

COLLECTION LAW—concluded from our last.

And be it further enacted, That where any bond for the payment of duties shall not be satisfied on the day it became due, the collector shall prosecute for the recovery of the money due thereon, by action or suit at law, in the proper court, having cognizance therein; and in all cases of insolvency, or where any estate in the hands of executors or administrators, shall be insufficient to pay all the debts due from the deceased, the debt due to the United States on any such bond shall be first satisfied.

And be it further enacted, That when it shall appear that any goods, wares or merchandize of which entry shall have been made, in the office of a collector, are not invoiced, according to the actual cost thereof at the place of exportation, and that the difference was made with design to defraud the revenue, all such goods, wares and merchandize, or the value thereof to be recovered of the person making entry, shall be forfeited; and in any such case, or where the collector is suspicious of fraud, and that any such goods, wares or merchandize, are not invoiced at a sum, equal to that for which they have usually sold, in the place or country from whence they were imported, it shall be the duty of such collector to take the said goods, wares and merchandize into his possession, and retain the same at the risk and expence of the owner or consignee thereof, until their value, at the time and place of importation, according to the principles for estimating the same, established by this act, shall be ascertained by two reputable merchants, mutually chosen by the said collector, and owner or consignee, and the duties arising upon such valuation shall be first paid, or secured to be paid, as required by this act in other cases of importation.

And be it further enacted, That it shall be lawful for the collector, or other officer of the customs, after entry made of any goods, wares or merchandize, on suspicion of fraud, to open and examine, in the presence of two or more reputable merchants, any package or packages thereof, and if upon such examination they shall be found to agree with the entries, the officer making such seizure, shall cause the same to be repacked, and delivered to the owner or claimant forthwith, and the expence of such examination shall be paid by the collector, and allowed in the settlement of his accounts; but if any of the packages so examined be found to differ in their contents from the entry, and it shall appear that such difference hath been made with intention to defraud the revenue, then all the goods, wares or merchandize, contained in such package or packages, shall be forfeited: PROVIDED ALWAYS, That if the owner or consignee of such goods as shall not be accompanied with the original invoice, shall choose to wait the receipt of the invoice, in such case, the collector shall take into his possession, all such goods, wares and merchandize, and store the same, at the expence and risk of the owner or consignee, until the invoice shall arrive, or until they agree to have the same valued.

And be it further enacted, That every collector, naval-officer and surveyor, or other person specially appointed by either of them for that purpose, shall have full power and authority, to enter any ship or vessel, in which they shall have reason to suspect any goods, wares or merchandize subject to a duty shall be concealed; and therein to search for, seize, and secure any such goods, wares or merchandize; and if they shall have cause to suspect a concealment thereof, in any particular dwelling house, store, building, or other place, they or either of them, shall, upon application on oath or affirmation to any justice of the peace, be entitled to a warrant, to enter such house, store, or other place (in the day time only) and there to search for such goods, and if any shall be found, to seize and secure the same for trial; and all such goods, wares and merchandize, on which the duties shall not have been paid or secured, shall be forfeited.

And be it further enacted, That all goods, wares and merchandize, which shall be seized by virtue of this act, shall be put into and remain in the custody of the collector, until such proceedings shall be had, as by this act are required, to ascertain whether the same have been forfeited or not, and if it shall be adjudged that they are not forfeited, they shall be forthwith restored to the owner or owners, claimant or claimants thereof. And if any person or persons shall conceal or buy any goods, wares or merchandize, knowing them to be liable to a seizure by this act, such person or persons shall on conviction thereof, forfeit and pay a sum double the value of the goods so concealed or purchased.

And be it further enacted, That it shall be the duty of the several officers to be appointed or employed by virtue of this act, to make seizure of, and secure any ship or vessel, goods, wares or merchandize, which shall be liable to seizure by virtue of this act, as well without, as within their respective districts.

