

Soldiers and Money. An Attempt at Reforming the Customs Service and Reinforcing the Army in the British North American Colonies in the Years of 1763–1764

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This study focuses on changes in British colonial policy and politics after the Seven Years' War in North America. It deals primarily with the transformation of British economic policy towards its colonies. After the Seven Years' War, the United Kingdom sought funds to strengthen defence of the newly acquired territories in North America. In 1764 the British parliament approved of the Sugar Act that tightened the customs service in America. The money raised by this law should have gone to the protection of the British Empire in North America. The study analyses the reasons for the transformation of British politics after the Seven Years' War, as well as the impact of this policy on the relation between the mother country and its colonies in North America.

[Great Britain; North America; Colonies; Army; Sugar Act of 1764]

The¹ end of Seven Years' War meant for Great Britain not only defeating France and gaining territories in North America and India, but also an enormous increase of the national debt. Whereas in 1755 the state debt amounted to over 72 million pounds, at the beginning of 1763 it reached the sum of 122.6 million pounds. By January 1764 it had soared by another 7 million.² However, it was not only the state debt which was calling for intensified attention from the side of the

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² The interest on debt amounted to more than 4 million pounds, whereas the state budget was approximately 8 million pounds. See also L. H. GIPSON, *British Empire X. Thunder-Clouds Gather in the West 1763–1766*, New York 1961, p. 200; E. D. MORGAN – H. M. MORGAN, *The Stamp Act Crisis, Prologue to Revolution*, Chapel Hill 1953.

government as well as that of the King; it was also the question of security of the newly conquered territories. As early as in September 1762 King George III together with his Prime Minister John Stuart, 3rd Earl of Bute, planned to increase the numbers of soldiers in Britain, Ireland and America by employing more regiments.³ Even after the end of Seven Years' War it was still evident that fear of France persisted in London.

George III selected the army budget of 1749 as his starting point; which means the budget from the very first peace year after the War of the Austrian Succession. The King decided to make up a plan which would allow him to enlarge the army without exceeding the given budget. The plan consisted in increasing the number of regiments, but the number of recruited soldiers would be reduced in all of them in peace times. Instead, each regiment should have maintained the full number of officers in⁴ active service as well as administration, which would ensure that in a case of emergency⁵ it would be possible to recruit a necessary number of soldiers quickly enough.

The parliamentary budget committee in charge of approving of financial means for the army gathered to a session on 4 March 1763. The press kept publishing the news of the "most crammed" House of Commons since commencing the parliamentary session season.⁶ Government MPs expected that the opposition would attack army expenditure. The leading figure of the opposition was Duke of Newcastle.

According to American historian Allen S. Johnson, the state debt of Great Britain amounted to roughly 137 million pounds. See A. S. JOHNSON, *The Passage of the Sugar Act*, in: *William and Mary Quarterly (WMQ)*, 16, 4, 1959, p. 507.

³ J. L. BULLION, *Security and Economy: The Bute Administration's Plans for the American Army and Revenue, 1762–1763*, in: *WMQ*, 45, 3, 1988, pp. 501–503.

⁴ Those criticising this policy as well as some historians would accuse the King and Earl of Bute of trying to intensify their influence by means of patronage, i. e. the possibility of appointing officers. Robert Middlekauff wrote that officers represented a substantial support for the King as a number of them were also members of the House of Commons. See R. MIDDLEKAUFF, *The Glorious Cause. The American Revolution 1763–1789*, Oxford – New York 1982, p. 51. Another opinion is presented by John L. Bullion, who argues by means of the King's letter to his confidant, Earl of Bute, in which the King clearly rejects such a claim. See J. L. BULLION, *The Ten Thousand in America*, in: *WMQ*, 43, 4, 1986, p. 651.

⁵ BULLION, *Security and Economy*, p. 502.

⁶ P. D. G. THOMAS, *British Politics and the Stamp Act Crisis. The First Phase of the American Revolution, 1763–1767*, Oxford 1975, p. 38.

