

CHAPTER CMXXV.

AN ACT FOR AN IMPOST ON GOODS, WARES AND MERCHANDISE IMPORTED INTO THIS STATE.

(Section I, P. L.) Whereas, in and by an act of assembly of this commonwealth, entitled "An act for the regulation of navigation and trade in this state,"¹ passed on the tenth day of September, which was in the year of our Lord one thousand seven hundred and seventy-eight, among other things it was enacted and directed "That the master of any ship or other vessel, except ships or vessels of war, privateers and their prizes, arriving at any port of this state shall, within forty-eight hours after such arrival, repair to the naval office in the city of Philadelphia, and there exhibit and deliver to the naval officer of this state a true manifest, signed by the said master, of all the goods, wares and merchandise, laden and imported in such ship or vessel, setting forth the packages, marks and number thereof, and the nature and quantity of their contents, in number, weight and measure, as they are commonly counted, estimated and sold, and also his own name and surname, the name and burden of his ship or vessel, the names and abode of the owner or owners thereof, the country, port or place where the said cargo was shipped, together with such documents as are usually furnished in such place of lading, to masters of vessels sailing from thence with goods, wares and merchandise."

(Section II, P. L.) And whereas, it is necessary at this time for the public service that further and other funds besides the taxes on estates, real and personal, should be established.

(Section III, P. L.) And whereas, considerable sums may be levied by a small impost on goods and merchandise imported into this state, without burdening commerce:

[Section I.] (Section IV, P. L.) Be it therefore enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly

¹ Passed September 10, 1778, Chapter 925.

met, and by the authority of the same, That from and after the first day of February next, there shall be raised, collected and paid the duties hereinafter set forth and particularized, upon all goods, wares and merchandise, except as hereinafter excepted. That is to say, upon every gallon of rum, brandy and other spirituous liquors, two pence. Upon every gallon of Maderia wine, four pence. Upon all other wines, two pence. Upon all wines in bottles, six pence per dozen. Upon every hundred weight of unrefined sugar, one shilling. Upon every hundred weight of loaf sugar, one shilling and six pence. Upon every gallon of molasses, one penny. Upon every hundred weight of coffee, one shilling. Upon every hundred weight of cocoa, one shilling. Upon every pound of green tea, six pence. Upon every pound of bohea and other tea, one penny. Upon all other goods and merchandise, one per centum upon the value thereof, to be estimated and fixed by the importer or his agent.

[Section II.] (Section V, P. L.) And be it further enacted by the authority aforesaid; That if the naval officer, in behalf of the commonwealth, shall tender to the importer the sum of money at which any specific quantity of goods, imported into this state shall be valued as aforesaid, together with ten per centum over and above such sum, the property of the said goods, together with the casks and other packages wherein they shall be contained, shall, thereupon vest in the commonwealth, and the importer shall be liable for all freight and other charges which shall have accrued upon the same previous to the landing; and a permit shall be granted for the landing of such goods for the use of the state, and the commonwealth, if necessary, may sue for and recover the possession of such goods, for which tender shall be made as aforesaid, by action of detinue, trover and conversion, or replevin as may be thought best.

[Section III.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said naval officer shall, upon due entry of any goods, wares and merchandise, imported as aforesaid, and upon payment of, or securing the duties imposed by this act, by a sufficient bond, payable within one

month after the date of such bond, to the commonwealth, and not otherwise, grant a permit for the landing thereof.

(Section VII, P. L.) Provided always, That if the master of any ship or other vessel shall not, upon delivering his manifest to the said naval officer as aforesaid, pay or secure as is hereinbefore directed the duties by this act imposed upon the goods, wares and merchandise of which he shall make report, that each particular importer may pay or secure in manner aforesaid, the duties imposed and payable on his own property, and such importer shall thereupon be entitled to a permit for the landing of the same.