And be it further enacted, That if any officer or other person, executing, or aiding and assisting in the seizure of goods, shall be sued or molested for anything done in virtue of the powers given by this act, or by virtue of a warrant granted by any judge or justice pursuant to law, such officer or other person may plead the general issue, and give this act in evidence; and if in such suit the plaintiff be non-suited, or judgment pass against him, the defendant shall recover double cost; and in all actions, suits or informations to be brought, where any seizure shall be made pursuant to this act, if the property be claimed by any person, in every such case the onus probandi shall be upon such claimant; and if any person shall forcibly resist, prevent, or impede any officer of the customs, or their deputies, or any person assisting them in the execution of their duty, such persons so offending shall for every offence be fined in a sum not exceeding four hundred dollars.

And be it further enacted, That every collector, naval-officer and surveyor, shall within three months after he enters upon the execution of his office, give bond with one or more sufficient sureties, to be approved of by the comptroller of the treasury of the United States, and payable to the said United States, conditioned for the true and faithful discharge of the duties of his office according to law; that is to say, the collector of Philadelphia in the sum of sixty thousand dollars, the collector of New-York, fifty thousand dollars, the collector of Boston forty thousand dollars, the collector of Baltimore-town and Charleston, thirty thousand dollars, the collector of Norfolk and Portsmouth, fifteen thousand dollars, the collectors of Portsmouth in New-Hampshire, of Salem and Beverly, Wilmington, Annapolis, George-town in Maryland, Bermuda-Hundred and City-point, and Alexandria, ten thousand dollars each, the collectors of Newbury-Port, Gloucester, Marblehead, Plymouth, Nantucket, Portland and Falmouth, New-London, New-Haven, Fairfield, Perth-Amboy, Chester, Oxford, York-town, Dumfries, George-town in South Carolina, Beaufort, and Savanna, each five thousand dollars, and all the other collectors, in the sum of two thousand dollars each. The naval officers for the ports of Boston, New-York, Philadelphia, Baltimore-town and Charleston ten thousand dollars each, and all other naval officers in the sum of two thousand dollars each. The surveyors of the ports of Boston, New-York, Philadelphia, Baltimore-town, and Charleston five thousand dollars each, and all other surveyors one thousand dollars each, which bonds shall be filed in the office of the said comptroller, and be by him severally put in suit for the benefit of the United States, upon any breach of the condition thereof.

And be it further enacted, That there shall be allowed and paid to the collectors, naval-officers and surveyors, to be appointed pursuant to this act, the fees and per centage following, that is to say; to each collector, for every entrance of any ship or vessel of one hundred tons burthen or upwards, two dollars and an half, for every clearance of any ship or vessel, of one hundred tons burthen and upwards, two dollars and an half; for every entrance of any ship or vessel under the burthen of one hundred tons, one dollar and an half; for every clearance of any ship or vessel under one hundred tons burthen, one dollar and an half; for every permit to land goods, twenty cents; for every bond taken officially, forty cents; and for every permit to load goods for exportation, which are entitled to a drawback, thirty cents; for official certificate, twenty cents; for every bill of health,