For the Duke and his allies the main problem, however, did not lie in safeguarding the new territories against a potential French attack; they rather saw it in the state of finance. The Duke and his friends believed that Britain should be helped most by decreasing the number of soldiers. They viewed as their primary aim refining taxation policy. This aim of theirs should have been achieved by means of slashing high taxes, which the government imposed during the war itself in order to get means for waging it. Easing the tax burden was supposed to contribute to increasing the active trade balance and thus to securing higher state revenues. Moreover, whereas the tax burden rested mainly with Great Britain, her colonies had so far contributed to their mother country with nearly a negligible sum of money. At that moment British politicians turned their attention towards underhand practices of the settlers.

According to most politicians the position of Britain as a great power depended on her naval and trading power – on her effort to increase foreign trade, thus achieving the active trade balance. This meant that rival states had to be eliminated, i. e. their goods had to be imposed high customs duties on, by means of which undesirable competition was to be prevented from. However, smugglers would violate this system by importing from overseas possessions goods that they subsequently claimed to be British. At the time of Robert Walpole's ruling the British political scene clerks would turn a blind eye to the problem of smuggling. To a certain degree, it was caused by the fact that this statesman himself was involved in the contraband trade to a lesser extent and, as Martin Kovář wrote down, he was no exception on the British political scene.⁷ The same applied to the British colonies in America where tea and molasses trading was affected most.

British ministers were forced to act both due to the lack of finance in the course of the Seven Years' War and the news of colonists providing supplies to enemy bases in the Caribbean. Therefore in 1757 the Ministry of Trade and the Colonial Office initiated extensive investigation which two years later resulted in rather an alarming statement – that illegal colonial trade had been depriving the mother country of state revenues, and what is more, it did a lot of damage to war efforts.⁸

⁷ M. KOVÁŘ, Robert Walpole – zrození politika, in: *Historický obzor*, 12, 1–2, 2001, p. 13.

⁸ See also T. C. BARROW, Background to the Grenville Program, 1757–1763, in: *WMQ*,

Although concluding the peace treaty of 1763 did alleviate fears that contraband practices of settlers might contribute to strengthening the enemy forces, the above mentioned investigation was one of the stimuli to making the colonial administration more efficient.

The first step of the British cabinet to be taken was the Act of early 1763,⁹ initiated by George Grenville, First Lord of the Admiralty in Lord Bute's cabinet.¹⁰ The act was designed to do away with customs officers' temptation to accept bribes, allow ships sail without paying the customs duty, and thus rob the state treasury. For this reason he stated that one half of the value represented by any confiscated ship and smuggled goods would be allotted to those customs officers who had been involved in any disclosure. The act authorized war vessels officers and their crews to detect any smuggled goods, and to motivate them for doing so it stipulated an incentive of the same amount as that given to customs officers.¹¹ The act only came into force in the colonies after the Order in Council of 1 June 1763. Shortly afterwards Secretary of State for the Southern Department, 2nd Earl of Egremont, sent away a circular letter to governors saying that state revenues had gone down as a result of violating law; the thing was that dishonest traders had been smuggling goods made or produced abroad, and they had claimed them to be British. Thus, the state kept losing a lot of money on customs duty. The new act was supposed to rectify the bad situation. Egremont informed the governors that captains of British war ships would be vested with the authority of checking trade vessels as soon as possible to discover whether they might not be transporting any contraband goods. Furthermore, Egremont announced that the governors who would be of any assistance in combatting contraband trading would win a token of the King's favour; their failing to perform such service, on the other hand, was not to be disregarded either.¹²

22, 1965, 3rd Series, pp. 93–104; I. R. CHRISTIE – B. W. LABAREE, *Empire or Independence 1760–1776. A British-American Dialogue on the Coming of the American Revolution*, London 1976, p. 29.

⁹ GIPSON, p. 202.

¹⁰ See also JOHNSON, p. 508; THOMAS, p. 45.

¹¹ GIPSON, pp. 202–203.

¹² *Ibidem*, p. 203.

