

[Section XXVIII.] Provided always, That this act continue in force for the space of seven years, and from thence to the end of the next sessions of assembly and no longer.

Passed September 15, 1756. Confirmed by the King in Council, June 16, 1758. See Appendix XXI, Section IV, and the Acts of Assembly passed January 18, 1757, Chapter 418; September 30, 1763, Chapter 504; (continuing the Act in the text;) February 8, 1766, Chapter 532; March 9, 1771, Chapter 636.

CHAPTER CCCCXII.

AN ACT FOR STRIKING THE SUM OF THIRTY THOUSAND POUNDS IN BILLS OF CREDIT AND GIVING THE SAME TO THE KING'S USE, AND FOR PROVIDING A FUND TO SINK THE BILLS SO TO BE EMITTED BY LAYING AN EXCISE UPON WINE, RUM, BRANDY AND OTHER SPIRITS.

Whereas the large sums already granted by this province to the King's use (whereby the public is become considerably indebted and the people burdened with taxes) are found insufficient and the moneys arising from the said grants are expended, yet forasmuch as the King's service and the present critical circumstances of this province require immediate additional supplies:

We, the representatives of the freemen of the province of Pennsylvania, being desirous of demonstrating our duty to our sovereign and willing to give further testimony of our loyalty and the most sincere affection of his loving subjects within this province, do pray that it may be enacted:

[Section I.] And be it enacted by the Honorable William Denny, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That bills of credit to the value of thirty thousand

pounds current money of America, according to an act of Parliament made in the sixth year of the reign of the late Queen Anne for ascertaining the rates of foreign coins in the plantations of America, shall be prepared and printed within two months next after the passing of this act on good, strong paper, under the care and direction of the trustees of the general loan office for the time being, the charges whereof to be paid by the provincial treasurer out of the first moneys to arise by virtue of this act, which bills shall be made and prepared in the manner and form following and no other, viz.:

This bill shall pass current for _____ within the province of Pennsylvania, according to an act of general assembly of the said province made in the thirtieth year of the reign of King George the Second, dated the first day of October one thousand seven hundred and fifty-six.

And the same bills shall have such like escutcheons as in the margin hereof, with such other devices on the said bills as the said trustees shall think fit, as well to prevent counterfeits as to distinguish their several denominations; each of which bills shall be of the several and respective denominations following and no other, viz.: Twelve thousand of the same bills, the sum of twenty shillings in each of them; twelve thousand of the same bills, the sum of fifteen shillings in each of them; twelve thousand of the same bills, the sum of ten shillings in each of them; twelve thousand of the same bills, the sum of five shillings in each of them.

And the trustees shall use the best of their care, attention and diligence during the printing of the said bills that the number and amount thereof, according to their respective denominations aforesaid, be not exceeded, nor any clandestine or fraudulent practice used by the printer, his servants or others concerned therein.

And for perfecting the said bills, to make them current within this province, according to the true intent and meaning of this act:

[Section II.] Be it further enacted by the authority aforesaid, That all and every of the said bills shall be signed by three of the persons hereafter named: (That is to say) William Grant, Joseph Richardson, James Benezet, Samuel Wharton, Joseph

Wharton, Junior, Daniel Rundle, Peter Chevalier, William Hopkins, Stephen Wooley, Joshua Howell, Joseph Galloway, George Bryan, Charles Thomson, Isaac Paschal, Charles Jones, John Sayre, Francis Rawle, Thomas Wharton, Joseph Saunders, Peter Reeve, Joseph Morris, Samuel Smith, John Rhea, Thomas Smith, Jacob Cooper, William Fisher, Joseph Redman and Luke Morris, who are hereby nominated and appointed to be signers of the said bills, and shall before they receive or sign any of the said bills take an oath or affirmation to the following effect, viz.:

That they shall well and truly sign and number all the bills of credit that shall come to their hands for that purpose by the direction of this act, and the same so signed and numbered will deliver or cause to be delivered unto the trustees of the general loan office of the province of Pennsylvania, pursuant to the direction of this act.

