

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1718, and continued by adjournments to the twenty-first day of August, 1719, the following act was passed:

CHAPTER CCXXXIX.

AN ACT LAYING AN EXCISE OR DUTY ON ALL WINE, RUM, BRANDY
AND OTHER SPIRITS, RETAILED IN THIS PROVINCE.

To the end that provision be made for the payment of public debts and defraying the necessary charges of government:

[Section I.] Be it enacted by the Honorable William Keith, Esquire, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be throughout this province, raised, levied, collected and paid for all wine, rum, brandy and other spirits, retailed, sold, drawn, or bartered, by any person or persons whatsoever, by any quantity under twenty-five gallons, and delivered at one time and to one person, at any time after the fourteenth day of May, in this present year of our Lord one thousand seven hundred and nineteen, and before the fourteenth day of May which shall be in the year of our Lord one thousand seven hundred and twenty-two, the rate or sum of eight pence per gallon, and so proportionably for a greater or lesser quantity.

[Section II.] And be it further enacted by the authority aforesaid, That every retailer of all or any of the liquors aforesaid, before he or they draw, sell or barter any of the said liquors, shall enter his or her name and place of abode with the collector hereinafter appointed or his deputy, in a book to be by him kept for that purpose, and shall also take and have from the said collector or his deputies, respectively, a permit for drawing or selling of such liquors, for which entry and per-

mit they shall pay one shilling, and no more, and all such retailers and every of them are hereby enjoined, once in every three months, or oftener if required, to make true and particular entries with the collector or his deputy aforesaid, upon oath or affirmation (which the said collector and his deputy are hereby fully empowered to administer) of all wine, rum, brandy and other spirits, which they or any of them shall vend, barter or retail within that time, and so from time to time, during the continuance of this act; and shall and are hereby required to account and pay unto the said collector once in three months, or oftener if required, all such sum and sums of money as shall become due and payable by virtue of this act.

[Section III.] And be it further enacted by the authority aforesaid, That all and every retailer of all or any of the liquors aforesaid, shall, on the entry of their names and place of abode with the officer aforesaid, give unto the said collector an exact and true account of all rum, wine, brandy and other spirits, which shall be in their possession at the time of entry aforesaid; and shall also from time to time, after the said fourteenth day of May, before they take into their houses, shops, cellars, vaults or stores, any cask or quantity of liquors liable to pay the duties imposed by this act, make entry of all and every such cask or quantity of liquors with the collector aforesaid, or his deputy, with the marks, numbers and contents thereof, and shall receive from him a certificate or duplicate of such entry, if required by the party, for which entry and certificate the said retailer shall pay six pence and no more.

[Section IV.] And be it further enacted by the authority aforesaid, That if any retailer shall presume to retail, draw, sell or barter any of the liquors aforesaid, without having first entered his or her name and place of abode with the collector or his deputy, as this act directs, every such retailer shall forfeit and pay the sum of five pounds, over and above the duties for all such liquors retailed by them as aforesaid.

Or if after such entry made any such retailer shall refuse or neglect to make true and particular entries every three months, as directed by this act, or shall refuse or neglect to account with and pay to the said collector once in three months, and

oftener if thereunto required, every such retailer shall forfeit and pay for so neglecting or refusing to enter the liquors drawn every three months respectively, and to account and pay as aforesaid, for the first offense the sum of twenty shillings, and for the second and every other offense forty shillings and have their permit or license taken away, and are hereby declared incapable of retailing or selling any of the liquors aforesaid during the continuance of this act.

[Section V.] And be it further enacted by the authority aforesaid, That if any person shall make short or fraudulent entries of the liquors in his or her possession as aforesaid or shall neglect or refuse to enter and take permits for such liquors as he or she shall receive into his or her house, shop, cellar, vault or store, after the said fourteenth day of May, all such liquors not entered as aforesaid, shall be forfeited, and the collector hereafter named or his deputies are hereby empowered to enter, at any time when they shall see convenient, the house, cellar, vault, shop or store of any retailer, and to compare the liquors in such house, cellar, vault, shop or store with the entries made, and to seize and take away all such liquors as shall be found not duly entered as aforesaid.

[Section VI.] And be it further enacted by the authority aforesaid, That the said collector, or his deputies, may enter into any house, cellar, vault, store or other room, to search, examine and gauge the liquors of any retailer as often as he shall see fit; and upon their refusing him so to do, he may force and break open doors to gauge and examine the same, and in case of opposition shall take to his assistance the sheriff, or one or more constables of the town or county respectively, who without any other warrant are hereby, under the penalty of five pounds for every refusal or neglect, required to be aiding and assisting to the said collector, and deputies therein, for the better and more effectual collecting the duties, penalties and forfeitures imposed by this act.

