

Gazette of the United States.

A NATIONAL PAPER, PUBLISHED WEDNESDAYS AND SATURDAYS BY JOHN FENNO, No. 69, HIGH-STREET, PHILADELPHIA.

[No. 87, of Vol. III.]

SATURDAY, FEBRUARY 25, 1792.

[Whole No. 295.]



SECOND CONGRESS OF THE UNITED STATES.

AT THE FIRST SESSION,

Begun and held at the city of Philadelphia, in the State of Pennsylvania, Monday the twenty-fourth of October, one thousand seven hundred and ninety-one.

AN ACT concerning certain FISHERIES of the United States, and for the Regulation and Government of the Fishermen employed therein.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the allowance now made upon the exportation of dried fish of the fisheries of the United States, in lieu of a drawback of the duties paid on the salt used in preserving the same, shall cease on all dried fish exported after the tenth day of June next; and as a commutation and equivalent therefor, there shall be afterwards paid on the last day of December annually, to the owner of every vessel, or his agent, by the collector of the district where such vessel may belong, that shall be qualified agreeably to law, for carrying on the bank and other cod fisheries, and that shall actually have been employed therein at sea for the term of four months at the least, of the fishing season next preceding, which season is accounted to be from the last day of February to the last day of November in every year, for each and every ton of such vessel's burthen, according to her admeasurement as licensed or enrolled—if of twenty tons and not exceeding thirty tons, one and an half dollar, and if above thirty tons, two and an half dollars; of which allowance aforesaid, three eighths parts shall accrue and belong to the owner of such fishing vessel, and the other five eighths thereof shall be divided by him, his agent or lawful representative, and among the several fishermen who shall have been employed in such vessel during the season aforesaid, or a part thereof, as the case may be, in such proportions as the fish they shall respectively have taken may bear to the whole quantity of fish taken on board such vessel during such season: Provided, That the allowance aforesaid on any one vessel for one season, shall not exceed one hundred and seventy dollars.

And be it further enacted, That on the last day of December annually, as aforesaid, there shall also be paid to the owner of every fishing boat or vessel of more than five tons, and less than twenty tons, or to his agent or lawful representative, by the collector of the district where such boat or vessel may belong, the sum of one dollar upon every ton admeasurement of such boat or vessel; which allowance shall be accounted for as part of the proceeds of the fares of said boat or vessel, and shall accordingly be so divided among all persons interested therein: Provided however, That this allowance shall be made only to such boats or vessels as shall have actually been employed at sea in the cod fishery, for the term of four months at the least, of the preceding season: And provided also, That such boat or vessel shall have landed in the course of said preceding season, a quantity of fish not less than twelve quintals for every ton of her admeasurement; the said quantity of fish to be ascertained when dried and cured fit for exportation, and according to the weight thereof, as the same shall weigh at the time of delivery when actually sold; which account of the weight, with the original adjustment and settlement of the fare or fares among the owners and fishermen, together with a written account of the length, breadth and depth of said boat or vessel, and the time she has actually been employed in the fishery in the preceding season, shall in all cases be produced and sworn or affirmed to, before the said collector of the district, in order to entitle the owner, his agent or lawful representative, to receive the allowance aforesaid. And if at any time within one year after payment of such allowance, it shall appear that any fraud or deceit has been practised in obtaining the same, the boat or vessel upon which such allowance shall have been paid, if found within the district aforesaid, shall be forfeited: otherwise the owner or owners having practised such fraud or deceit, shall forfeit and pay one hundred dollars; to be sued for, recovered and appropriated in like manner as forfeitures and penalties are to be sued for, recovered and appropriated for any breach of an act, entitled, "An act to provide more effectually for the collection of the duties imposed by law on goods, wares and merchandize imported into the United States, and on the tonnage of ships or vessels."

And be it further enacted, That the owner or owners of every fishing vessel of twenty tons and upwards, his or their agent or lawful representative, shall previous to receiving the allowance which is provided for in this act, produce to the collector who is authorized to pay the same, the original agreement or agreements which may have been made with the fishermen employed on board such vessel, as is herein before required, and also a certificate to be by him or them subscribed, therein mentioning the particular days on which such vessel failed and returned on the several voyages or fares, she may have made in the preceding fishing season, to the truth of which they shall swear or affirm before the collector aforesaid.