And for avoiding the danger of embezzlement or misapplication of any of the said bills of credit:

[Section III.] It is hereby further enacted, ordained and provided, That the said trustees after the said bills are printed, shall deliver them to the said signers to be signed and numbered by parcels, for which the said signers or some of them shall give their receipt: (That is to say) one thousand pounds value in the said bills at one time and so from time to time, until all the said bills of credit shall be signed and numbered; yet so as that the said trustees shall not deliver any other of the said bills to the signers aforesaid whilst the sum in their custody exceeds one thousand pounds. Of all which bills of credit so delivered to be signed by the trustees true account shall be kept by the signers, who, upon their re-delivery of each or any parcel of the said bills of credit by them signed and numbered to the trustees of the general loan office, shall take the receipt of the said trustees to charge them before any committee of the assembly to be appointed for that purpose.

And each of the said signers shall have fifteen shillings for every thousand of the aforesaid bills by them signed and numbered, to be paid by the provincial treasurer out of the first excise money that shall come to his hands by virtue of this act. And if any of the persons before nominated to be signers shall happen to die, neglect or refuse or be rendered incapable of

doing his or their duty by this act required, the assembly for the time being shall or may appoint some other person or persons in his or their stead from time to time until all the bills hereby directed to be made be wholly signed and numbered as aforesaid.

And whereas the commissioners nominated and appointed by the act heretofore passed by this assembly, entitled "An act for granting the sum of sixty thousand pounds for the King's use, and for striking fifty-five thousand pounds thereof in bills of credit, and to provide a fund for sinking the same,"¹ have with the consent of the governor already expended the sum of fifty-five thousand pounds and have entered into contracts for the King's service exceeding (after the proprietors' free gift be fully paid) the whole sum of sixty thousand pounds granted by the said act:

[Section IV.] Therefore be it further enacted by the authority aforesaid, That when the said bills are signed and perfected the commissioners hereinafter named or the major part of them or of the survivors of them, shall and they are hereby empowered to discharge and pay all such debts as the commissioners appointed by the act hereinbefore-mentioned for granting sixty thousand pounds to the King's use shall certify under their hands (or the hands of a majority of them) to be debts justly due and contracted for the King's service and properly chargeable to this province.

[Section V.] And be it further enacted by the authority aforesaid, That Isaac Norris, Lynford Lardner, John Mifflin, Benjamin Franklin, Joseph Fox, John Hughes and William Masters, Esquires, or the major part of them or of the survivors of them, with the consent and approbation of the governor or commander-in-chief of this province for the time being and not otherwise, shall order and appoint the disposition of the residue of the moneys arising by virtue of this act for the King's use. And that the said Isaac Norris, Lynford Lardner, John Mifflin, Benjamin Franklin, Joseph Fox, John Hughes and William Masters or a majority of them or of the survivors of them, shall and they are hereby empowered and required, as often as there shall be occasion for money for the purposes aforesaid, to draw orders

¹ Passed November 27, 1755, Chapter 406.

upon the trustees of the general loan office, which orders so drawn and paid shall be produced to the committees of assembly for the time being and by them allowed in discharge of so much of the money granted to the King's use by virtue of this act. And the said orders so as aforesaid paid shall be sufficient to discharge the said trustees, their executors, administrators and assigns, of and from so much of the said thirty thousand pounds as shall be specified in the said orders. And the said commissioners for their trouble in discharging the duties required of them by this act shall have and receive one *per centum* on the whole sum of the orders by them drawn and no more. And the trustees for receiving and paying the said bills shall have and receive ten shillings for every hundred pounds and no more.

