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WEDNESDAY, MARCH 23, 1791.

[Whole No. 198.]

NEW REVENUE LAW.

CONGRESS OF THE UNITED STATES:

AT THE THIRD SESSION,

Begun and held at the City of Philadelphia, on Monday the sixth of December, one thousand seven hundred and ninety.

AN ACT repealing, after the last day of June next, the duties heretofore laid upon Distilled Spirits imported from abroad, and laying others in their stead; and also upon Spirits Distilled within the United States, and for appropriating the same.

(CONTINUATION.)

AND be it further enacted, That the supervisor of the revenue for the district wherein any house, building or place shall be situate, whereof entry shall be made as last aforesaid, shall as soon as may be thereafter, visit and inspect, or cause to be visited and inspected by some proper officer or officers of inspection, every such house or other building or place within his district, and shall take or cause to be taken, an exact account of the spirits therein respectively contained and shall mark or cause to be marked in durable characters, the several casks, casks or vessels containing the same, with progressive numbers, and also with the name of each distiller to whom the same may belong, or in whose custody the same may be, and the quantities, kinds and proofs of spirits therein contained, and these words "Old Stock." And the inspector of each survey shall keep a book, wherein he shall enter the name of every distiller, and the particulars of such old stock in the possession of each, designating the several casks, casks and vessels containing the same, and their respective quantities, kinds, proofs and marks, and shall also give a certificate to every such distiller of the quantity and particulars of such old stock in his or her possession, and a separate certificate for each cask, cask or vessel, describing the same, which certificate shall accompany the same whereforever it shall be sent, and such distiller, his or her agent or manager, upon the sale and delivery of any of the said spirits shall deliver to the purchaser or purchasers thereof, the certificate or certificates that ought to accompany the same, on pain of forfeiting fifty dollars for each cask, cask or vessel, with which such certificate shall not be delivered.

And be it further enacted, That every importer of distilled spirits, who, on the first day of July next, shall have in his or her possession any distilled spirits, shall within three days thereafter, make due entry thereof with the officer of inspection within whose survey the same shall then be; who shall mark the casks, vessels or casks containing such spirits, in like manner as is herein before directed, touching such spirits as shall be in the possession of distillers on the first day of July next, and shall grant the like certificates therefor as for such spirits, which certificates shall accompany the respective casks, casks and vessels to which they shall relate, whereforever they shall be sent, and such importer, his or her agent, upon the sale and delivery of any of the said spirits, shall deliver to the purchaser or purchasers thereof the certificate or certificates which ought to accompany the same, on pain of forfeiting fifty dollars for each cask, cask or vessel with which such certificate shall not be delivered. And if any such importer or importers shall refuse or neglect to make such entry at the time and in the manner herein directed, all such spirits as shall not be so entered shall be forfeited, and the importer or importers in whose custody the same be found, shall moreover forfeit the sum equal to the full value thereof, according to the highest price of such spirits in the market.

And be it further enacted, That if any cask, cask or vessel containing distilled spirits, which by the foregoing provisions of this act, ought to be marked and accompanied with a certificate, shall be found in the possession of any person unaccompanied with such marks and certificate, it shall be presumptive evidence that the same are liable to forfeiture, and it shall be lawful for any officer of inspection to seize them as forfeited; and if, upon the trial in consequence of such seizure, the owner or claimant of the spirits seized, shall not prove that the same were imported into the United States according to law, or were distilled as mentioned in the thirteenth and fourteenth sections of this act, and the duties thereupon paid, or were distilled at one of the stills mentioned in the twentieth section of this act, they shall be adjudged to be forfeited.

And be it further enacted, That it shall be lawful for the officers of inspection of each survey, at all times in the day time, upon request, to enter into all and every the houses, store-houses, warehouses, buildings and places which shall have been entered in manner aforesaid, and by tasting, gauging or otherwise, to take an account of the quantity, kinds and proofs of the said spirits therein contained; and also to take samples thereof, paying for the same the usual price.

And be it further enacted, That if any person or persons shall rub out or deface any of the marks set upon any cask, vessel or cask, pursuant to the directions of this act, such person or persons shall, for every such offence, forfeit and pay the sum of one hundred dollars.

