

same manner as taxes are directed to be laid and levied by virtue of this act until the said several sums granted to His Majesty's use as aforesaid be fully completed. And if the said taxes shall produce more than the sums so as aforesaid granted to His Majesty's use, the incident charges being defrayed, [the] overplus thereof shall remain in the provincial treasurer's hands, to be disposed of by act of general assembly of this province.

Passed April 22, 1758. Referred for consideration by the King in Council, November 21, 1758, and allowed to become a law by lapse of time, in accordance with the proprietary charter. See Appendix XXI, Section V, and notes to the Acts of Assembly passed March 5, 1725-26, Chapter 289; November 27, 1755, Chapter 406; March 23, 1757, Chapter 422.

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## CHAPTER CCCCXXXII.

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AN ACT FOR GRANTING TO HIS MAJESTY A DUTY OF TONNAGE UPON SHIPS AND VESSELS, AND ALSO CERTAIN DUTIES UPON WINE, RUM, BRANDY AND OTHER SPIRITS AND A DUTY UPON SUGAR FOR SUPPORTING AND MAINTAINING THE PROVINCIAL SHIP-OF-WAR FOR PROTECTING THE TRADE OF THIS PROVINCE AND OTHER PURPOSES FOR HIS MAJESTY'S SERVICE.

Whereas notwithstanding the large sums of money already expended by this province in purchasing, equipping and fitting out a ship-of-war for protecting the trade thereof and for annoying His Majesty's enemies upon the coast, yet forasmuch as the supplies heretofore granted to His Majesty are wholly expended and it is absolutely necessary that a further sum of money be raised for fitting out and maintaining the said ship-of-war to protect the trade of this province and annoy the enemy's privateers that may infest our coast in search of provisions or for other purposes during the ensuing year, we have freely and voluntarily resolved to give and grant to His Majesty for the uses and purposes aforesaid a duty of tonnage and other rates and duties hereinafter-mentioned, and 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 from and after the publication of this act to the thirty-first day of December, one thousand seven hundred and sixty, there shall be laid, raised, collected and paid a duty of tonnage upon all ships, sloops and other vessels coming into or going out of this province (shallops and other small vessels trading within the river and bay of Delaware and along the coasts as far as Sandy Hook to the eastward and as far as Indian River to the southward only excepted): (That is to say) for every ton of the burden or contents of any of the said ships or vessels the sum of one shilling and six pence per ton, to be accounted, taken and paid according to the measure of every such ship or vessel, which shall be made and taken by the person hereafter appointed collector of the said duty of tonnage in the port or places where they shall arrive, enter or clear; and the said masters or owners shall within forty-eight hours after the arrival [of] any such ships or vessels at the port or places of their discharge or unloading in this province cause or procure such ships or vessels to be entered in the said collector's office appointed by this act for collecting the said duties of tonnage, and at the time of such entry and before he or they presume to break bulk or unload shall either immediately pay to the said collector the sums of money due and payable for the tonnage of all such ships or vessels, or otherwise shall give good and sufficient security by bond to the said collector, with surety to be approved of by him, to pay the said duties of tonnage to the said collector for the uses aforesaid within the space of six weeks after the arrival of such ship or vessel.

[Section II.] And be it further enacted by the authority aforesaid, That the masters of all ships and vessels in any port of this province after the passing of this act, and of all vessels built in this province during the continuance thereof, shall, before they clear out, at the office of the collector of the King's

customs pay or otherwise sufficiently secure to the officer aforesaid the duties and sums of money which shall be due for tonnage imposed by virtue of this act.

And to the end the good intent of this act may not be defeated:

[Section III.] Be it further enacted by the authority aforesaid, That if any officer belonging to His Majesty's customs in this province shall clear any vessel liable by this act to the said duty of tonnage before it shall appear to such officer by a certificate or receipt under the hand of the person hereby appointed to receive the said duty that the same is paid and discharged or otherwise secured to be paid for such vessel, every such officer of the customs so clearing such vessel without such certificate or receipt as aforesaid shall forfeit and pay the sum of fifty pounds for every such offense, to be recovered and applied in the manner and for the purposes hereinafter-directed.