twenty cents; for every other official document, (registers excepted) required by the owner or master of every vessel, not before enumerated, twenty cents; and where a naval-officer is appointed to the same port, the said fees shall be equally divided between the collector and the said naval-officer, apportioning to each his moiety of the necessary expences of stationery and the rent of an office to be provided by the collector, in the place of his residence, most convenient for the trade of the district, in which the said collector and naval-officer, shall each have at least one separate room; and the said fees shall be received by the collector, who shall settle the accounts monthly, and pay to the naval-officer the balance which may be due to him on such monthly settlement. To each surveyor there shall be allowed, for all the services required by law, to be performed by such surveyor, on board any ship or vessel of one hundred tons and upwards, and having on board goods, wares and merchandize, subject to duty, three dollars, for the like services on board any ship or vessel of less than one hundred tons burthen, having on board goods, wares and merchandize subject to duty, one and an half dollars, on all vessels not having on board goods, wares and merchandize subject to duty, two thirds of a dollar; all which fees shall be paid to the collector, by the master or owner of the ship or vessel, in which the services are performed, and the said collector shall pay weekly to the surveyor the fees so received; to each inspector there shall be allowed for every day he shall be actually employed in aid of the customs, a sum not exceeding one dollar and twenty-five cents, to be paid by the collector out of the revenue, and charged to the public; to the measurers, weighers and gaugers respectively for their services, shall be allowed, and paid by the collector out of the revenue, for the measurement of every one hundred bushels of salt or grain, eighteen cents; for the measurement of every one hundred bushels of coal, twenty-five cents; for the weighing of every one hundred and twelve pounds, one cent; for the gauging of every cask six cents. There shall moreover be allowed to the collectors at each of the following ports, to wit: Boston, Salem and Beverly, New-York, Philadelphia, Baltimore, Norfolk and Portsmouth, and Charleston, one half per centum on the amount of all monies, by them respectively received and paid into the treasury of the United States. Every collector, naval-officer and surveyor, shall cause to be affixed, and constantly kept in some public and conspicuous place of his office, a fair table of the rates of fees, and duties demandable by law, and in case of failure therein, shall forfeit and pay one hundred dollars, to be recovered with costs, in any court having cognizance thereof, to the use of the informer; and if any officer of the customs shall demand, or receive any greater or other fee, compensation or reward, for executing any duty or service required of him by law, he shall forfeit and pay two hundred dollars for each offence, recoverable in manner aforesaid, for the use of the party aggrieved.

And be it further enacted, That the duties and fees to be collected by virtue of this act, shall be received in gold and silver coin only, at the following rates, that is to say, the gold coins of France, England, Spain, and Portugal, and all other gold coin of equal fineness, at eighty-nine cents for every penny-weight. The Mexican dollar at one hundred cents; the crown of France at one dollar and eleven cents; the crown of England at one dollar and eleven cents; and all silver coins of equal fineness at one dollar and eleven cents per ounce.

And be it further enacted, That all the drawbacks allowed by law on the exportation of goods, wares and merchandize imported, shall be paid or allowed by the collector at whose office the said goods, wares and merchandize were originally entered, and not otherwise, retaining one per centum for the benefit of the United States.

PROVIDED ALWAYS, and be it further enacted, That no goods, wares or merchandize entitled to drawback, shall be reladen before an entry shall be made with the collector of the port from whence such goods are intended to be exported; which entry shall contain a particular account of the casks and packages, the marks, numbers and contents, the cost thereof, the vessel or vessels in which they were imported, and the place or places imported from; and the person or persons intending to export such goods, shall give bond, with one or more sufficient sureties, that the same or any part thereof, shall not be reladen in any port or place within the limits of the United States, as settled by the late treaty of peace; and shall moreover make oath or affirmation as to the truth of the entry, that the goods, wares and merchandize, are in quantity, quality and value, as therein expressed, according to the inward entry thereof, which entry was duly made at the time of importation pursuant to the directions of this act; and that the quality is the same as at the time of importation; and the exporter of such goods shall not be entitled to drawback the duties, until at least six months after the exportation thereof, and until he shall produce to the collector with whom such outward entry is made, a certificate in writing of two reputable merchants, at the foreign port or place in which the same were landed, together with the oath or affirmation of the master and mate of the vessel in which they were exported, certifying the delivery thereof; but in case any vessel shall be cast away, or meet with such unavoidable accidents as to prevent the landing such goods, a protest in due form of law, made by the master and mate, or some of the seamen, or in case no such protest can be had, then the oath or affirmation of the exporter shall be received in lieu of the other proofs herein directed, unless there shall be good reason to suspect the truth of such oath or affirmation, in which case it shall and may be lawful for the collector to require such further proof as the nature of the case may demand. PROVIDED ALSO, That no goods, wares or merchandize imported, shall be entitled to a drawback of the duties paid, or secured to be paid thereon, unless such duties shall amount to twenty dollars at the least; nor unless they shall be exported in the same cask, package or packages, and from the port or district into which they were originally imported, and moreover shall be reladen under the inspection of the collector, naval-officer, or surveyor of the port.

And be it further enacted, That the sums allowed to be paid by law on the exportation of dried or pickled fish, and of salted provisions, shall be paid by the collector of the port or district from whence the same shall be exported: PROVIDED, That due entry thereof shall be first made, and bonds given, as in case of drawbacks, and that no such allowance shall be made, unless it shall amount to three dollars at the least upon any one entry.