However, the whole matter started to be seriously dealt with after George Grenville became Prime Minister. The Treasury then studied in depth the previous reports that they had at their disposal, and found out that the customs duty returns in North America did not amount to the sum of money which was expected at all. This clearly pointed to poor quality of the work customs officers were doing. On 21 July 1763 the Commissioners of Customs dispatched a final report closing their investigation, in which they claimed that customs proceeds indicated the existence of huge fraud. Customs collection expenses by far surpassed their earnings.¹³ Some of those problems had arisen as a result of corrupt practices of customs officers in the colonies. Furthermore, the Commissioners referred to the report submitted to the Treasury on 10 May 1759.¹⁴ At the same time, they handed over three proposals concerning the matter of improving the given situation.

The first proposal concerned higher customs officials. Those people were paid quite well, and many of them did not even go to the trouble of leaving for the colonies after they had been appointed. Instead, they would receive their salaries and live happily in Great Britain. Those who acted on their behalf in the colonies were paid badly, and so they were easily susceptible to accepting bribes in order to improve their financial standing. The Commissioners thus recommended that the government should make all officials residing within the territory of Great Britain assume their posts in the colonies; otherwise they would be deprived of them. The second proposal dealt with the size of salaries. The Commissioners advised that the government should instead of fixed salaries opt for payments in relation to the percentage of the amount collected. That way corruption could easily go down; tax collectors would try to get as high an amount as possible. Thirdly, the Commissioners proposed that customs duty should be decreased with selected imported foreign products and crops. This proposal aimed mainly at lowering the customs duty on molasses from abroad, which was one of the products smuggled most often to the British colonies ever. Should the customs duty go down to a sum unfavourable for

¹³ At the end of 1763 the customs duty proceeds amounted to 1.800 pounds sterling, while customs administration expenses were estimated at 7.600 pounds sterling.

¹⁴ BARROW, p. 94.

smugglers, proceeds from customs duty were expected to quickly increase.¹⁵

On 22 July 1763 was held a meeting of the Treasury which conferred the proposals of the Commissioners of Customs. The meeting agreed that all the three proposals would be put into practice as soon as it were possible. The second and third proposals had to be passed in Parliament, whereas with the first one only a Treasury regulation would do. Three days later Charles Jenkinson dispatched an order to the Commissioners of Customs asking them to summon the customs officials who should have discharged their posts in America but who were still staying in England. Those officials were to opt between leaving for America (by the end of August at the latest), or being dismissed.¹⁶

The decision made by the government immediately stirred up protests among those tax collectors staying in England. Many of them hastily wrote out their reasons for being absent from America to the customs committee. Some of them claimed that they were only staying in England temporarily, in order to settle their personal matters; others started complaining of poor health caused by dismal American climate. One official even wrote that after ten years spent in such unfavourable climate suffered from ill health, with his wife lying on a death-bed. Nevertheless, he stated that he would rather go back to America than risk being dismissed, even though this would mean a certain death for him.¹⁷ Still, a number of tax collectors and customs inspectors did give their lucrative posts up, so as not to have to travel more than three thousand miles and lose the security and comfort of their English homes.¹⁸ There was a lot of interest in their posts. What is more, there was a lot of favouritism in play. Influential men would request those posts for their friends or for their subordinates, sometimes for unusual reasons.¹⁹

¹⁵ JOHNSON, pp. 509–510.

¹⁶ Cf. MORGAN – MORGAN, p. 23; JOHNSON, p. 510; GIPSON, p. 207; M. JENSEN, *The Founding of a Nation. A History of the American Revolution 1763–1776*, Oxford – New York 1968, pp. 46–47.

¹⁷ GIPSON, p. 207.

¹⁸ MIDDLEKAUFF, p. 60.

¹⁹ Lord Holland asked George Grenville to appoint a certain Irish actor named O'Bryen to the post of inspector in New York. The point was that the actor had escaped to New York with his brother's (i. e. Lord Ilchester's) daughter. Compare JENSEN, p.