[Section VI.] And be it further enacted by the authority aforesaid, That all the aforesaid bills of credit to be made as this act directs shall be current bills of this province until the first day of October in the year one thousand seven hundred and sixty-six and no longer; and as such, during the said term, be received in payments for the discharge of all manner of debts, rents, sum and sums of money whatsoever, due, payable or accruing upon or by reason of any mortgage, bill, bond, specialty, note, book account, promise or other contract or cause whatsoever, as if the same were tendered or paid in the coins mentioned in such bond or other writing, book account, promise, assumption or any other contract or cause whatsoever, and at the rates ascertained in the said act of Parliament, and shall be so received in all payments by all persons whatsoever.

[Section VII.] And be it further enacted by the authority aforesaid, That if any person or persons shall presume to counterfeit any of the said bills of credit made current by this act by printing or procuring the same to be printed in the likeness of the said genuine bills of credit, and also if any person or persons shall forge the name or names of the signers of the true bills of credit to such counterfeit bills, whether the counterfeiting of the said bills or names be done within this province or elsewhere, or shall utter such bills knowing them to be so counterfeited as aforesaid, and being thereof legally convicted by

confession, standing mute or by the verdict of twelve men in any court of record within this province, he, she or they shall suffer death without benefit of the clergy. And the discoverer or informer shall have as an encouragement for his discovery the sum of fifty pounds of the goods and chattels, lands and tenements of the person convicted; and if no such goods and chattels can be found, then the treasurer shall pay to such informer or discoverer, his executors, administrators or assigns, the sum of ten pounds. And if any person or persons shall counterfeit any of the said bills of credit of this province by altering the denomination of the said bills with design to increase the value of such bills, or shall utter such bills knowing them to be so counterfeited or altered as aforesaid, and shall thereof be legally convicted in any court of record in this province, such person or persons shall be sentenced to the pillory and to have both his or her ears cut off and nailed to the pillory, and to be publicly whipped on his or her bare back with thirty-one lashes well laid on. And moreover, every such offender shall forfeit the sum of one hundred pounds, lawful money of Pennsylvania, to be levied on his and her lands and tenements, goods and chattels, the one-half to the use of the governor and the other half to the discoverer; and the offender shall pay to the party grieved double the value of the damages thereby sustained, together with the costs and charges of prosecution. And in case the offender hath not sufficient to satisfy the discoverer for his or her damages and charges and pay the forfeiture aforesaid, in such case the offender shall, by order of the court where he or she was convicted, be sold for any term not exceeding seven years for satisfaction; and in such case the said treasurer shall reward the discoverer of such insolvent offender to the value of five pounds. And every such counterfeit bill shall be delivered to the said treasurer, to be made use of upon the trial of the person accused or suspected and afterwards to be burnt or destroyed by the said treasurer in the presence of a committee of assembly.

[Section VIII.] And be it further enacted by the authority aforesaid, That the treasurer of this province for the time being shall, out of the money paid into his hands by virtue of this

act, yearly and every year for the space of ten years next ensuing, the first day of October in the year one thousand seven hundred and fifty-six pay into the hands of the committees of assembly yearly appointed to settle the public accounts three thousand pounds in bills of credit of this province, which shall yearly during the term last aforesaid be by the said committees burnt and destroyed.

And to the end the thirty thousand pounds in bills of credit so as aforesaid given to the King's use may be duly sunk and destroyed:

[Section IX.] Be it further enacted by the authority aforesaid, That there shall be throughout this province raised, levied, collected and paid, for all rum, brandy and other spirits sold, drawn or bartered by any person or persons whatsoever by any quantity under seventy gallons, and for all wine sold, drawn or bartered under the quantity of one hogshead, and to be delivered at one time and to one person at any time after the first day of October, one thousand seven hundred and fifty-six, and during the space of ten years next following and for so long after as until the end of the then next session of assembly, the rate or sum of four pence per gallon, and so proportionably for a greater or lesser quantity.