[Section IV.] And be it further enacted by the authority aforesaid, That for preventing disputes concerning the contents of vessels hereby made liable to the said duty of tonnage, the said tonnage shall be measured and computed in manner following: (That is to say) every single-decked ship or vessel shall be measured by the length of the keel taken within board so much as she treads upon the ground, and the breadth to be taken within board by the midship beam from plank to plank, and the depth of the hold from the plank below the keelson to the under part of the deck plank; then multiply the length by the breadth and the product thereof by the depth and divide the whole by ninety-five, and the quotient shall give the true contents of the tonnage of such single-decked vessel. And for two-decked ships which carry goods between decks, every such two-decked ship or vessel shall be measured in the manner hereinafter-directed: (That is to say) [The breadth to be taken within board by the midship beam from plank to plank multiplied by the length of the keel, to be measured as hereinafter-directed] and the product thereof multiplied by one-half of the breadth on the midship beam as aforesaid, the whole divided by ninety-five; the quotient shall be and is hereby declared to be the contents of the tonnage of every such two-decked ship or vessel. And in order to find the length of the keel, the length of every such two-decked ship or vessel shall be taken on the gun deck from the

forepart of the stem to the afterpart of the sternpost; then, deducting four inches from every foot of the height of the stern posts for the rake thereof, and three-fifths of the breadth of the beam for the rake of the stern, the remainder shall be the length of the keel strait rabbet; according to which method and rule all ships and vessels shall be measured and the several duties of tonnage thereby computed and collected accordingly, any law, custom, practice or usage to the contrary notwithstanding.

[Section V.] And be it further enacted by the authority aforesaid, That for all wine, rum, brandy and other spirits and sugar which shall be imported, landed or brought into any port or place belonging to this province at any time from and after the publication of this act to the thirty-first day of December, in the year of our Lord one thousand seven hundred and sixty, there shall be duly levied, collected and paid the several rates and duties hereafter mentioned: (That is to say) for every pipe of Madeira wine the sum of thirty shillings, and for every pipe of Fayal or other wine, the sum of thirty shillings, and so after the same rate for any greater or lesser quantity, and for all rum, brandy and other spirits imported as aforesaid within the time aforesaid one penny per gallon, and for all loaf sugar (except such as shall be imported from Great Britain) the sum of three shillings per hundredweight, and for all muscovado and other sugar one shilling per hundredweight.

[Section VI.] And be it further enacted by the authority aforesaid, That all merchants, masters of vessels and other persons whatsoever who shall import or cause to be imported or brought into any port, creek or harbor, or place belonging to this province, any wine, rum, brandy or other spirits or sugar, shall not only make report to His Majesty's collector according to law, but shall likewise within forty-eight hours after the importation or bringing in of the same make entry thereof with the collector hereinafter-appointed to collect the said duties, and give or cause to be given to him upon oath or affirmation a just and true invoice, manifesto and account of all the said liquors and sugar so by him or them imported or brought in as aforesaid, with the particular marks, numbers, qualities and contents of the casks, to the best of his or their knowledge.

[Section VII.] And be it enacted by the authority aforesaid, That if any master or commander of any ship, sloop or other vessel so importing or bringing in any of the liquors or sugar aforesaid shall unlade or put on board any lighter, shallop, boat or bottom whatsoever, or lay on land or suffer to be discharged out of any ship, sloop or other vessel aforesaid any of the liquors or sugar aforesaid before the said master or commander of the vessel importing the same hath delivered to the said collector an account or manifesto of the said liquors and sugar imported as aforesaid, every such master or commander shall forfeit and pay the sum of five hundred pounds. And all masters, skippers or other owners of shallops, lighters, boats or small craft of any kind who shall be aiding or assisting in landing or discharging from any ship or vessel whatsoever any wine, rum, brandy, spirits or sugar made subject to the duties by this act imposed before they are entered with the collector of the said duties as aforesaid shall each of them forfeit and pay the sum of twenty pounds, to be recovered, received and disposed of as is hereinafter-directed.

[Section VIII.] And be it further enacted by the authority aforesaid, That every importer, owner or claimer of such liquors or sugar shall immediately pay the said duties hereby imposed, or otherwise become bound to the said collector of the duties imposed by virtue of this act for the time being with one or more sufficient sureties to answer and pay the respective rates and duties hereby imposed within six weeks after the date of such obligation, for which bond the collector shall [have] and receive of the party one shilling and no more.

And if any of the said liquors or sugar shall be imported, unladen or landed as aforesaid without paying or giving security for the payment of the said duties in manner aforesaid, that then the said liquors and sugar so imported, unladen or landed or the value thereof (if the same cannot be found) shall be forfeited by the owner, claimer or receiver thereof.