George Grenville, however, did not stick to this step of his only. At the end of July 1763 the Treasury sent yet another letter to the Customs Committee asking the Commissioners of Customs to work out further proposals elaborating how to improve customs duty collection. The main question was how to supervise customs service in the colonies so that revenues would increase.²⁰ Then the Commissioners sent a report to the Treasury claiming that the Molasses Act of 1733 had been totally ignored in the colonies; they proposed much harsher punishments for smuggling goods, more elaborate ship checks in ports, fines only payable in pounds of sterling, and not in devaluating local banknotes, as it had been common practice so far. They also warned of the imperfect work of colonial courts. The Commissioners again pointed out to a possibility of increasing revenues by means of lowering customs tariffs on some crops. This should have – according to them – lessened the temptation to smuggle the crops.²¹

The Treasury then sent its report on the result of their investigation and on the steps taken so far to the King, who handed it over to Privy Council. The council approved of it and issued it as its decree on 4 October.²² In it the council demanded that all officials and departments in the colonies concerned cooperate when fighting contraband trading. Officials should have been assisted by both the army and the navy, which had already been ordered to use their war ships against smuggling in July. Commanders-in-chief of the British Army and the Navy in America were ordered to operate as effectively as possible to “*combat these dangerous practices, and protect tax and customs officers from criminals trying to contradict administration of justice [...]*”²³

Meanwhile secretaries of the Treasury in London were gathering material on the basis of which the Sugar Act was to be worded. On 9 March 1764 Prime Minister George Grenville submitted the act during the annual debate on the budget to the Budgetary Committee of Par-

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²⁰ See JOHNSON, p. 510.

²¹ Cf. Ch. M. ANDREWS, *The Colonial Period of American History IV. England's Commercial and Colonial Policy*, New Heaven 1938, pp. 218–219; JOHNSON, p. 511; GIPSON, pp. 205–206.

²² JENSEN, p. 47.

²³ A regulation issued by Privy Council of 4 October 1763, in: M. JENSEN (ed.), *English Historical Documents IX. American Colonial Documents to 1776*, London – New York 1955, p. 639.

liament. The Prime Minister announced, however, that customs revenues would not suffice for covering all the army expenses in America. According to him, it was necessary to impose yet another tax, and that is why he mentioned a stamp-duty act which was just being prepared. Grenville was in the advantage as he did not have to fear the opposition. Many of them had left the House full of disenchantment in February 1764, after losing in the question of legitimacy to issue general warrants of arrest.²⁴ One of the MPs who had left the House for the rest of the session period was also William Pitt Senior. Without his “magnetic” leadership the opposition had shrunk to a minimal number, and thus the government found it very easy to push the act through.²⁵

The Sugar Act should have come into force on 29 September 1764.²⁶ After it was published it received a lot of criticism from the side of New England and “Middle” colonies immediately, as it affected their trading mainly. In this relation it necessary to remark that it was novelty in British legal practice. All trade legislature so far had focussed on regulating trade with foreign states in favour of Great Britain. Revenues coming from them represented more of a “side product” than an intention. Now it was the other way round. As the act preamble

²⁴ In 1762 MP John Wilkes (1725–1797) founded the newspaper called *The North Briton*, which would attack the Bute as well as the Grenville administrations. In April 1763 it also came down on the King’s speech, in which the sovereign praised the Paris Peace of 1763. Wilkes lambasted the King’s speech referring to the peace as “foul”. The Grenville administration intervened and issued the so-called general warrant (which did not state any particular names, and thus more persons could be arrested). Wilkes together with all his colleagues from *The North Briton* who had taken part in attacking the King were arrested. However, Wilkes had friends in Parliament, and these raised a debate on the lawfulness of issuing general warrants of arrest. They managed to free Wilkes, but he did not spend much time at liberty. At the beginning of 1764, when Wilkes was staying in Paris, the government made an attempt at Wilkes’ disbaring from Parliament for publishing seditious pamphlets, and it did succeed. The opposition counterattacked the Grenville administration on the grounds of issuing general warrants of arrest. The Prime Minister defended himself stating that there existed precedents for their issuing. Ultimately the Government – after a long debate held on 18 February 1764 – won through.

²⁵ JOHNSON, p. 513.