[Section X.] And be it further enacted by the authority aforesaid, That every retailer of all or any of the said liquors 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 collectors of the respective counties hereinafter appointed or their deputies in books to be by them kept for that purpose, and shall also take and have from the said collectors or their deputies respectively a permit for drawing or selling such liquors, for which entry and permit they shall pay one shilling and no more.

Provided always, That no such permit be granted to any person or persons to retail the liquors aforesaid the rates and duties whereof (by this act imposed) do not amount to the value of three pounds *per annum*, and so in proportion for a lesser time, unless such retailer or retailers at the time of their obtaining such permit as aforesaid will undertake and give security (if thereunto required by the said collectors respectively)

well and truly to pay so much to the said collectors as shall make up the rates and duties by this act imposed, the sum of three pounds *per annum*, and so proportionably for a longer or shorter time.

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 collectors or their deputies aforesaid respectively upon oath or affirmation (which the said collectors or their deputies are hereby fully empowered to administer) of all wine, rum, brandy and other spirits which they or any of them shall have vended, bartered or retailed 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 to the said collectors or their deputies respectively once in every 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 XI.] 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 places of abode with the officers aforesaid, give unto the said collectors or their deputies an exact and true account of all wine, rum, brandy and other spirits which shall be in their possession at the time of entry aforesaid and of whom purchased, for which entry the said retailer shall pay six pence and no more.

[Section XII.] And be it further enacted by the authority aforesaid, That all and every retailer of all or any of the liquors aforesaid shall also from time to time, from and after the first day of October next, before they load or cause to be loaded into any vessel or put into any cart, wagon, dray or any other carriage for transportation, and before they remove or cause to be removed from the houses, shops, cellars, vaults, stores or places where purchased, any cask or quantity of liquors liable to pay the duties imposed by this act, make entry with the collector of the city and county of Philadelphia of all and every such cask or quantity of liquors, with the marks, numbers and contents thereof and of whom purchased. And the collector of the city and county of Philadelphia shall certify to the collectors of the counties respectively under his hand the entries so as

aforesaid made of all quantities of liquors liable to pay the duties imposed by this act transported into the several counties, in order that the collector or collectors of the respective counties may make entry thereof accordingly, for which entry and certificate the collector of the city and county of Philadelphia shall receive six pence and no more.

[Section XIII.] And be it further enacted by the authority aforesaid, That all and every retailer of all or any of the liquors aforesaid who shall or may purchase any of the said liquors in New Jersey or the three lower counties on Delaware, or any other colony not subject to our laws, shall also from and after the first day of October next, for and during the continuance of this act, before they take into their houses, shops, cellars, vaults or stores or divide any quantity of the said liquors liable to pay the duties imposed by this act, make entry of all and every such cask or quantity of liquors with the collectors of the counties or their deputies respectively where such liquors are brought or intended to be retailed or divided, with the marks, numbers and contents thereof and of whom purchased, under the penalties and restrictions and subject to the same fines and forfeitures as if the said wine, rum, brandy or other spirits had been purchased within this province, anything in this act to the contrary notwithstanding.

[Section XIV.] And be it further enacted by the authority aforesaid, That if any retailer shall presume to remove, retail, draw, sell or barter any of the liquors aforesaid contrary to the true intent and meaning of this act, without having first entered his or her name and place of abode with the collector of the city and county of Philadelphia and with other the collectors or their deputies 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 or pay to the said collectors or their deputies what shall appear to be due by this act upon the entries made by them as aforesaid once in every three months or oftener if thereunto required, every such re-

tailer 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 forty shillings and for the second offense five pounds, 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.

And if the person or persons liable to pay the duties arising upon selling or retailing of the liquors mentioned in this act shall neglect or refuse to pay the same in the manner and at the times herein limited and appointed by the space of ten days after the same ought to be paid, it shall and may be lawful for the said collectors respectively (by virtue of a special warrant for that purpose, signed and sealed by any one justice of the peace of the city or county where the offense is committed) to levy the same by distress and sale of the goods and chattels of the offender, rendering the overplus if any be to the owner or owners after reasonable charges deducted.