And be it further enacted, That if any goods, wares or merchandize, entered for exportation, with a view to drawback the duties, or to obtain any allowance given by law on the exportation thereof, shall be landed in any port or place within the limits of the United States as aforesaid, all such goods, wares and merchandize shall be subject to seizure and forfeiture, together with the vessel from which such goods shall be landed, and the vessels or boats used in landing the same, and all persons concerned therein, shall on indictment and conviction thereof, suffer imprisonment for a term not exceeding six months; and for discovery of frauds, and seizure of goods, wares and merchandize, reladen contrary to law, the several officers established by this act shall have the same powers, and in case of seizure the same proceedings shall be had, as in the case of goods, wares and merchandize imported contrary to law: And for measuring, weighing or gauging goods for exportation, the same fees shall be allowed as in like cases upon the importation thereof.

And be it further enacted, That if any officer of the customs, shall directly or indirectly, take or receive any bribe, reward or recompence for conniving, or shall connive at a false entry of any ship or vessel, or of any goods, wares or merchandize, and shall be thereof convicted, every such officer shall forfeit and pay a sum not less than two hundred, nor more than two thousand dollars for each offence, and be forever disabled from holding any office of trust or profit under the United States; and any person giving

or offering any bribe, recompence or reward, for any such deception, collusion or fraud, shall forfeit and pay a sum not less than two hundred, nor more than two thousand dollars for each offence: And in all cases where an oath or affirmation is by this act required from a master or other person, having command of a ship or vessel, or from an owner or consignee of goods, wares and merchandize, if the person so swearing or affirming, shall swear or affirm falsely, such person shall, on indictment and conviction thereof, be punished by fine or imprisonment, or both, in the discretion of the court before whom the conviction shall be had, so as the fine shall not exceed one thousand dollars, and the term of imprisonment shall not exceed twelve months.

And be it further enacted, That all penalties accruing by any breach of this act, shall be sued for and recovered with costs of suit, in the name of the United States, in any court proper to try the same, by the collector of the district where the same accrued, and not otherwise, unless in case of penalty relating to an officer of the customs; and such collector shall be, and hereby is authorized and directed to sue for and prosecute the same to the full extent, and to distribute and pay the sum recovered, after first deducting all necessary costs and charges, according to law. And all ships or vessels, goods, wares and merchandize, which shall become forfeited by virtue of this act, shall be seized, labelled and prosecuted as aforesaid, in the proper court having cognizance thereof; and the court shall cause fourteen days notice to be given of such seizure and label, by causing the substance of such label, with the order of the court thereon, setting forth the time and place appointed for trial, to be inserted in some public newspaper, nearest the place of seizure, and also by posting up the same in the most public manner for the space of fourteen days, at or near the place of trial; and proclamation shall be made in such manner as the court shall direct; and if no person shall appear to claim such ship or vessel, goods, wares or merchandize, the same shall be adjudged to be forfeited; but if any person shall appear before such judgment of forfeiture, and claim any such ship or vessel, goods, wares or merchandize, and shall give bond to defray the prosecution thereof, and to respond to the cost in case he shall not support his claim, the court shall proceed to hear and determine the cause according to law: And upon the prayer of any claimant to the court, that any ship or vessel, goods, wares or merchandize so seized and prosecuted, or any part thereof should be delivered to such claimant, it shall be lawful for the court to appoint three proper persons to appraise such ship or vessel, goods, wares or merchandize, who shall be sworn in open court for the faithful discharge of their duty; and such appraisal shall be made at the expence of the party on whose prayer it is granted; and on the return of such appraisal, if the claimant shall, with one or more sureties, to be approved of by the court, execute a bond in the usual form, to the United States, for the payment of a sum equal to the sum at which the ship or vessel, goods, wares, or merchandize so prayed to be delivered, be appraised, the court shall by rule order such ship or vessel, goods, wares or merchandize, to be delivered to the said claimant, and the said bond shall be lodged with the proper officer of the court; and if judgment shall pass in favor of the claimant, the court shall cause the said bond to be cancelled; but if judgment shall pass against the claimant, as to the whole or any part of such ship or vessel, goods, wares or merchandize, and the claimant shall not within twenty days thereafter pay into the court the amount of the appraised value of such ship or vessel, goods, wares or merchandize so condemned, with the costs, the bond shall be put in suit: And when any prosecution shall be commenced on account of the seizure of any ship or vessel, goods, wares or merchandize, and judgment shall be given for the claimant or claimants; if it shall appear to the court before whom such prosecution shall be tried, that there was a reasonable cause of seizure, the same court shall cause a proper certificate or entry to be made thereof, and in such case the claimant shall not be entitled to costs, nor shall the person who made the seizure, or the prosecutor be liable to action, judgment or suit, on account of such seizure or prosecution. PROVIDED, That the ship or vessel, goods, wares or merchandize be after judgment forthwith returned to such claimants, his or their agents: AND PROVIDED, That no action or prosecution shall be maintained in any case under this act, unless the same shall have been commenced within three years next after the penalty or forfeiture was incurred.