(Section VIII, P. L.) Provided also, That if any goods, wares and merchandise imported into this state, and which shall be liable to any duty by virtue of this act, shall remain in any ship or other vessel after ten days, to be reckoned from the arrival of such ship or vessel without the said duty being paid or secured as aforesaid, it shall and may be lawful for the master of the ship or vessel in which such goods remain and who shall not be willing to pay or secure the duties thereon, to deliver the same to the said naval officer, to be warehoused or otherwise secured and kept at the charge and risk of the owner thereof; and such delivery shall exonerate the said master. And the said naval officer shall keep all goods, wares and merchandise so delivered to him, other than perishable goods for and during the term of three months, after which, being first appraised, they may be sold at auction by the naval officer upon the order of the president and council, and the money thence arising after the said duty and all charges shall be deducted shall be lodged with the state treasurer for the use of the owner.

[Section IV.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That if the master of any ship or vessel, or other person, shall unload or discharge out of any ship or vessel, being in the river Delaware or any branch thereof, any goods, wares or merchandise, with intent to land the same within this state, before entry, and without having obtained a permit for so doing, or if any person shall be aiding and assisting in landing or in conveying or housing the same,

every such person so offending shall forfeit and pay any sum not exceeding five hundred pounds, and all goods, wares and merchandise so landed, or the value thereof, shall be forfeited and the goods shall be seized by the [said] naval officer or his deputy.

[Section V.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said naval officer or his deputy and assistants shall have full power and authority, by virtue of this act, to enter any ship or vessel, and into any house or other place where he shall have reason to suspect that any goods, wares or merchandise liable to the said duty shall be concealed, and therein to search for the same and to do all other things which shall be necessary to secure the said duties, or to seize and secure any goods, wares or merchandise which he shall suppose to be forfeited. And in case of refusal or opposition, having first obtained from the justices of the supreme court, or any two of them, or in their absence from any two justices of the peace of the proper city or county, a writ of assistance, shall break open doors and remove obstacles and do and perform every and all other things which by this act he is authorized to do.

(Section XI, P. L.) Provided always, That no search of any dwelling shall be made in manner aforesaid until due cause of suspicion hath been shown to the satisfaction of a justice of the supreme court or of a justice of the peace, as in the case of stolen goods, nor before sun rise nor after sun setting.

[Section VI.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That all masters of vessels and other persons trading and plying in the Delaware and coming into any port or place within this state, having on board any ship, sloop, shallop or other vessel any of the goods liable to pay the duties imposed by this act, shall and they are hereby required and enjoined to observe and comply with the directions of this act, under like pains, penalties and forfeitures as in the case of ships and other vessels arriving from beyond sea. Provided, That no river vessel shall be hereby obliged to pay any greater fee than two shillings for exhibiting a manifest of any goods liable to the said duty.

(Section XIII, P. L.) And whereas, the penalties imposed by the act hereinbefore recited will be hereafter insufficient to enforce the exhibiting of manifests by masters of ships arriving in the ports of this state:

[Section VII.] (Section XIV, P. L.) Be it therefore enacted by the authority aforesaid, That if any master of any ship or vessel, arriving in any port of this state, shall neglect or refuse to exhibit the manifest of his cargo by the said-recited act enjoined, in the manner and within the time therein prescribed, every such master so offending shall forfeit and pay the sum of one thousand pounds.

[Section VIII.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the several fines, penalties and forfeitures which shall be incurred by any offense against this act, or against the act aforesaid, may be prosecuted and recovered, if the same shall be under the value or sum of fifty pounds, before any two justices of the proper county, with appeal to the quarter sessions, where the same shall be finally determined, as in the case of fines, penalties and forfeitures inflicted by the excise laws of this state, and no certiorari shall lie in such case; but if the same shall exceed the value or sum of fifty pounds, then in the proper county court of common pleas, or in the supreme court, at the election of the prosecutor, and shall be distributed one moiety thereof to the prosecutor and the other moiety to the commonwealth; and in every prosecution against goods seized, as forfeited by virtue of this act, the onus probandi shall lie upon the claimant, and not upon the prosecutor, and no claim for the same shall be admitted before security be entered for the costs of suit.