Provided always, That there shall be allowed by the collector or his deputies unto the several retailers of the liquors aforesaid, fifteen per cent for leakage or wastage. And if any cask shall happen to start or burst no duty shall be reckoned for the liquors lost thereby.

[Section VII.] And be it further enacted by the authority aforesaid, That Owen Roberts of Philadelphia, gentleman, shall be and hereby is appointed the collector and receiver of the duties, fines and forfeitures aforesaid, laid and to be laid, imposed and levied by virtue of this act; which the said collector or his deputy is hereby empowered to demand, collect, receive and recover, of and from all and every person retailing or vending any of the liquors by this act appointed to pay the duties aforesaid.

And the said collector is hereby required to keep fair and true accounts in writing of all his doings in the premises, which accounts, together with his books and entries, he shall from time to time submit to the view and inspection of the provincial treasurer for the time being, and also lay the same before the assembly of this province when and so often as he shall be thereunto required.

And the said collector shall once in three months, or oftener if required, pay unto the provincial treasurer all such sums of money as he shall receive by virtue of this act, deducting out of the same ten per cent for all sums by him received and paid, as aforesaid, for his trouble and care in collecting, receiving and paying the same; and shall be further allowed in the final adjusting of his accounts, with the assembly of this province, all reasonable charges which may have accrued in the prosecuting of the seizures and persons offending against this act.

And the said collector before he enters upon the execution of his office is hereby required to give bond with two sufficient sureties to the said treasurer for the time being, in the sum of five hundred pounds, for the faithful discharge of his duty, and for his accounting and paying all such sums of money as he shall from time to time receive by virtue of this act.

And the said Owen Roberts, collector, is hereby empowered to appoint deputies (for whom he shall be answerable) in the respective counties of this province, which said deputies are hereby fully empowered to act as deputy collectors in their respective counties, to all intents and purposes as fully as the said Owen Roberts could do by virtue of this act.

Provided always, That the said deputy collectors shall make no entries, nor receive any of the duties imposed by this act from any retailer, but such who are in the respective counties where such deputy collector shall reside.

And the said collector is hereby required to give public notice by printed advertisements, fixed on all convenient public places, certifying the time of commencement of this act, and also the duties hereby imposed, with notice to the constables of their duty, and full directions how and when the said entries are to be made pursuant to this act.

[Section VIII.] Provided always, And be it further enacted, That in case the said Owen Roberts shall refuse to take upon him to the officer or collector of the said duties, or having taken the same upon him shall afterwards neglect or decline the same, or misbehave himself therein, or die during the continuance of this act, that then and in any such case the provincial treasurer for the time being is hereby empowered and required to appoint another in his place or stead, who shall have the same power and authority as by this act is given to the said Owen Roberts, until the assembly appoints another; and the said collector so appointed shall be subject to the same restrictions and penalties as this act directs.

[Section IX.] And be it further enacted by the authority aforesaid, That all the forfeitures and offenses made, done and committed against this act or any clause or article therein contained, shall be heard, adjudged and determined by such person and persons and in manner and form as hereafter is mentioned and directed; (That is to say) all such forfeitures and offenses made and committed within the city of Philadelphia, shall be heard, adjudged and determined by two justices of the peace residing within the said city; and all such forfeitures and offenses made and committed within any of the counties within this province shall be heard and determined by any two or more of the justices of the respective counties where such forfeiture shall be made or offense committed.

And if the party finds him or herself aggrieved by the judgment given by the said justices, he or she may appeal to the justices of the peace of the next quarter-sessions, who are

hereby empowered and authorized to hear and determine the same, and whose judgment therein shall be final.

All which said justices of the said city and counties of this province are hereby authorized and strictly enjoined and required, upon any complaint or information exhibited and brought of any such forfeiture made and offense committed contrary to this act, to summon the party accused, and upon his or her appearance or contempt to proceed to examination of the matters of fact and upon due proof thereof, either by the confession of the party or by the oath or affirmation of one or more credible witnesses, to give judgment or sentence as before is directed; and to award and issue out warrants under their hands and seals for the levying of such forfeitures, penalties and fines as by this act is imposed for any such offense committed, upon the goods and chattels of such offender, and to cause sale to be made of the said goods and chattels if they be not redeemed within five days, rendering to the parties the overplus, if any be, the charges of distress and sale being first deducted, and for want of sufficient distress to imprison the party offending until satisfaction be made.

