

## CHAPTER MCLVII.

A SUPPLEMENT TO THE ACTS FOR RAISING AN IMPOST ON GOODS, WARES AND MERCHANISE IMPORTED, FOR SECURING MORE EFFECTUALLY THE REVENUES ARISING FROM THE SAME.

(Section I, P. L.) Whereas it is of great importance that the revenues arising from imposts or duties on goods, wares and merchandize imported should be faithfully collected and accounted for and the laws now in being for regulating the same, are deemed [to be] insufficient.

[Section I.] (Section II, P. L.) Be it enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That every merchant, factor, agent or other person, having goods, wares or merchandize, on board of any ship or other vessel that shall arrive within any port of this state, or which shall be imported or brought into this state by land, shall make particular entry with the collector or deputy collector of the port or district where the same shall so arrive or be imported of all such goods, wares and merchandize, specifying therein the packages, their marks, numbers and contents, and the net cost of such contents, in the country or place where the same were last purchased; and shall moreover produce to the said collector or deputy collector the original invoice or invoices together with the bill or bills of lading for inspection in support of such entry; and the said collector or deputy collector, having satisfactorily examined and compared the same, shall cause the party making such entry, or the principal clerk, or other person conversant in the business of such party, to make oath or affirmation that the said entry is in all things just and true and contains in manner and form as therein specified the whole of the goods, wares and merchandize imported or brought into this state by such party, or to him, her or them consigned, in such ship, vessel or other carriage, as the case may be, and that the invoice or invoices produced is

or are the true original invoice or invoices, and contain bona fide the whole amount of the first cost of the goods, wares and merchandize, so imported or brought in and entered which oath or affirmation shall be in writing, subjoined to or indorsed on every such entry, and subscribed by the person making the same. And every such collector and deputy collector is hereby severally authorized and empowered to administer such oath or affirmation by virtue of his said office.

[Section II.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That every such entry so authenticated and approved by the collector or his deputy in and for the city and port of Philadelphia shall in like manner, before any permit, shall be granted for the landing or unloading of any goods, wares or merchandize therein contained, be examined and compared with the manifest lodged by the master of the vessel at the naval office, and also with the original invoice or invoices, and bill or bills of lading, by the naval officer of the said port or his deputy, and if approved by the said naval officer or his deputy, he shall note in a book to be kept for that purpose the date of such entry, the name of the party making the same, the name of the vessel, and the master thereof by which the goods were imported; the name of the place from whence they were imported, the marks, numbers and kinds of packages contained in such entry, the value or cost of the goods therein contained, and the amount of the duties paid or secured to be paid thereon, and shall certify under or upon such entry such his approbation and registry thereof and return the same to the party with the invoices and bills of lading relating thereto; and on such certified entry being presented to the collector to be filed, he shall grant a permit for the landing or unloading of the goods, wares or merchandize therein mentioned.

[Section III.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the collector or deputy collector, or the naval officer, or his deputy aforesaid, after entry made of any goods, wares or merchandise, either before or after a permit granted for landing the same, on reasonable cause to suspect fraud or unfairness, to take any such goods, wares and merchandise, into his custody

and possession, and in the presence of two or more indifferent persons, as herein after mentioned, to open and strictly examine any bale, box, trunk, cask or other package; and if upon such examination, the same shall be found to agree with the entry made thereof, the collector or deputy collector or naval officer, or his deputy, as the case may be, shall cause every such package or parcel to be closed or repacked, as the case may require, and to be delivered to the owner or proper claimant thereof; the expenses of which examination and repacking, shall be paid by the collector or deputy collector, and allowed in the settlement of his accounts. But in case any such package or packages shall on such examination be found to differ materially in its contents from what is expressed in the original entry and invoice exhibited therewith, whereby the duties may be lessened, and it shall appear, that such variance hath been wilfully made for the purpose of committing a fraud, or evading the payment of the duties, or any part thereof, all such goods, wares and merchandise contained in such entry, together with the packages and covers thereof, shall be forfeited, one half to the use of the collector or naval officer of the port who shall have made the seizure or the deputy collector of any inland district, in which the seizure shall have been made; if such seizure shall have been made on the discovery and mere motion of such officer; but if such seizure shall have been made on the discovery and information of any other person properly communicated to such officer, then such person shall be entitled to receive to his or her use one equal half part of the moiety of such seizure so awarded to the collector, naval officer or deputy collector as aforesaid.

