken before two of his majesty's justices of the peace, *quorum unus*, in the county where the offence shall be committed, and sealed up and delivered into court (the adverse party having first had a notification in writing sent to him or her of the time and place of caption) shall be esteemed as sufficient evidence in the law, to convict any person or persons offending against this act, as if such witness or witnesses had been present at the time of trial, and given his, her or their deposition *viva voce*; and every person or persons who shall be summoned to give evidence before two justices of the peace in manner as aforesaid, and shall neglect or refuse to appear, or to give evidence relating to the facts he or she shall be enquired of, shall be liable and subject to the same penalty as he or she would have been by v[er]tue of this act for not appearing, or neglecting or refusing to give his or her evidence before the grand jury or court as aforesaid.

Deposition of witnesses bound to sea, to be taken before two justices, *quorum unus*.

And to the end the revenue arising from the aforesaid duties of excise may be advanced for the greater benefit and advantage of the publick,—

Be it further enacted by the authority aforesaid,

Persons to be appointed to agree with farmers of the excise.

[SECT. 11.] That one or more persons, to be nominated and appointed by the general court for and within the several count[ie][y]s within this province (timely publick notice being first given of the time, place and occasion of their meeting), shall have power, and are hereby authorized, from time to time to contract and agree with any person for or concerning the farming the dut[ie][y]s in this act mentioned, upon brandy, rum, wine or other the liquors and commodities aforesaid, in the respective count[ie][y]s for which they shall be appointed, as may be for the greatest profit and advantage of the publick, so as the same exceed not the term of three years after the commencement of this act. And every person to whom the duties of excise in any county shall be let or farmed, shall have power to inspect the houses of all such as are licensed, and of such as are suspected to sell without licence, and to demand, sue for and receive the excise due from them by vertue of this act, and shall give bond, with two sufficient suret[ie][y]s, to the province treasurer for the time being, and his successors in said office, in double the sum of money that shall be contracted for, with condition that the sum agreed on be paid into the province treasury, for the use of the province, at the expiration of one year from the date of such bond, which bond the person or persons to be appointed, as aforesaid, a committee for such county, are to take, and the same to lodge with the treasurer aforesaid, within twenty days after such bond is executed; and the s[ai]d treasurer, upon failure or neglect of payment at the time therein limited, shall and hereby is impowered and directed to put such bond in suit, and to receive the moneys due thereon for the use afore-

Power of the farmers.

mentioned; and the said committees shall render an account of their proceedings, touching the farming this duty on rum, wine and other the liquors and species aforesaid in their respective count[ie][y]s to the general court in the first week of their fall sessions, and shall receive such sum or sums for their trouble and expences in said affair as said court shall think fit to allow them.

[SECT. 12.] And every person farming the excise in any county, may substitute and appoint one or two deput[ie][y]s under him, upon oath, to collect and receive the excise aforesaid, which shall become due in such county, and pay in the same to the farmer; which deputy or deput[ie][y]s shall have, use and exercise all such powers and authorit[ie][y]s as in and by this act is given or committed to the farmers for the better collecting the dut[ie][y]s aforesaid, or prosecuting of offenders against this act.

Farmers allowed to make deputies.

And be it further enacted,

[SECT. 13.] Anything hereinbefore contained to the contrary notwithstanding, that it shall and may be lawful to and for the said farmers, and every of them, to compound and agree with any retailer within their respective divisions, from time to time, for his or her excise for the whole year, in one entire sum, as they in their discretion shall think fit to agree for, without making any entry thereof, as is before directed. And all and every person or persons to whom the said excise or any part thereof shall be let or farmed by themselves or their lawful substitutes, may and are hereby impowered to sue for and recover in any of his majesty's courts of record, or before a justice of the peace, where the matter is not above his cognizance, any sum or sums that shall grow due for any of the aforesaid dut[ie][y]s of excise, where the party or part[ie][y]s from whom the same is or shall become due, shall refuse or neglect to pay the same.

Farmers allowed to agree and compound for excise;

—and impowered to sue for excise.

And be it further enacted,

[SECT. 14.] That in case any person farming the excise as aforesaid, or his deputy, shall at any time during their continuance in said office, wittingly and willingly connive at, or allow of any person or persons within their respective divisions (not licensed by the court of general sessions of the peace) their selling any brandy, rum, wine or other liquors by this act forbidden, such farmer or deputy for every such offence, shall forfeit the sum of fifty pounds, one half whereof shall be to his majesty for the use of the province, the other half to him or them that shall inform and sue for the same, and shall thenceforward be forever disabled from serving in said office.