²⁶ Historians either call it “Sugar Act” or “Stamp Act”. It can be found in many editions, e. g., JENSEN (ed.), pp. 643–648, E. S. MORGAN, *Prologue to Revolution. Sources and Documents on the Stamp Act Crisis, 1764–1766*, Chapel Hill 1959, pp. 4–8, its full version being in: www.historycarper.com/resources/docs/sugaract.htm [2017-06-10].

stated, the main intent was to get through customs duty in the colonies financial means “for defraying the expenses of defending, protecting, and securing”.²⁷ The act aimed at solving three important issues: firstly, it imposed new customs duties, secondly, it tightened up the work of customs service, and thirdly, it solved the chaos in jurisdiction of the colonial courts.

The main products the act was called after had become French molasses and sugar. The new act extended the validity of the Molasses Act of 1733,²⁸ however, instead of the customs duty amounting to six pence per gallon it decreased it to one half. On the other hand, customs duty on foreign refined sugar increased from five shillings per hundred gallons to one pound and seven shillings.²⁹ The sugar customs duty rather reflected its protection from foreign competition.

Another important product affected by the legislation change was wine, which was imported to America especially from the Azores, Spain and Portugal. Until 1764 anybody could import wine freely, without any protective duty, as it did not compete with any similar British product. The Sugar Act imposed a new import duty of seven pounds per ship tonne (1.132 m³) provided that merchants would import it direct, and ten shillings a ship tonne if it were imported via Great Britain. The situation was, however, far more complicated in reality. Should a captain of the ship choose to sail via London, he had to pay the British import duty amounting to seventy shillings per ship tonne of wine, and then an import duty of ten shillings in America. Moreover, expenses for a longer voyage and reloading goods in London meant that the price was the same as that for direct import and paying seven pounds of import duty in America.³⁰ Apparently, this measure should have stimulated the consumption of rum.³¹ Its increased consumption meant more demand for molasses, and as the British sugar islands were not able to satisfy it merchants had to import molasses from the French sugar islands. This molasses earned for the state treasury more because it was liable to a higher customs

²⁷ JENSEN (ed.), p. 644.

²⁸ Articles 4 and 5 of the Sugar Act, *ibidem*.

²⁹ Articles 1 and 6 of the Sugar Act, *ibidem*, pp. 644–645.

³⁰ O. M. DICKERSON, *The Navigation Acts and the American Revolution*, Philadelphia 1963, pp. 175–177.

³¹ GIPSON, p. 226.

duty. Moreover, the rum produced in the British colonies had won a monopoly in the local markets.³² The list of foreign goods newly dutiable had been entered by indigo, European luxury fabric materials imported from Britain such as cambric, and Indian fabric materials like silk and caliko.³³ Among the enumerated articles, which could only be exported to Great Britain and her American colonies, were included coffee, allspice, hide, coconuts, whale bones, crude silk and potash.

Another significant initiative that the act introduced was tightening up the customs service and its operation. Customs procedures in force so far dated back to the last third of the seventeenth century, mainly to the Navigation Act of 1696, and to the other related acts of the first half of the eighteenth century.³⁴ The reality before 1764 looked like this: After a captain of a big merchant ship reached an American harbour, he submitted a ship registration certificate to the customs duty collector. The certificate had to include the confirmation saying the ship was built in Great Britain or her colonies, and the captain and three quarters of the ship's crew were British subjects. As far as goods from Great Britain or from the British colonies in America were concerned, the captain of the ship had to hand over a bill of lading to the duty collector, which stated the place of loading the goods. When the ship arrived from a different territory, the captain of the ship had to produce two bills of lading: The first of them was kept by the collector as a proof; the second one had to state precise specification of the cargo. The customs duty collector used the second bill of lading for calculating the duty, and he handed it to an official who then checked whether it really corresponded to the ship cargo. When the cargo complied with the bill the document was signed, provided with a seal and entered in the accounting book.³⁵

³² Article 18 of the Sugar Act. JENSEN (ed.), p. 645.

³³ Ibidem, p. 644.

³⁴ This period was very distinctly treated by the American historian Michael Kammen. see M. KAMMEN, *Empire and Interest. The American Colonies and the Politics of Mercantilism*, New York – Toronto 1970. On how customs services worked and on its tightening up see ANDREWS, p. 20. After 1764 see in detail A. S. MARTIN, *The King's Customs: Philadelphia, 1763–1774*, in: *WMQ*, 5, 2, 1948, pp. 202–203.