[Section IX.] And be it further enacted by the authority aforesaid, That the said officer hereinafter-appointed to collect the said duties arising hereby shall have full power and authority by virtue of this act, without any further or other warrant, to enter on board any ship or vessel and into any house,

shop, cellar, warehouse, room or other place whatsoever where he shall suspect any of the said liquors or sugar to be concealed, and make searches and do all other matters and things which shall tend to secure the true payment of the duties by this act imposed and the due and orderly collection thereof. And in case of opposition or refusal, with the assistance of the sheriff, water bailiff, constable or other officer, who without any further or other warrant are hereby enabled and required under the penalty of ten pounds for every refusal or neglect in that behalf to be aiding and assisting to the said collector, to seize the said liquors or sugar which shall be concealed or endeavored so to be as aforesaid, and for that end in the daytime to break open doors and remove other obstacles and do and perform all other act and acts which by this act are required to be done for collecting, receiving and recovering any of the said duties, penalties or forfeitures and for making seizures of any of the said liquors or sugar upon which the said respective duties are hereby imposed, which shall be run, landed or brought in or without making entries and paying or securing the said duties, in as full and ample manner to all intents and purposes as any of the collectors of the King's customs may or can do by the laws of Great Britain.

[Section X.] And be it further enacted by the authority aforesaid, That all masters of vessels, owners and other persons trading in the river Delaware and entering into any port or place of this province, having on board of any ship, sloop, shallop or other vessel or vessels whatsoever any of the liquors or sugar which by this act are liable to pay the said duties, shall and they are hereby required and enjoined to observe and comply with the directions of this act in the same manner as if such vessels came from sea directly.

[Section XI.] And be it further enacted by the authority aforesaid, That all the fines, forfeitures and penalties herein and hereby inflicted and appointed to be set and imposed shall be levied, received and recovered by the said collector herein-after appointed by bill, plaint or information, wherein no essoin, protection or wager of law nor any more than one imparlance shall be allowed. And one moiety thereof shall be paid to

the provincial treasurer for the time being and applied to and for the support of the said ship-of-war, and the other moiety thereof to and for the use of the collector or prosecutor.

[Section XII.] And be it further enacted by the authority aforesaid, That Richard Pearne, of Philadelphia county, shall be and is hereby appointed collector of the duties and sums of money due and payable for the tonnage of all ships and vessels chargeable by this act and of the rates and duties on all wine, rum, brandy or other spirits and sugar hereby imposed, and receiver of all fines, forfeitures and penalties hereinbefore-appointed to be levied and recovered by virtue of this act; and is hereby empowered from time to time to measure all vessels and take all bonds herein required to be given as aforesaid, and to administer every oath or affirmation appointed to be taken and given, and to appoint, constitute and make deputies as many as shall be necessary for the effectual execution of this act.

[Section XIII.] Provided always, and be it hereby enacted, That if the said collector or any other person or persons shall be sued or prosecuted for anything done in pursuance of this act, he or they so sued or prosecuted may plead the general issue and give this act and special matter in evidence for their justification; and if upon trial thereof a verdict shall be given, or that the plaintiff or prosecutor shall become nonsuit or suffer a discontinuance, the defendant or defendants in such action shall recover treble damages and full cost of suit.

Provided also, That no collector or other officer shall be liable to be sued for anything done in pursuance of this act unless such suit be commenced within twelve months next after the supposed or pretended injury shall be done or committed.

And the said collector shall keep fair and true accounts in writing of all his doings relating to the premises, which he shall from time to time submit to the view and inspection of the commissioners hereinafter-appointed and lay the same before the assembly when thereunto required.

And the said collector shall once in six weeks or oftener if required during the continuance of this act pay to the provincial treasurer for the time being all such sums of money which he shall receive by virtue of this act, and shall be allowed for his

trouble in executing the duties hereby enjoined five *per centum* for receiving and paying.

Provided always, That the said collector before he enters upon the execution of his office shall take an oath or affirmation and shall also become bound with one or more sufficient sureties in the sum of one thousand pounds to the governor or commander-in-chief of this province for the time being conditioned for the true and faithful execution of his said office. And in case of the death or removal of the said collector, the commissioners hereinafter named or a majority of them or of the survivors of them shall appoint another to supply his place from time to time until one shall be appointed by act of assembly, who shall take an oath and give security in the manner hereinbefore-directed, and thereupon shall have the same power and authority as the said Richard Pearne hath or ought to have, and shall execute, do and perform all the duties by this act directed or required.