[Section IV.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That when any goods, wares and merchandise shall be taken into custody by the collector, naval officer or deputy collector, as aforesaid, the same shall be opened and examined in the presence of two experienced and disinterested merchants of good repute, one of whom to be chosen by such collector naval officer, or deputy collector and the other by the owner, factor, agent or other person who made entry and claim for the goods: And such merchants so chosen, being first

duly sworn or affirmed, before a judge or justice of the peace, faithfully and impartially to discharge the trust and authority committed to them by this act, shall in the presence of such collector, naval officer or deputy collector, and of the party or parties claiming the goods, if he or they shall choose to attend, proceed to view and examine all such goods, wares and merchandise, and compare them with the original entry to be produced by the collector, naval officer or deputy collector, and thereupon shall certify in writing, under their hands and seals, their opinion, whether such entry was honestly and fairly made, agreeably to the quantity, quality and cost of such goods, wares and merchandise, or not; and if such opinion shall be clearly in favor of the owner, or claimant of such goods, wares or merchandise, such collector, naval officer or deputy collector, shall release and deliver up the same in as good plight as he received them, without expense or unreasonable delay, to the claimant; otherwise such collector, naval officer or deputy, shall retain the possession of such goods, wares or merchandise, as a seizure, and proceed by attachment and prosecution, *ad rem*, to final judgment on such seizure.

(Section VI, P. L.) Provided nevertheless, That if the owner or proper claimant of such goods, shall demand the same, or if such goods should be in their nature perishable or liable to loss in value, by the delay of sale, the court before whom such suit shall be depending, or any two of the justices or judges of such court shall order a delivery of such goods to the original owner, consignee or party claiming the same, on good and sufficient security being given by such party, for the full value thereof, and all costs and charges in case of condemnation, or for such costs and charges as may be awarded in case of acquittal, or may order a sale of such goods, wares and merchandise, as the case may require. And provided also, that any goods, wares or merchandise, so taken possession of by the collector, naval officer or deputy collector and found on opening or examination, to have been justly entered, may be exported, and entitled to the same draw back as if the same had not been opened for examination anything in this or any other act to the contrary in anywise notwithstanding.

[Section V.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if the two merchants so chosen as aforesaid, should happen to differ in opinion, they shall jointly choose a third merchant of fair character who being duly sworn or affirmed as aforesaid, shall have equal authority with those first chosen, or if the party claimant shall neglect or refuse to choose such person on his or her part, the collector, naval officer or deputy collector, shall apply to some neighboring justice of the peace, who shall thereupon nominate and appoint two such merchants as aforesaid, to join with the one so appointed by the collector, naval officer or deputy collector, who shall be duly sworn or affirmed as aforesaid, and the opinion of any two of them, signified as aforesaid, shall have the like effect, as if given and signed by such two merchants as are first above mentioned.

(Section VIII, P. L.) And whereas there are no rules directed by law whereby allowances are to be made for wastage or damages on goods, wares and merchandise imported:

[Section VI.] (Section IV, P. L.) Be it enacted by the authority aforesaid, That the collector [or deputy collector] shall be, and is hereby empowered and directed to allow, for wastage on rum, brandy, wines, and other liquors imported in casks, and on sugars and molasses, at and after such ratio or rate as he shall think reasonable, not exceeding one eighth part of the gauge, measurement or weight of such goods at the port or place from whence they are imported; and if any goods, wares or merchandise should receive any damage on the passage, such damage shall be allowed for, in the settlement of the duties, or if the full duties shall have been paid, a due proportion thereof shall be returned: Provided always, That the damages so to be allowed for, amount to five per centum, on the original cost or value of the goods contained in any cask or package, on which such allowance shall be claimed; And provided also, That such damages shall be ascertained and certified in writing by the wardens or surveyors of the port, or any two of them with as much precision as may be, and reported to the collector or deputy collector, in order, that he may, if he shall think

proper, view such damaged goods in the state in which they arrived.

[Section VII.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act every merchant, factor, agent or other person who shall make entry of any goods, wares or merchandise, whereon the duties shall not exceed the sum of three pounds, shall forthwith pay such duties before a permit shall be granted for landing such goods, and when the duties arising on any such entry shall exceed the sum of three pounds, the same shall be paid, or at the option of the party making or causing such entry to be made, secured by the bond of such party, payable in three months from the date thereof; Provided, that if such party be a stranger, non-resident or otherwise of doubtful character, additional security shall be required by the collector in every such case.

[Section VIII.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That every such bond so taken for the payment of duties as aforesaid shall at and from the time of executing the same have and take the like effect with a judgment entered in a court of record, and execution levied by the sheriff, so far as relates to the binding of the goods and chattels, lands and tenements of the obligor or obligors in any such bond.