[Section IX.] (Section XVI, P. L.) Provided always, and be it further enacted by the authority aforesaid, That if the said naval officer or any other person shall be sued or prosecuted for anything done in pursuance of this act, he may plead the general issue and give this act and the special matter in evidence for his justification, and if, upon trial thereof, a verdict shall be given or upon demurrer judgment shall go for the defendant, or if the plaintiff or prosecutor shall become non-

suit, or discontinue or fail of prosecution the defendant shall recover treble costs of suit.

(Section XVII, P. L.) Provided also, That no suit for anything done in pursuance of this act shall be brought unless such suit be commenced within one year next after the injury or pretended injury shall be done or committed.

[Section X.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the said naval officer shall keep fair, distinct and true accounts of all his doings relative to the premises, and shall, once in every month, pay over to the treasurer of the state all moneys belonging to the commonwealth which shall come to his hands, and shall submit all his books and papers at all times to the inspection of the president and council, or of such person as they shall authorize for that purpose; and shall, once in every year, or oftener if required, settle his accounts with the auditors of the public accounts, or otherwise, as the general assembly for the time being shall direct. And the said naval officer, for his reward in executing this act, shall be entitled to an half per centum on the whole of the moneys by him received and paid, and two shillings from the party executing any bond for each bond he shall take as aforesaid, and to no other satisfaction.

[Section XI.] (Section XIX, P. L.) And be it further enacted, That the said duties shall be payable in gold or silver, as the same was taken in payments and passed current in the late province of Pennsylvania, on the first day of January, which was in the year of our Lord one thousand seven hundred and seventy-five, or other current money equivalent; and all fines and penalties and other moneys in this act mentioned shall be deemed, accounted, levied, satisfied and paid accordingly.

[Section XII.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the said naval officer shall give bond to the commonwealth with two sufficient sureties in the sum of ten thousand pounds of gold and silver money aforesaid, or other money equivalent, conditioned for the due and faithful performance of, as well the duties required of him by this act, as of those enjoined upon him by the act of assembly hereinbefore recited. And the sureties

offered by the said naval officer shall be subject to the approbation of the president and council, and the bond given by him shall be recorded and filed in the office of the secretary of the supreme executive council. And the naval officer may appoint a deputy or deputies, for whom he shall be answerable.

(Section XXI, P. L.) Provided always, That nothing in this act shall give any authority to demand or collect any impost or duty on common salt, saltpetre, gun-powder, lead or shot, or on prize goods or on goods, wares and merchandise of the growth, product or manufacture of the United States of America, or any of them.

(Section XXII, P. L.) And whereas, it is just and necessary that the repayment of any loan or loans which have been or may be negotiated in consequence of certain resolutions of the late assembly, passed the twenty-ninth day of May last, should be provided for and secured:

[Section XIII.] (Section XXIII, P. L.) Be it therefore enacted by the authority aforesaid, That so much of the said duties as may amount to the loan or loans negotiated as aforesaid shall be reserved and set apart in the hands of the state treasurer subject to the orders of the supreme executive council, for the express purpose of discharging the full amount of the said loan or loans, together with the interest which may accrue thereon, according to the terms upon which the said loan or loans have been or shall be procured.

Passed December 23, 1780. See the note to the Act of Assembly passed September 10, 1778, Chapter 815; and the Acts of Assembly passed April 5, 1781, Chapter 937; April 9, 1782, Chapter 965; November 22, 1782, Chapter 998; March 20, 1783, Chapter 1018; September 17, 1783, Chapter 1032; September 25, 1783, Chapter 1051; November 18, 1783, Chapter 1058; March 15, 1784, Chapter 1076; March 16, 1785, Chapter 1137; April 2, 1785, Chapter 1157; September 20, 1785, Chapter 1188; December 24, 1785, Chapter 1198 (the two Acts of Assembly passed)April 8, 1786, Chapters 1226, 1227; September 26, 1786, Chapter 1254; March 15, 1787, Chapter 1276; September 17, 1788, Chapter 1354; September 29, 1789, Chapter 1454. The power of laying duties or imposts on imports or exports was surrendered to the United States, by the Constitution of the United States, Article I, Section X. Recorded L. B. No. 1, p. 410, &c.