[Section XV.] 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, store or other place after the first day of October next, all such liquors not entered as aforesaid shall be forfeited, and the collectors hereafter named or their deputies are hereby respectively empowered to enter at any time when they shall see convenient the house, cellar, vault, store or shop 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 truly entered as aforesaid. And if it shall be found impracticable or inconvenient to take away the said liquors from the places where they are so as aforesaid seized, the collector or collectors in every such case shall ascertain the quantity of the said liquors by gauging the same, and the owner or owners thereof shall pay to the said collector who shall seize the same the value thereof, estimated at and according to the current market price of the said liquors at Philadelphia at the time of the making such seizure.

[Section XVI.] And be it further enacted by the authority aforesaid, That the said collectors or their deputies may enter into any house, cellar, vault, store or other room in the day-time to search, examine and gauge the liquors of any person retailing with or without license or permit as often as he or they shall see fit; and upon their refusing him liberty so to do, he may force and break open doors to gauge and examine the same, and in case of opposition, if necessity requires, 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 collectors and their 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 collectors or their deputies unto the several retailers of the liquors aforesaid fifteen per cent for leakage and wastage; and if any cask should happen to start or burst, no duties shall be reckoned for so much of the said liquors as such retailers shall prove was lost thereby.

[Section XVII.] And be it enacted by the authority aforesaid, That Joseph Stretch, of Philadelphia, gentleman, shall be and is hereby appointed collector of the excise, &c., within the city and county of Philadelphia; and that Joseph Hamton, of Bucks county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Bucks; and that Charles Humphreys, of Chester county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Chester; and that James Webb, of Lancaster county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Lancaster; and that Thomas Minshall, of York county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of York; and that Nathaniel Wilson, of Cumberland county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Cumberland; and that John Hughes, of Berks county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the

county of Berks; and that John Jones, of Northampton county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Northampton; which said several collectors are hereby severally empowered by themselves or their deputies, to be by them duly constituted and for whom they shall be accountable, to demand, collect, receive and recover the excise appointed to be paid by this act of and from all and every person or persons (within their respective counties and places for which they are appointed) retailing or vending any of the liquors by this act liable to pay the duties aforesaid, and also to recover and receive all and every the duties, fines and forfeitures laid or imposed or that shall happen to arise or become due for anything done contrary to the true intent and meaning of this act.

And the said collectors are hereby required to keep true and fair accounts in writing of all their doings in the premises, which accounts they shall when thereunto required submit to the view and inspection of the provincial treasurer for the time being and thereupon settle and adjust the said accounts, and also lay the same before the assembly of this province when and so often as they shall be thereunto required.

And the said collectors and each of them shall once in three months or oftener if required pay unto the provincial treasurer all such sums of money as they shall receive by virtue of this act, deducting out of the same ten per cent for all sums by them received in the counties of Bucks, Chester, Lancaster, York, Cumberland, Berks and Northampton, and five per cent for the county and city of Philadelphia, for their trouble and care in collecting and paying the same, and deducting also one moiety of all the forfeitures by them recovered for any offense committed against this act, after charges paid and satisfied; and shall be further allowed in the final adjusting of their accounts with the assembly of this province all reasonable charges which may have accrued in prosecuting persons offending against this act.

[Section XVIII.] And be it further enacted by the authority aforesaid, That if the said collectors or any of them shall refuse or neglect to collect the said excise respectively or any part

thereof and pay the same unto the provincial treasurer within the time limited in this act, every such collector so refusing or neglecting shall pay all the arrearages of such excise which he ought to have collected, which shall be levied by a warrant under the hand and seal of any two magistrates of the city of Philadelphia for the time being (whereof the mayor or recorder always to be one) or of any two magistrates of the respective counties where the offense is committed directed to the sheriff of the county, who is hereby empowered and required to execute such warrant upon the goods and chattels of the collectors so offending, and in case goods and chattels sufficient to make satisfaction cannot be found, then to imprison such offender until payment be made; and the collector being so distrained on and having made full satisfaction as aforesaid is hereby empowered without any other warrant to distrain for his own use upon all such persons as shall refuse or neglect to pay the said arrearages.