³⁵ V. D. HARRINGTON, *The New York Merchant on the Eve of the Revolution*, Gloucester (Mass.) 1964, pp. 245–246.

As far as ships sailing from the colonial ports were concerned, the customs documentation was more complicated. Before a captain received the certificate of customs clearance before leaving a port, he had had to supply a manifest of the articles he intended to export. After loading everything he had to take an oath that the goods he was transporting in the hold corresponded to those on the manifest. Provided he wanted to load the goods which the laws ordered to be only exported to Great Britain and her colonies, he had to place a security deposit and have one more guarantor apart from himself, so that he would not unload them anywhere else than in Great Britain or another British colonial port.³⁶ Customs officials would return the security only after producing a certificate from the port of destination. The security was forfeited unless the certificate were delivered after a year and a half from depositing it. Failing to deliver it, apart from the forfeited security, would demonstrate contraband practices, and the captain had then to give an account of his acts before the court.³⁷

After the Sugar Act was passed the situation became very complicated administratively. One of the articles of the act stipulated that before loading the ship the captain or the owner of the ship had to collect a permit entitling him to loading the goods at the customs office. Before the ship sailed off her captain was obliged to collect a manifest of cargo authorized by the customs officer and furnished with a seal. The list had to describe the quality and quantity of the goods, designation of each shipment "*with the merchants names by whom shipped and to whom consigned*". Provided that it was necessary to pay export or import customs duties, the captain had to document in which port he had done so and to whom he had paid it.³⁸ In the destination port the captain had to hand over those documents to an authorized customs official. Another official checked then whether the enumerated goods fell in with those the ship was carrying. Only then could the goods be unshipped; and again an official in charge would be supervising. After the goods were landed, the customs collector determined the customs

³⁶ Before 1707, i. e. before concluding a union with Scotland, the only ports on the British Isles the captain could unload the cargo were in England, Wales, or in Berwick-upon-Tweed. Thus it had been determined in the Navigation Act of 1660. See JENSEN (ed.), p. 356.

³⁷ HARRINGTON, pp. 246–247.

³⁸ Section 29 of the Sugar Act. JENSEN (ed.), p. 647.

duty amount, and after its paying the goods were transferred to the consignees.³⁹ Should the captain load any goods without being entitled to do so and the ship sailed off without the manifest of the cargo or the manifest did not correspond to the cargo, the goods were confiscated. The law would authorize customs officials to stop all ships within the distance of two nautical miles from the sea coast, to inspect the goods and, if need be, seize those missing on the manifest.⁴⁰

Moreover, ship captains had to place four security deposits instead of one, committing themselves to not exporting the goods to prohibited territories, or to not loading such goods fraudulently. The first security deposit, the one for goods only assigned to exports to Great Britain and her colonies, had already existed. Other security deposits concerned lumber and iron, which did not belong in “prohibited goods”, but still they could only be exported to Great Britain henceforward.⁴¹ The last security deposit referred to other items of sale. Into that category also fell molasses from abroad, which could – unlike other articles mentioned in this section – only be imported to the British or colonial ports.⁴² Whatever the captain might have loaded then, he had to always have with him a certificate proving that a security deposit had been placed. Providing that he was transporting a variety of goods, he had to produce more certificates.

The next article of the act was meant to stop smuggling molasses. It should have been made clear in the future which molasses came from the British sugar islands and which from the French ones. Everybody wanting to transport molasses from the British islands in the Caribbean Sea, had to first secure an affidavit from the place of loading, which was signed by the Justice of the Peace. The declaration should have included the description of the quality of the articles, their value, and the name of the island and plantation from where they had been obtained. The captain of the ship had to then go with such a declaration to the customs office, where the comptroller would inspect the goods and grant them with a certificate furnished with his signature and seal. Apart from this, the customs official made a copy of the declaration, which he had to send to the destination port within thirty

³⁹ MARTIN, p. 202.

⁴⁰ Section 29 of the Sugar Act. JENSEN (ed.), p. 647.

⁴¹ Article 28 of the Sugar Act, *ibidem*, p. 646.