[Section IX.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the collector of the port of Philadelphia or deputy collector of an inland district, when and so often as any such bond shall become due, shall demand payment thereof, or prosecute an action or actions for the money due thereon; and if the collector shall neglect or delay to put any such bond in suit more than ten days after the same shall have become due, he shall in every such case be demed to have the money due thereon in his possession, and account for the same accordingly as if acutally by him received.

[Section X.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That henceforth no drawback or return of duties shall be allowed or paid by the collector on any goods, wares or merchandise exported, unless report and entry thereof in writing be made to the collector or his deputy before

the same be shipped, in which entry shall be specified the package or packages, their marks, numbers and contents, the name of the vessel in which they were imported, and the time of such importation, also the name of the vessel and master by which they are to be exported, and the port or place of destination, and the collector having satisfactorily examined such entry and compared it with the inward entry or entries of such goods, shall administer an oath or affirmation to the party or parties making the entry for exportation, and cause him or them to subscribe the same, to the effect following, viz: "That the goods, wares and merchandise mentioned and contained in the said entry are, in quantity, quality and value the same as they are therein declared to be, according to the inward entry thereof, that the same have not been diminished (except common wastage) since such importation, and that the whole of the said goods so contained in the entry then made are bona fide to be exported according to the tenor of the same entry, without any intention of being returned into this state or otherwise evading the duties," which entry shall be examined, registered and certified by the naval officer in like manner as is herein before directed for inward entries.

[Section XI.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the powers and authorities of the collector and naval officer respecting goods entered for exportation shall be to all intents and purposes the same as directed by this or any former law, respecting goods, wares and merchandise entered inwards and on suspicion of fraud, the collector or naval officer shall proceed in like manner, to take into custody, examine and seize goods, wares and merchandise, and in case such fraud shall appear, such goods, wares and merchandise entered for exportation, on which a drawback or return of the duties shall have been obtained or allowed, shall be subject to the like forfeitures, and to be disposed of in like manner and for the like uses as are herein before directed respecting goods, wares and merchandise entered inwards. And that in all cases of trial, on any seizure made by the collector, deputy collector or naval officer as herein before mentioned, the burden of the proof shall lie on the claimant.

[Section XII.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the books of registry so as aforesaid to be kept by the naval officer, for registering of all entries made at the collector's office of goods, wares and merchandise imported and exported, and the manifests lodged and filed in the naval office by the masters of vessels, or fair transcripts thereof, shall from time to time, as shall be required by the comptroller-general of this state, be lodged in the office of the comptroller-general by the said naval officer, as checks for the examination and settlement of the accounts of the collector.

[Section XIII.] (Section XVI, P. L.) And be it enacted by the authority aforesaid, That for the services herein required of the naval officer, he shall have and receive from the collector of the port of Philadelphia, six pence for every entry he shall examine, register and certify as aforesaid; which sum of six pence for every such entry the said collector is hereby required and enjoined to pay from and out of the fees he is entitled to receive for granting permits.

[Section XIV.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the naval officer and deputy naval officer for the time being shall before they enter upon the duties required by this act respectively take and subscribe an oath or affirmation before the president or one of the members of the supreme executive council or one of the justices of the supreme court, that he will faithfully and impartially execute the duties required of him by law as naval officer (or deputy naval officer or deputy collector, or clerk, as the case may be) according to the best of his skill and understanding, which oath or affirmation shall be filed in the office of the secretary of the supreme executive council.

[Section XV.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That if any person employed in the custom house or the naval office, or in anywise concerned in the entrance or clearance of vessels and goods, shall demand or receive any greater fee or sum of money for his service therein than by law shall be due and allowed, every collector or naval officer so offending shall forfeit and pay the sum of one thousand pounds, and every deputy or clerk so offending, shall forfeit



and pay the sum of one hundred pounds, and every such offender shall moreover pay double costs of prosecution and be forever after incapable of holding any post or place of trust or profit in this commonwealth; every of which forfeitures shall be to the use of the state.

(Section XIX, P. L.) And in order to give as little trouble and delay as may be to the merchants, masters of vessels and others concerned in trade:

[Section XVI.] Be it further enacted by the authority aforesaid, That the several offices of the collector of customs, naval officer, collector of tonnage and wardens of the port, shall henceforth be held and kept in one house or building in some convenient and central situation near the river. And the supreme executive council are hereby authorized to appoint any of the said officers, or such other person as they shall think proper to contract and agree for such suitable house or building on rent. And to order the said rent to be paid, one third thereof by the collector of tonnage, to be allowed in the settlement of his accounts, and the other two thirds by the collector of imports, and the naval officer in proportion to the net profits of their respective offices, or as they shall agree, without expense to the public: Provided that such rent shall not exceed the sum of two hundred pounds per annum.