And be it further enacted, That no cask, barrel, keg, vessel, or cask, marked as "Old Stock," shall be made use of by any distiller of spirits, for putting or keeping therein any spirits other than those which were contained therein when so marked, on pain of forfeiting the sum of one hundred dollars for every cask, barrel, keg, vessel or cask wherein any such spirits shall be so put or kept; neither shall any such distiller have or keep any distilled spirits in any such cask, barrel, keg, vessel or cask, longer than for the space of one year from the said last day of June next, on pain of forfeiting the said spirits: Provided, That nothing in this section contained shall be construed to extend to casks or vessels, capable of containing two hundred gallons and upwards, and which are not intended to be removed.

And be it further enacted, That in case any of the said spirits shall be fraudulently deposited, hid or concealed in any place whatsoever, with intent to evade the duties thereby imposed upon them, they shall be forfeited. And for the better discovery of any such spirits so fraudulently deposited, hid or concealed, it shall be lawful for any judge of any court of the United States, or either of them, or for any justice of the peace, upon reasonable cause of suspicion, to be made out to the satisfaction of such judge or justice, by the oath or affirmation of any person or persons, by special warrant or warrants under their respective hands and seals, to authorize any of the officers of inspection, by day, in the presence of a constable or other officer of the peace, to enter into all and every such place or places in which any of the said spirits shall be suspected to be so fraudulently deposited, hid or conceal-

ed, and to seize and carry away any of the said spirits which shall be there found so fraudulently deposited, hid or concealed, as forfeited.

And be it further enacted, That after the last day of June next, no spirituous liquors except gin or cordials in casks, jugs or bottles, shall be brought from any foreign port or place, in casks of less capacity than fifty gallons at the least, on pain of forfeiting of the said spirits, and of the ship or vessel in which they shall be brought: Provided always, That nothing in this act contained shall be construed to forfeit any spirits for being imported or brought into the United States, in other casks or vessels than as aforesaid, or the ship or vessel in which they shall be brought, if such spirits shall be for the use of the seamen on board such ship or vessel, and shall not exceed the quantity of four gallons for each seaman.

And be it further enacted, That in every case in which any of the said spirits shall be forfeited by virtue of this act, the casks, vessels and casks containing the same, shall also be forfeited.

And be it further enacted, That every distiller of spirits, on which the duty is hereby charged by the gallon, shall keep or cause to be kept, an exact account of the said spirits, which he or she shall sell, send out or distill, distinguishing their several kinds and proofs; and shall every day make a just and true entry in a book, to be kept for that purpose, of the quantities and particulars of the said spirits by him or her sold, sent out or distilled on the preceding day; specifying the marks of the several casks in which they shall be so sold or sent out, and the person to whom and for whose use they shall be so sold or sent out; which said books shall be prepared for the making such entries, and shall be delivered upon demand to the said distillers, by the supervisors of the revenue of the several districts, or by such person or persons as they shall respectively for that purpose appoint, and shall be severally returned or delivered at the end of each year, or when the same shall be respectively filled up, (which shall first happen) to the proper officers of inspection; and the truth of the entries made therein shall be verified, upon the oath or affirmation of the person by whom those entries shall have been made, and as often as the said books shall be furnished upon like demand by the proper officers of inspection, to the said distillers respectively. And the said books shall from time to time, while in the possession of the said distillers, lie open for the inspection of, and upon request shall be shewn to the proper officers of inspection under whose survey the said distillers shall respectively be, who may take such minutes, memorandums, or transcripts thereof, as they may think fit. And if any such distiller shall neglect or refuse to keep such book or books, or to make such entries therein, or to shew the same upon request, to the proper officer of inspection, or not return the same according to the directions of this act, he or she shall forfeit for every such refusal or neglect, the sum of one hundred dollars.

And be it further enacted, That the penalties by this act imposed on distillers for neglecting to make report to the inspectors, of their intentions of distilling spirits, or for neglecting to mark the houses, apartments or vessels to be employed, or for neglecting to enter in books the quantity of spirits distilled, shall not extend to any person who shall employ one still only, and that of a capacity not exceeding fifty gallons, including the still-head.