⁴² Article 23 of the Sugar Act, *ibidem*.

days. Unless he did so he was to be given the penalty of five pounds.⁴³ If the captain did not have the mentioned documents all the molasses he was carrying was cleared as French.

The regulations listed above mostly impacted trading both on the coast and between the colonies even though they had not been primarily focussed on impeding it. Customs officials misinterpreted some sections of the Sugar Act, and with the help of the navy they “clamped down” on this trade too.⁴⁴ The most common items of export on the coast were wheat and other types of grain, meat, dairy products, and lumber. Those goods were loaded onto ships in docks, which were even situated a few tens of miles off the ports where customs authorities had their seats. Until then merchants had loaded as many articles as possible and sailed to the nearest ports with a customs house; there their goods had been submitted to all customs procedures; afterwards they had been allowed to continue to the ports of their destination. According to sections 23 and 29 of the Sugar Act, however, each merchant had to secure a permit entitling them to load strictly qualified goods beforehand, and place a security deposit. This meant that they had to gather all the goods in advance. Then they set off to a customs house situated a few tens of miles away, where they obtained appropriate documents. Only after that could they start loading goods, and then they sailed again to the customs house because of clearance. Each passage was thus longer, its costs being higher. It was very difficult for merchants to put together an exact manifest of articles as many times they did not know until the last minute what goods they would be transporting, or how many of them would be on board.⁴⁵

Furthermore, the act also stipulated punishments for violating the given rules. Among them were, for instance, storing goods in badly labelled cases, customs duty evasion, falsifying documents, importing or exporting non-permitted goods (all such goods were to be seized). The captain, the owner of the ship as well as all who would be assisting in such illegal practices were obligated to pay a fine amounting to treble the amount of the value of the seized goods. Furthermore, the customs official could seize “*all ships, horses and other cattle, and*

⁴³ Article 20 of the Sugar Act, *ibidem*, pp. 645–646.

⁴⁴ MIDDLEKAUFF, p. 66.

⁴⁵ Cf. DICKERSON, p. 181; B. KNOLLENBERG, *Origin of the American Revolution: 1759–1766*, New York 1965, pp. 164–165.

other means of transport used while loading, unloading, removing and transporting the given goods [...].⁴⁶ Whoever attempted to bribe a customs official and was disclosed, they had to pay a fine of fifty pounds. Every customs officer who accepted a bribe or falsified documents had to pay a fine of five hundred pounds for their offence, and what's more, they were found incompetent to provide any services for the British king.⁴⁷

The last part of the Sugar Act dealt with judicial procedures and courts of Admiralty in the British colonies.⁴⁸ In 1763 there existed eleven vice-Admiralty courts in the colonies, whose jurisdiction in the commercial and fiscal spheres was the same as that of common law courts. Judges were chosen from the ranks of leading colonial lawyers by the governor. Whenever a customs officer had a feeling that law had been violated he could – based on his suspicion – transfer the case to the vice-Admiralty court of the given colony. However, the accused merchants would take advantage of legal loops and gaps in legislation to transfer the trials to common law courts, where the members of the jury were composed of their friends and where the trial often resulted in overruling the decision of the vice-Admiralty court, and

⁴⁶ Articles 36 and 37 of the Sugar Act, in full version in: www.historycarper.com/resources/docs/sugaract.htm [2017-06-10].

⁴⁷ Article 38 of the Sugar Act, *ibidem*.

⁴⁸ In England Admiralty courts already existed in the Middle Ages in order to decide cases of piracy and robbery at sea, and in the cases of commercial law. Unlike common law courts, these Admiralty courts did not have a jury. That is why their cases and efforts at extending their competence were often under the supervision of common law courts, which by keeping an eye on them tried to prevent them from violating the right of the English citizens for a trial by jury. In the British colonies in America the Admiralty courts had not existed until the end the 17 century though. The cases that would fall under their jurisdiction in England were decided on by individual governors in the colonies, their councils, and later on by common law courts. It was the Navigation Act of 1696 which introduced the Admiralty courts to the colonies, and it even granted them with more powers for dealing with commercial disputes than courts in England had. Due to imperfect wording of the act, common law courts in the colonies found ways of neglecting the courts, or at least restricting their jurisdiction. Cf. D. S. LOVEJOY, "Rights Imply Equality": The Case Against Admiralty Jurisdiction in America, 1764–1776, in: J. P. GREENE (ed.), *The Reinterpretation of the American Revolution 1763–1789*, Westport 1979, pp. 183–187; E. CHANNING, *A History of the United States, Vol. II, A Century of Colonial History 1660–1760*, New York 1930, pp. 277–279.