(Section XX, P. L.) And whereas by an act passed the twenty-fifth day of September, one thousand seven hundred and eighty-three, entitled "A supplement to an act, entitled an act for an impost on goods, wares and merchandise imported into this state,"<sup>1</sup> it was provided, that all goods, wares and merchandise imported or brought into this state by land, should be subject to, and pay a like duty with those landed at the port of Philadelphia, and which duties, except upon goods entered at the said port of Philadelphia, should be collected by deputy naval officers in other parts of the state, or by justices of the peace:

And whereas it is expedient, that farther regulations should be made therein:

[Section XVII.] (Section XXI, P. L.) Be it further enacted by the authority aforesaid, That all persons (other than the

<sup>1</sup> Chapter 1051.

naval officer, and collector of the port of Philadelphia) who have by virtue of the said act received any duties on goods, wares or merchandise imported into this state, be required, and they are hereby required within one month after the passing of this act, to render their accounts thereof to the comptroller-general for settlement, and to pay the balances due on such accounts to the treasurer of this state, after deducting thereout such commissions as are by law allowed to the collector or naval officer for such moneys, so received and paid.

[Section XVIII.] (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That the supreme executive council shall and may nominate and appoint such and so many proper and fit persons, not exceeding the number of counties in the state, as they shall think necessary from time to time to collect and receive the imposts and duties imposed by law on goods, wares and merchandise which may be imported into this state, and not entered in the port of Philadelphia, which persons so appointed shall be styled deputy collectors of customs, and shall each have a separate district, assigned to him by council, within which district respectively, they shall be and they are hereby vested with all the powers and authorities, and subject to the same penalties and regulations directed by this act, and the acts to which this is a supplement, respecting deputy naval officers and justices of the peace authorized to collect and receive the duties on goods imported into this state by land.

[Section XIX.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the collector of the port of Philadelphia shall give bond with four or more sufficient sureties in the sum of forty thousand pounds, conditioned for the due execution of his said office, and faithfully accounting for and paying into the treasury such revenues and sums of money as he shall from time to time receive by virtue of his said office, and every deputy collector shall in like manner give bond with sufficient surety in the sum of five hundred pounds with like condition as aforesaid.

[Section XX.] (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That so much of the said act, entitled "An act for an impost on goods, wares and merchandise

imported,"<sup>2</sup> herein before recited, and the supplement to the same, passed the twenty-fifth day of September, one thousand seven hundred and eighty-three, and of the act, entitled "An act for raising a further impost or duty on all goods, wares or merchandise imported into this state,"<sup>2</sup> as are altered or supplied by this act, be and the same are hereby severally so far repealed and made void.

Passed April 2, 1785. Recorded L. B. No. 2, p. 496, etc. See the Act of Assembly passed March 15, 1787, Chapter 1276.

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## CHAPTER MCLVIII.

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AN ACT TO DECLARE AND ESTABLISH THE RIGHT OF THE EXECUTIVE COUNCIL OF THIS COMMONWEALTH TO APPOINT ALL OFFICERS, CIVIL AND MILITARY, EXCEPT IN CASES RESERVED BY THE CONSTITUTION TO THE GENERAL ASSEMBLY, AND TO THE PEOPLE; AND TO REPEAL THE LAWS WHEREBY CERTAIN OFFICERS HAVE BEEN APPOINTED CONTRARY THERETO, AND TO SECURE THE INDEPENDENCY OF THE COMPTROLLER-GENERAL BY A COMMISSION FOR SEVEN YEARS AND A PERMANENT SALARY, UPON CONDITION OF HIS GOOD BEHAVIOR ONLY.

(Section I, P. L.) Whereas by the constitution of this commonwealth it is directed and established, that the president, and in his absence the vice-president with the executive council, shall have power to appoint and commissionate, judges, naval officers, judge of the admiralty, attorney-general, and all other officers, civil and military, and that the said appointments, severally should be made agreeably to the frame of government, and the laws which should be thereafter made, saving and excepting such officers, as the constitution reserves to the choice of the general assembly, or the people:

And whereas the due and orderly distribution and exercise of the powers of government, as the same have been devolved by the people to their trustees in the legislative, executive and

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<sup>1</sup> Passed December 23, 1780, Chapter 925.

<sup>2</sup> Passed March 15, 1784, Chapter 1076.