And be it further enacted, That the several kinds of proof herein before specified, shall, in marking the casks, vessels and casks containing any distilled spirits, be distinguished corresponding with the order in which they are mentioned by the words "first proof"—"second proof"—"third proof"—"fourth proof"—"fifth proof"—"sixth proof." And that it be the duty of the Secretary of the Treasury, to provide and furnish to the officers of inspection and of the customs, proper instruments for ascertaining the said several proofs.

And be it further enacted, That in any prosecution or action which may be brought against any supervisor or other officer of inspection, for any seizure by him made, it shall be necessary for such supervisor or officer to justify himself by making it appear that there was probable cause for making the said seizure; upon which, and not otherwise, a verdict shall pass in his favor. And in any such action or prosecution, or in any action or prosecution which may be brought against such supervisor or other officer, for irregular or improper conduct in the execution of his duty, the trial shall be by jury. And in any action for a seizure, in which a verdict shall pass for such officer, the jury shall nevertheless assess reasonable damages for any prejudice or waste (according to the true amount in value thereof) which shall be shewn by good proof to have happened to the spirits seized, in consequence of such seizure; and also for the detention of the same, at the rate of six per cent. per annum, on the true value of the said spirits at the time of such seizure, from that time to the time of restoration thereof; which shall be paid out of the Treasury of the United States: Provided, That no damages shall be assessed when the seizure was made for want of the proper certificate or certificates, or by reason of a refusal to shew any officer of inspection, upon his request, the spirits in any entered house, building or place: And provided also, That if it shall appear from the verdict of the jury, that any such prejudice or waste was sustained by the negligence of the officer, he shall be responsible therefor to the United States.

And be it further enacted, That if any supervisor or other officer of inspection, in any criminal prosecution against him, shall be convicted of oppression or extortion in the execution of his office, he shall be fined not exceeding five hundred dollars, or imprisoned not exceeding six months, or both, at the discretion of the court; and shall also forfeit his office.

And be it further enacted, That no fee shall be taken for any certificate to be issued or granted pursuant to this act.

And be it further enacted, That if any of the said supervisors or other officers of inspection, shall neglect to perform any of the duties hereby enjoined upon them respectively, according to the true intent and meaning of this act, whereby any person or persons shall be injured or suffer damages, such person or persons shall and may have an action founded upon this act against such supervisors or other officers and, shall recover full damages for the same, together with costs of suit.

And be it further enacted, That any action or suit to be brought against any person or persons, for any thing by him or them done in pursuance of this act, shall be commenced within three months next after the matter or thing done, and unless brought in a court of the United States, shall be laid in the county in which the cause of action shall have arisen; and the defendant or defendants in any such action or suit, may plead the general issue, and on the trial thereof give this act and the special matter, in evidence; and if a verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs become non-suited, or discontinue his, her or their action or prosecution, or judgment shall be given against such plaintiff or plaintiffs, upon demurrer or otherwise, then such defendant or defendants shall have costs awarded to him, her or them, against such plaintiff or plaintiffs.

And in order that persons who may have incurred any of the penalties of this act, without wilful negligence or intention of fraud, may be relieved from such penalties.

Be it further enacted, That it shall be lawful for the judge of the district within which such penalty or forfeiture shall have been incurred, at any time within one year after the last day of June next, upon petition of the party who shall have incurred the same, to enquire in a summary way into the circumstances of the case, first causing reasonable notice to be given to the person or persons claiming such penalty or forfeiture, and to the attorney of such district; to the end that each may have an opportunity of shewing cause against the mitigation or remission thereof; and shall cause the facts which shall appear upon such enquiry, to be stated and annexed to the petition, and direct their transmission to the Secretary of the Treasury of the United States, who shall thereupon have power to mitigate or remit such penalty or forfeiture, if it shall appear to him that such penalty or forfeiture was incurred without wilful negligence, or any design or intention of fraud, and to cause any spirits which may have been seized to be restored to the proprietor or proprietors, upon such terms and conditions as shall appear to him reasonable.

And be it further enacted, That the one half of all penalties and forfeitures incurred by virtue of this act, except as above provided, shall be for the benefit of the person or persons who shall make a seizure, or who shall first discover the matter or thing whereby the same shall have been incurred; and the other half to the use of the United States. And such penalty and forfeiture shall be recoverable with costs of suit, by action of debt, in the name of the person or persons entitled thereto, or by information, in the name of the United States of America; and it shall be the duty of the attorney of the district wherein any such penalty or forfeiture may have been incurred, upon application to him, to institute and bring such information accordingly: Provided always, That no officer of inspection other than chief officer, or officers of a survey, shall be entitled to the benefit of any forfeiture unless notice of the seizure by him made, shall be by him given within forty-eight hours next after such seizure, to the said chief officer or officers; but in such case the United States shall have the entire benefit of such forfeiture.