in the verdict of not guilty.⁴⁹ Moreover, the acquitted merchant very often sued a customs official who had confiscated his vessel to gain compensatory damages and the reimbursement of the loss of profit. Many customs officers got into such troubles then.⁵⁰

This practice should have changed with adopting the new legislation. Customs officers could submit their cases to any vice-Admiralty court in America. There should have been one more vice-Admiralty court, the jurisdiction of which would apply to all the colonies.⁵¹ This court was to have identical jurisdiction with those of already existing vice-Admiralty courts, and it was not to serve as a court of appeal. Soon afterwards such a court was established in the town of Halifax, Nova Scotia, i. e. far away from where “local pressure” might impede its work.⁵² An appeal from a decision of this court could only be lodged with the Supreme Court of Admiralty residing in London.

Another regulation repealed the provision of the “presumption of innocence”, so that a merchant under prosecution had to prove his being innocent, which made the whole matter far more complicated.⁵³ In addition, the defendant had to cover all the expenses of the judicial trial even if he were innocent. The injured merchant or the owner of the ship could, however, apply to the court to sue a customs officer for the reimbursement of the damages. Despite this, he was not entitled to receive any compensation, providing the judge issued a document saying that the given officer had had a “probable reason” for seizing the ship and its cargo. Provided that the customs officer or the judge delivered the confiscated goods back without the case being heard before the court, the injured party could be granted with compensation damages up to 2 pence. The fines for officers who would seize any

⁴⁹ Cf. GIPSON, p. 228; KNOLLENBERG, p. 166.

⁵⁰ In 1760 the Boston customs officer Cradock had a proof that the vessel named Sarah, whose owner was John Ervin, was involved in smuggling. That’s why he seized both the ship and the goods, and he handed the case over to the vice-Admiralty court. The court decided he was guilty, and it sold the confiscated ship and the goods for 412 pounds. However, Ervin succeeded in having his case transferred to the common law court, which then decided in his favour, and ordered that Cradock had to reimburse the loss amounting to 600 pounds. Cradock lodged an appeal with the High Court of Massachusetts, but he did not succeed. See GIPSON, pp. 227–228.

⁵¹ Article 41 of the Sugar Act. JENSEN (ed.), p. 648.

⁵² In May 1764 British lawyer William Spry was appointed judge; he then commenced hearings of disputes in court in October 1764.

⁵³ Article 45 of the Sugar Act. JENSEN (ed.), p. 648.

goods without reason should not have exceeded one shilling.⁵⁴ If the merchant or the owner of the ship who had sued a customs officer discontinued court proceedings before hearing, or when the court decided to his detriment, he had to cover treble the amount of the court proceedings costs to the defendant.⁵⁵

It is worth pointing out that whereas Grenville intended to introduce law and order in the colonies the result was, however, complicated administration and chaos. On the one hand, the government were not able to – or they may not have even wanted to – get to know of well-informed opinions of those who were conversant with the situations in the colonies (among them were especially merchants or representatives of the colonies in London). On the other hand, though, some contemporaries, mainly the colonists from continental colonies, ascribed this development to the influence of MPs from the British “sugar” islands, who they despised from the bottom of their hearts. Soon the customs officers learnt how to make use of their powers for unjust enrichment. That was mainly happening in the time after 1767. Oliver M. Dickerson called it the “era of customs blackmailing”. Thus, customs officers contributed to a large degree to growing hatred among the colonists towards Great Britain.

⁵⁴ Article 46 of the Sugar Act, *ibidem*.

⁵⁵ Article 47 of the Sugar Act, *ibidem*.