And be it further enacted, That all ships, vessels, goods, wares or merchandize, which shall be condemned by virtue of this act, shall be sold by the proper officer of the court in which such condemnation shall be had, to the highest bidder at public auction, by order of such court, and at such place as the court may appoint, giving at least fifteen days notice (except in case of perishable goods) in one or more public newspapers of the place where such sale shall be, or if no paper is published in such place, in one or more of the papers published in the nearest place thereto.

And be it further enacted, That all penalties, fines and forfeitures, recovered by virtue of this act (and not otherwise appropriated) shall, after deducting all proper costs and charges, be disposed of as follows: One moiety shall be for the use of the United States, and paid into the treasury thereof; the other moiety shall be divided into three equal parts, and paid to the collector, naval-officer and surveyor of the district wherein the same shall have been incurred, and in such districts where only two of the aforesaid officers shall have been established the said moiety shall be equally divided between them; and in such districts where only one of the aforesaid officers shall have been established, the said moiety shall be given to such officer: PROVIDED NEVERTHELESS, That in all cases where such penalties, fines, and forfeitures, shall be recovered in pursuance of information given to such collector, by any person, other than the said naval-officer, and surveyor, the one half of such moiety shall be given to the informer, and the remainder thereof shall be disposed of between the collector, naval-officer and surveyor, in manner and form as above limited and expressed.

AND WHEREAS, The States of Rhode-Island and Providence-Plantations, and North-Carolina, have not as yet ratified the present constitution of the United States, by reason whereof this act doth not extend to the collecting of duties within either of the said two States, and it is thereby become necessary, that the following provision with respect to goods, wares or merchandize imported from either of the said two States should for the present take place:

Be it therefore further enacted, That all goods, wares and merchandize not of their own growth or manufacture, which shall be imported from either of the said two States of Rhode-Island and Providence-Plantations, or North-Carolina, into any other port or place, within the limits of the United States, as settled by the late treaty of peace, shall be subject to the like duties, seizures and forfeitures, as goods, wares or merchandize, imported from any State or country without the said limits.

And be it further enacted, That no goods, wares or merchandize of foreign growth or manufacture, subject to the payment of duties, shall be brought into the United States, in any other manner than by sea, nor in any ship or vessel less than thirty tons burthen, except within the district of Louisville, and except also in such vessels as are now actually on their voyages; nor shall be landed, or unladen, at any other place than is by this act directed, under the penalty of seizure and forfeiture, of all such vessels, goods, wares or merchandize, brought in, landed or unladen in any other manner. And all goods, wares and merchandize brought into the United States by land, contrary to this act, shall be forfeited, together with the carriages, horses, and oxen, that shall be employed in conveying the same.

FREDERICK AUGUSTUS MUHLENBERG,
Speaker of the House of Representatives.
JOHN ADAMS, Vice-President of the United States,
and President of the Senate.

APPROVED, JULY 31, 1789.
GEORGE WASHINGTON, President of the United States.

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