And be it further enacted, That if any person or persons shall counterfeit or forge, or cause to be counterfeited or forged any of the certificates herein before directed to be given, or shall knowingly or willingly accept or receive any false or untrue certificate with any of the said spirits, or shall fraudulently alter or erase any such certificate after the same shall be given, or knowingly or willingly publish or make use of such certificate so counterfeited, forged, false, untrue altered or erased, every person so offending, shall, for each and every offence, forfeit and pay the sum of five hundred dollars.

And be it further enacted, That any person or persons that shall be convicted of wilfully taking a false oath or affirmation, in any of the cases in which oaths or affirmations are required to be taken by virtue of this act, shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

And be it further enacted, That if any person or persons shall give, or offer to give any bribe, recompense or reward whatsoever, to any supervisor or other officer of inspection of the revenue, in order to corrupt, persuade or prevail upon such officer, either to do any act or acts contrary to his duty in the execution of this act, or to neglect or omit to do any act or thing which he ought to do in the execution of this act, or to connive at or to conceal any fraud or frauds relating to the duties hereby imposed on any of the said spirits, or not to discover the same, every such person or persons shall, for such offence, whether the same offer or proposal be accepted or not, forfeit and pay a sum not exceeding five hundred dollars.

And be it further enacted, That if any person or persons shall forcibly obstruct or hinder any supervisor or other officer of inspection, in the execution of this act, or of any of the powers or authorities hereby vested in him, or shall forcibly rescue or cause to be rescued, any of the said spirits after the same shall have been seized by any such supervisor or other officer, or shall attempt or endeavor so to do, all and every person and persons so offending, shall, for every such offence, for which no other penalty is particularly provided by this act, forfeit and pay a sum not exceeding two hundred dollars.

And be it further enacted, That if any such supervisor or other officer, shall enter into any collusion with any person or persons for violating or evading any of the provisions of this act, or the duties hereby imposed, or shall fraudulently co-operate in the delivery of any of the said spirits, out of any house, building or place, wherein the same are deposited, without payment or security for the payment of the duties thereupon, or shall falsely or fraudulently mark any cask, cask or vessel, contrary to any of the said provisions, or shall embezzle the public money or otherwise be guilty of fraud in his office, such supervisor or other officer shall for every such offence forfeit the sum of one thousand dollars, and upon conviction of any of the said offences, shall forfeit his office, and shall be disqualified for holding any other office under the United States.

And be it further enacted, That in every case in which an oath or affirmation is required by virtue of this act, it shall be lawful for the supervisors of the revenue, or any of them, or their lawful deputy, or the lawful deputy of one of them, where not more than one in a district, to administer and take such oath or affirmation. And that wherever there are more than one supervisor for one district, a majority of them may execute all and any of the powers and authorities hereby vested in the supervisors of the revenue: Provided, That this shall not be construed to make a majority necessary in any case in which, according to the nature of the appointment or service, and the true intent of this act, the authority is or ought to be several.

And for the encouragement of the export-trade of the United States: Be it further enacted, That if any of the said spirits (whereupon any of the duties imposed by this act shall have been paid or secured to be paid) shall after the last day of June next, be exported from the United States to any foreign port or place, there shall be an allowance to the exporter or exporters thereof, by way of drawback, equal to the duties thereupon, according to the rates in each case by this act imposed, deducting therefrom half a cent per gallon, and adding to the allowance upon spirits distilled within the United States, from molasses, which shall be so exported, three cents per gallon, as an equivalent for the duty laid upon molasses by the said act making further provision for the payment of the debts of the United States: Provided always, That the said allowance shall not be made, unless the said exporter or exporters shall observe the regulations herein after prescribed: And provided further, That nothing herein contained shall be construed to alter the provisions in the said former act, concerning drawbacks or allowances, in nature thereof, upon spirits imported prior to the first day of July next. (To be concluded in our next.)