And the said respective collectors before they enter upon the execution of their said respective offices are hereby required to give bonds with two sufficient sureties to the said treasurer for the time being in manner following: (That is to say) that the said Joseph Stretch, collector of the excise, &c., for the city and county of Philadelphia, in the sum of five hundred pounds; the said Joseph Hamton, collector of the excise, &c., for the county of Bucks, in the sum of two hundred pounds; the said Charles Humphreys, collector of the excise, &c., for the county of Chester, in the sum of two hundred pounds; the said James Webb, collector of the excise, &c., for the county of Lancaster, in the sum of two hundred pounds; the said Thomas Minshall, collector of the excise, &c., for the county of York, in the sum of one hundred pounds; the said Nathaniel Wilson, collector of the excise, &c., for the county of Cumberland, in the sum of one hundred pounds; the said John Hughes, collector of the excise, &c., for the county of Berks, in the sum of two hundred pounds; the said John Jones, collector of the excise, &c., for the county of Northampton, in the sum of one hundred pounds, for the faithful discharge of their respective duties and for the respective accounting and paying all such sums of money as they shall from time to time receive by virtue of this act.

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

[Section XIX.] Provided always, and be it further enacted, That in case the said Joseph Stretch, Joseph Hamton, Charles Humphreys, James Webb, Thomas Minshall, Nathaniel Wilson, John Hughes and John Jones or either of them, or such as shall be hereafter appointed by virtue of this act, shall refuse to take upon him or them to be the collector or collectors of the said duties, or having taken the same upon him or them shall afterwards neglect or decline the same or misbehave him or themselves therein or die during the continuance of this act, that then and in every such case the provincial treasurer shall appoint another or others in the place or stead of such person or persons so refusing, neglecting, misbehaving or dying, who shall have the same power and authority and shall be liable to the same restrictions and penalties as by this act is given to the collectors herein named until others shall be appointed by the assembly.

[Section XX.] And be it further enacted by the authority aforesaid, That no person or persons within this province shall during the continuance of this act retail less than one quart of rum, wine, brandy or other spirits, to be delivered at one time and to one person, unless such person or persons shall be regularly recommended to the governor for the time being and by him licensed, according to the direction of an act of assembly of this province in that case made and provided. And if any person or persons shall presume during the continuance of this act to retail within this province less than one quart of wine, rum, brandy or other spirits, to be delivered at one time and to one person, without being legally recommended and licensed as aforesaid, he, she or they so offending shall forfeit and pay the sum of five pounds over and above the duties for all such liquors by them retailed as aforesaid or be committed to the workhouse or prison of the respective county where the offense shall be committed, there to be kept at hard labor for the space of five

months, anything in this law or any other law, usage or custom to the contrary notwithstanding.

[Section XXI.] And be it further enacted by the authority aforesaid, That all and every such person and persons who by virtue of licenses obtained from the governor shall be allowed to retail wine, rum, brandy or other spirits in less quantity than a quart, as aforesaid, every such retailer or retailers who shall apply him, her or themselves to the justices of the court of quarter-sessions of the counties to which he, she or they respectively do belong for a recommendation to the governor to renew their licenses for keeping a public house or houses and retailing as aforesaid, every such person and persons shall on every such application and before any recommendation obtained produce certificates from the collectors of the said counties respectively to which he, she or they belong of having discharged all arrearages of money due to the said collectors or any of them for the rates and duties imposed, or otherwise the said justices are hereby enjoined and required not to recommend such person or persons for the purpose aforesaid. And every such person or persons are hereby declared incapable of retailing any of the liquors aforesaid in less quantities than one quart as aforesaid; and in case any person or persons shall, notwithstanding, retail in less quantities than one quart as aforesaid, he, she or they so offending shall be liable to such and the same penalties and forfeitures as by this act is imposed on other persons.