Fine of the farmer and his deputies for conniving at selling drink without license.

And for raising a further revenue to his majesty for the uses in this act first mentioned, by an excise on coaches, chariots, chaise[s], calashes and chairs, to be levied upon and paid by the owners and possessors of the same,—

Preamble.

Be it further enacted by the authority aforesaid,

[SECT. 15.] That from and after the publication of this act, during the space of three years, there shall be paid yearly and every year, by the person or persons owning or possessing and making use of any coach, chariot, chaise, calash and chair (such excepted as belong to the governour, lieutenant-governour, president and fellows of Harvard Colle[d]ge and settled ministers), the several rates and duties following; vizt,—

Excise on coaches, chaises, &c.

For every coach or chariot, fifty shillings.

For every chaise with four wheels, thirty shillings.

For every other chaise, calash or chair, twenty shillings.

And for the better collecting the duties aforesaid, and paying in the same to the province treasury for the use for which the aforementioned duties of excise are granted,—

Be it further enacted,

Coaches and chaises to be entered with the town treasurer.

[SECT. 16.] That after the publication of this act, every person owning or possessing any coach, chariot, chaise, calash or chair, shall sometime in the month of July, yearly, cause the same to be entred with the treasurer of the town where such person dwells, and shall pay and deliver to such treasurer the rates of excise due from him or her by virtue of this act, on pain of forfeiting to his majesty for the use aforesaid (over and above such sum or sums of money as shall be due from him or her for excise as aforesaid) the sum of five pounds for each neglect, to be recovered by said treasurer, who is hereby authorized and directed to sue for and receive the same for the use aforesaid.

Penalty for neglect.

Town treasurer to keep an account of the same and of forfeitures, duties paid, &c.

[SECT. 17.] That the treasurer of the town for the time being, or the town clerk where there is no treasurer, shall make fair entries in a book, of all coaches, chariots, chaise, calashes and chairs of which an account shall be given him as aforesaid, together with the names of the owners or possessors thereof, as also of the several duties of excise and forfeitures arising by virtue of this act and received by him from time to time, and at the expiration of one year from the publication of this act, and so yearly so long as the same shall continue in force, shall deliver unto the treasurer and receiver-general of this province a perfect and particular account on oath of all coaches, chariots, &c., that have been entred with him, of all payments that have been made to him for excise, and of such forfeitures as he may have recovered or received pursuant to this act; and at the end of each year, or oftner, if the province treasurer shall demand it, shall account with him for all collections and receipts of the duties and forfeitures aforesaid, and shall pay and deliver to him such moneys as shall then be in his hands; and every town treasurer who shall neglect or refuse so to do, shall forfeit to his majesty, for the use aforesaid, double the sum of money which the court of general sessions of the peace in the same county (upon complaint and application to them made for that end by the province treasurer) shall judge the duty of excise on coaches and other conveyances before-mentioned arising by this act, would amount to for one year, and by said court shall be ordered to pay the same to the treasurer and receiver-general for the use of the province.

Penalty.

Town treasurer's allowance.

[SECT. 18.] And each town treasurer shall be allowed five per cent for all moneys collected by him and paid into the publick treasury as aforesaid.

How the fines are to be recovered.

[SECT. 19.] All fines, forfeitures and penalties arising by this act, for the recovery whereof no provision is therein already made, shall be recovered by action, bill, plaint or information in any of his majesty's courts of record within the respective counties where such offence shall be committed, or by presentment of the grand jury, who are hereby strictly enjoined to inform of and present all breaches of this act.

[SECT. 20.] This act to continue and be in force for the space of three years, and no longer. [*Passed July 2; published July 7.*]

CHAPTER 2.

AN ACT FOR GRANTING THE SUM OF ONE THOUSAND POUNDS IN BILLS OF CREDIT OF THE NEW TENOUR FOR THE SUPPORT OF HIS MAJESTY'S GOVERNOUR.

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

£1,000 in bills of the new tenour

[SECT. 1.] That the sum of one thousand pounds in bills of publick credit on this province, of the new tenour, which is equal to three