[Section X.] And be it further enacted by the authority aforesaid, That if the said officer or his deputy or any sheriff or constable shall be sued and prosecuted for anything done by them in pursuance of this act, he may plead the general issue, and give this act and special matter in evidence for his or their justification; and in case a verdict shall be given against the prosecutor or he shall become non-suit, or suffer a discontinuance, the defendant shall recover treble costs, to be recovered as is usual in such cases.

[Section XI.] And be it further enacted by the authority aforesaid, That all and every the constables of the respective townships or districts in this province [shall] and are hereby required, under penalty of the forfeiture of twenty shillings for every refusal or neglect, to return on oath or affirmation unto the court of quarter-sessions in their respective counties, the names and places of abode of all persons in their several townships or districts, retailing or vending any liquors liable to pay the duties imposed on such liquors by this act. And

that the collector before named and his deputy may and shall have recourse to the returns of the constables, for the better collecting the duties, fines and forfeitures arising upon this act.

[Section XII.] And be it further enacted by the authority aforesaid, That all wine, rum, brandy and other spirits which shall be imported or brought into this province in lesser parcels or quantities than twenty-five gallons, during the continuance of this act, shall pay the excise and duties hereby imposed and laid upon such liquors, and the owners or possessors thereof shall duly enter the same, and take permits for the sale or disposal thereof, in the same manner and under the penalties, fines and forfeitures, as retailers are by this act obliged to do.

[Section XIII.] And be it further enacted, That one-third part of all the fines and forfeitures arising by this act shall go to him or them that shall inform and sue for the same, and the residue shall remain in the hands of the said provincial treasurer for the time being, for the uses and purposes hereinafter mentioned.

Provided always, That nothing in this act contained shall be construed to countenance or authorize any person or persons to sell liquors within doors, or keep public house or houses of entertainment, who are not licensed so to do pursuant to the laws of this province in such cases provided.

And for preventing frauds and abuses in collecting the duties, fines and forfeitures arising by this act:

[Section XIV.] Be it further enacted by the authority aforesaid, That it shall and may be lawful for any justice of the peace in this province, upon application made by the said collector or his deputies respectively, to summon any person or persons to appear before such justice, at such time and place as he shall appoint, to give evidence upon oath or affirmation for discovering of frauds and abuses committed against this act. And if any person or persons summoned as aforesaid, shall neglect or refuse to appear and give evidence, as aforesaid, he, she or they so offending shall for every such offense be fined by the justice that issued out the said summons in any

sum not exceeding twenty shillings, and be committed to prison until paid.

[Section XV.] And be it further enacted by the authority aforesaid, That the law of this province made in the fourth year of His Majesty's reign, entitled "An act for laying a duty on sundry liquors retailed in this province,"¹ together with the clauses, matters and things therein contained, shall continue and be in full force until the fourteenth day of May in this present year of our Lord one thousand seven hundred and nineteen, and no longer.

Provided nevertheless, That nothing in this act contained shall be construed, deemed or taken to lessen, abate or make void any of the duties imposed by the said law, or the arrearages thereof due or to become due thereby, until the said fourteenth day of May next. But that the collector appointed by this act and his deputies are hereby respectively empowered and required to collect and receive all the said duties with the arrearages thereof, which shall be due on the said fourteenth day of May next; and shall at any time during the continuance of this act sue for the said arrearages, as also the fines, penalties and sums which shall appear to be forfeited and lost for non-payment thereof according to the direction of the said former law.

And the [said] collector and his deputies are hereby further empowered and required to cause due entries and searches for all liquors retailed in this province before the said fourteenth day of May next, to be made in such manner and method as by this act is prescribed to be observed after that day, any law or usage to the contrary notwithstanding.

[Section XVI.] And be it further enacted by the authority aforesaid, That all moneys arising by virtue of this act or any other law of this province [whereby an impost duty or excise is laid upon liquors] shall be paid into the hands of the provincial treasurer for the time being, who shall retain five per cent for his trouble in receiving and paying the same in manner following: (That is to say) after the immediate services of this assembly are discharged the several orders of this house issued

¹ Passed February 22, 1717-18, Chapter 223.

under the Speaker's hand for the payment of these following sums shall be paid, viz., to the governor, William Keith, Esquire, five hundred pounds; to David Lloyd, chief justice, seventy-five pounds; to the attorney-general, thirty pounds; to Charles Brockden, forty-nine pounds five shillings and one penny halfpenny; and to Andrew Bradford, printer, thirty-two pounds; and the residue (if any) shall remain in the said treasurer's hands to be disposed of as the assembly for the time being shall direct and appoint; and the same shall be by him his heirs, executors and administrators paid accordingly, and not otherwise.

Passed April 25, 1719. Apparently never submitted to the consideration of the Crown. See Appendix IV, Section II, and the Act of Assembly passed May 12, 1722, Chapter 251.