And if any of the liquors or sugar so to be imported as aforesaid shall be seized in pursuance of this act, and a doubt or question shall arise whether the said liquors or sugar are liable to pay the said respective duties, the proof that they are not liable to pay the said duties shall lie upon the importer, possessor or claimer, and not on the collector, informer or prosecutor.

[Section XIV.] And be it further enacted by the authority aforesaid, That all the moneys arising by virtue of this act shall be paid into the hands of the provincial treasurer for the time being and subject to the drafts of Thomas Yorke, Thomas Willing, James Child, Daniel Rundle and Peter Chevalier, Junior, who 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 all the moneys arising or that shall come to their hands by virtue of this act for and towards equipping, supporting and maintaining the province ship-of-war. And that the receipt or receipts of the said provincial treasurer for the time being to the said collector appointed by this act shall discharge him of and from so much of the said duties as may or shall be in such receipts expressed; and the said receipts to the said collector hereby appointed shall



be by him produced to the committees of assembly for the time being and be allowed in the settlement of the said collector's accounts.

And the said commissioners for their trouble in discharging the the [*sic*] duties required of them by this act shall have and receive one *per centum* on the whole of the moneys by them received and paid and no more; and the said provincial treasurer shall have and receive for his trouble the sum of ten shillings for every hundred pounds by him received and paid.

And the better to enable the said commissioners immediately to equip and fit out the said ship-of-war and to effectuate other the immediate purposes of this act:

[Section XV.] Be it enacted by the authority aforesaid, That it shall and may be lawful for any person or persons whatsoever to advance and lend to the said commissioners any sum or sums of money not exceeding in the whole the sum of five thousand pounds lawful money of this province, which sum or sums of money the said commissioners are hereby authorized and empowered to borrow and receive for the uses, intents and purposes aforesaid. And the said lenders shall have and receive for the use and forbearance of their respective loans until the same shall be repaid and discharged interest not exceeding six *per centum* and that every such lender shall immediately have and receive a note and certificate in writing of and for the sum by him lent with the interest payable thereon signed by the said commissioners, which note and certificate shall be registered in a book to be kept for that purpose. And that the said commissioners shall and they are hereby enjoined and required, as soon as they shall receive a sufficient sum of money of and from the said collector hereby appointed, to pay off and discharge the sum and sums of money by them borrowed and received for the uses, intents and purposes aforesaid, that they shall forthwith tender, pay off and discharge to the said lenders their several and respective sums of money so lent with the interest thereof and thereupon take receipts and discharges for the same.

[Section XVI.] And be it further enacted by the authority aforesaid, That if the duties arising by virtue of this act shall not be sufficient to defray the expenses of the said ship-of-war, then the deficiencies thereof shall be supplied out of the moneys

hereafter to be granted to His Majesty's use for the purposes aforesaid, and if the said rates and duties hereby granted to the King's use shall at the expiration of this act amount to a greater sum than is necessary for equipping and maintaining the said ship-of-war, then and in such case the surplus of all such moneys shall be paid into the hands of the provincial treasurer to be applied towards sinking the sums of money heretofore granted to His Majesty's use.

Passed April 29, 1758. Referred for consideration by the King in Council, November 7, 1758, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXI, Section V, and the Acts of Assembly passed April 21, 1759, Chapter 440; March 14, 1761, Chapter 461; February 17, 1762, Chapter 476.

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### CHAPTER CCCCXXXIII.

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AN ACT FOR EXTENDING SEVERAL SECTIONS OF AN ACT OF PARLIAMENT, PASSED IN THE THIRTIETH YEAR OF THE PRESENT REIGN, ENTITLED "AN ACT FOR PUNISHING MUTINY AND DESERTION AND FOR THE BETTER PAYMENT OF THE ARMY AND THEIR QUARTERS."<sup>1</sup>

Whereas there is at this time and may be occasion during the continuance of this act for the marching and quartering the King's forces in several parts of this province, we 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 the 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 part of the twenty-fourth section of the act of Parliament passed in the thirtieth year of the present reign, entitled "An act for punishing mutiny and desertion and for the better payment of the army and their quarters," beginning

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<sup>1</sup> 8 Ruffhead.