And for the better discovery of frauds and abuses:

[Section XXII.] 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 any one of the said collectors or other person, 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 discovery 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 summons in any sum not exceeding twenty shillings and be committed to prison until paid.

[Section XXIII.] 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 or persons and in such manner and form as herein is 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 any two or more of the aldermen of the said city, and all such forfeitures and offenses made and committed within any of the counties of this province shall be heard and determined by any two or more of the justices of the respective counties where such forfeitures shall be made or offense committed.

And if the party finds him or herself aggrieved by the judgment given by the said aldermen or justices, he or she may appeal to the justices of the peace of the next court of general quarter-sessions of the peace to be held for the respective city or county where the judgment shall be given, which court is hereby empowered and authorized to hear and determine the same and whose judgment therein shall be final.

Provided always, That no alderman or justice who shall sit on the first hearing of any such cause shall sit to hear and determine in the same cause in case any appeal shall happen to be made therein.

And the said aldermen and 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 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 offenses committed upon the goods and chattels of such offender, and to cause sale to be made of such goods and chattels (if they are 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 XXIV.] And be it further enacted by the authority aforesaid, That if the said magistrate, officer or any sheriff or constable shall be sued and prosecuted for anything done by them in pursuance of this act, he or they 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 nonsuit or suffer a discontinuance, the defendant shall recover treble costs, to be recovered as is usual in other cases.

[Section XXV.] 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 the 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 by this act, and that the collector of such respective county may and shall have recourse to the returns of the constables for the better collecting the duties, fines and forfeitures arising upon this act.

And whereas it has been the practice of divers persons who were not retailers of the said liquors formerly to draw off certain quantities of wine, rum and other spirits and distribute the same amongst their neighbors on purpose to elude the payment of excise:

For prevention whereof for the future:

[Section XXVI.] It is hereby enacted and declared, That the drawing, distributing or sharing of any rum, wine, brandy or other spirits out of any cask or casks whatsoever into any quantity or quantities less than seventy gallons each, under pretense of making it convenient for carriage or otherwise, shall be deemed and taken to be retailing within the meaning of this act.

Provided, That the collectors of the excise aforesaid or any of them, nor their or any of their deputies, nor any other person or persons to be appointed in their or any of their places or stead, shall during the continuance of this act vend, barter, sell, exchange or trade in any of the liquors aforesaid made excisable by this act under the penalty of fifty pounds, to be recovered by action of debt, bill, plaint or information by any person who will sue for the same to effect, one-half thereof to the use of the person so suing, the other half thereof to be paid in to the provincial treasurer aforesaid. And the person or persons duly convicted of any such offense or offenses against this act is and are hereby disabled from acting any longer in their respective offices, and the treasurer aforesaid is hereby authorized and required to name another or others in lieu or stead of the person or persons so offending, who shall have the same powers and authorities and be liable to the same restrictions and penalties as the collectors named in this act until others are appointed by the general assembly of this province.

[Section XXVII.] And be it further enacted by the authority aforesaid, That the collectors of excise herein and by this act appointed shall be and continue in their respective offices from the publication of this act for the space of one year, and from thence until a new nomination and appointment shall be made by the assembly and no longer, which said collectors so appointed shall during their continuance in their respective offices have all the powers and authorities and be entitled to the fees and perquisites hereinbefore-mentioned and appointed in as full and ample manner as if the said collectors had been appointed in the body of this act.

[Section XXVIII.] And be it further enacted by the authority aforesaid, That the provincial treasurer before his entrance upon the execution of the duties enjoined him by this act shall become bound to the governor or commander-in-chief of this province for the time being, with one or more sureties, in an obligation of three thousand pounds, conditioned for the true observation of this act and the duty which to the said office doth appertain. And in case of the death or removal of the said treasurer it shall and may be lawful for the assembly to appoint some

other fit person to supply his place, who shall give security as aforesaid.

[Section XXIX.] And be it further enacted by the authority aforesaid, That the said provincial treasurer for all the moneys which shall come to his hands in pursuance of his office aforesaid, by virtue of this act or otherwise shall be allowed commissions for the same at the rate of five per cent and no more.

And whereas there are sundry sums of money which became due by virtue of the former acts of excise still outstanding and not received by the former collectors:

[Section XXX.] Be it enacted by the authority aforesaid, That the provincial treasurer for the time being shall deliver unto the officers appointed by this act a true list of all such outstanding sums of money as became due upon the former acts of excise, together with the names and places of abode of the person or persons from whom the same are due; and the said collectors are hereby authorized and empowered to demand, recover and receive the same in the same manner as the excise arising upon this act is directed to be received and recovered, and shall upon receipt thereof pay the same to the provincial treasurer for discharging the sum of one thousand pounds, part of five thousand pounds granted to the King's use by an act passed in the nineteenth year of the present reign, entitled "An act for granting five thousand pounds to the King's use," &c.¹

[Section XXXI.] And be it further enacted by the authority aforesaid, That if the excise to be levied by virtue of this act shall not be sufficient during the term for which it is granted to sink the sum of thirty thousand pounds hereby to be struck and issued and defray all incident charges, in such case the same shall be continued until the said sum of thirty thousand pounds shall be completely sunk and destroyed. And if the said excise shall within the term of ten years produce more than thirty thousand pounds, the incident charges aforesaid being defrayed, the overplus shall be disposed of by act of assembly for the King's use.

Passed September 21, 1756. Confirmed by the King in Council July 8, 1757. See Appendix XXI, Section I.

¹ Passed June 24, 1746, Chapter 370.

As to Sections I-VIII, see notes to the Acts of Assembly passed March 5, 1725-26, Chapter 289; November 27, 1755, Chapter 406.

As to Sections IX-XXXI, they were continued by the Acts of Assembly passed October 22, 1763, Chapter 505; May 20, 1767, Chapter 559; February 17, 1768, Chapter 571; February 18, 1769, Chapter 580. Repealed by the Act of Assembly passed March 21, 1772, Chapter 656.

CHAPTER CCCCXIII.

AN ACT FOR THE RELIEF OF JOSEPH YEATES, A LANGUISHING PRISONER IN THE GAOL OF PHILADELPHIA, WITH RESPECT TO THE IMPRISONMENT OF HIS PERSON.

Whereas Joseph Yeates, of the city of Philadelphia, by his petition to the assembly of this province hath set forth: That he has been long confined in gaol in the said city under execution at the suit of Thomas Robey for a debt of one hundred pounds sterling; that the said Joseph by his said confinement is rendered utterly incapable of satisfying the same; that he had used his utmost endeavors to prevail upon his said creditor to accept of an assignment of all his effects and release him from his imprisonment; that if the same proved deficient, the petitioner might be the better enabled when at liberty to make his said creditor full payment and satisfaction; and that all his endeavors for obtaining his liberty have proved fruitless.

And whereas it hath been represented to the satisfaction of this assembly that the said Joseph Yeates hath lived and traded in this and the neighboring provinces divers years last passed, by which means he has debts and effects due and owing to him, which if in time collected may be applied towards the paying and satisfying as well the aforesaid Thomas Robey as other the creditors of the said Joseph; that if they are not speedily looked after and collected the same may be totally lost and the said Joseph subject to imprisonment during life. And it being further represented that if the said Joseph Yeates might obtain his liberty and freedom of his person from arrests, he is willing and ready to assign over all his estate, real and personal, to