And be it further enacted, That no ship or vessel of twenty tons or upwards, employed as aforesaid, shall be entitled to the allowance granted by this act, unless the skipper or master thereof shall, before he proceeds on any fishing voyage, make an agreement in writing or in print, with every fisherman employed therein, excepting only an apprentice or servant of himself or owner; and in addition to such terms of shipment as may be agreed on, shall in such agreement express whether the same is to continue for one voyage or for the fishing season, and shall also express that the fish or the proceeds of such fishing voyage or voyages which may appertain to the fishermen, shall be divided among them in proportion to the quantities or number of said fish they may respectively have caught; which agreement shall be endorsed or countersigned by the owner of such fishing vessel, or his agent: And if any fisherman having engaged himself for a voyage or for the fishing season, in any fishing vessel, and signed an agreement therefor as aforesaid, shall thereafter and while such agreement remains in force and to be performed, desert or absent himself from such vessel, without leave of the master or skipper thereof, or of the owner or his agent, such deserter shall be liable

to the same penalties as deserting seamen or mariners are subject to in the merchant's service, and may in the like manner, and upon the like complaint and proof, be apprehended and detained; and all costs of process and commitment, if paid by the master or owner, shall be deducted out of the share of the fish, or proceeds of any fishing voyage to which such deserter had or shall become entitled. And any fisherman, having engaged himself as aforesaid, who shall during such fishing voyage, refuse or neglect his proper duty on board the fishing vessel, being thereto ordered or required by the master or skipper thereof, or shall otherwise resist his just commands, to the hindrance or detriment of such voyage, besides being answerable for such damages arising thereby, shall forfeit to the use of the owner of such vessel, his share of the allowance, which shall be paid upon such voyage as is herein granted.

And be it further enacted, That where an agreement or contract shall be so made and signed, for a fishing voyage or for the fishing season, and any fish which may have been caught on board such vessel during the same, shall be delivered to the owner or to his agent, for cure, and shall be sold by said owner or agent, such vessel shall for the term of six months after such sale, be liable and answerable for the skipper's and every other fisherman's share of such fish, and may be proceeded against in the same form, and to the same effect, as any other vessel is by law liable, and may be proceeded against for the wages of seamen or mariners in the merchant's service. And upon such process for the value of a share or shares of the proceeds of fish delivered and sold as aforesaid, it shall be incumbent on the owner or his agent, to produce a just account of the sales and division of such fish according to such agreement or contract, otherwise the said vessel shall be answerable upon such process for what may be the highest value of the share or shares demanded. But in all cases, the owner of such vessel or his agent appearing to answer to such process, may offer thereupon his account of general supplies made for such fishing voyage, and of other supplies therefor made, to either of the demandants, and shall be allowed to produce evidence thereof in answer to the demands respectively, and judgment shall be rendered upon such process, for the respective balances, which upon such an enquiry shall appear: Provided always, That when process shall be issued against any vessel, liable as aforesaid, if the owner thereof or his agent will give bond to each fisherman in whose favor such process shall be instituted, with sufficient security, to the satisfaction of two justices of the peace, one of whom shall be named by such owner or agent, and the other by the fisherman or fishermen pursuing such process; or if either party shall refuse, then the justice first appointed shall name his associate, with condition to answer and pay whatever sum shall be recovered by him or them on such process, there shall be an immediate discharge of such vessel: Provided, that nothing herein contained shall prevent any fisherman from having his action at common law, for his share or shares of fish, or the proceeds thereof as aforesaid.

And be it further enacted, That the drawback heretofore allowed on the exportation of foreign dried and pickled fish, and other foreign salted provisions, be and the same is hereby repealed.

And be it further enacted, That the monies which shall remain in consequence of the abolition of the allowance on the exportation of the dried fish of the United States, and of the drawback on foreign dried and pickled fish, and other foreign salted provisions, be and the same are hereby appropriated to the payment of the allowances granted by this act, and in case the monies so appropriated shall be inadequate, the deficiency shall be supplied out of any monies which from time to time shall be in the treasury of the United States, and not otherwise appropriated.

And be it further enacted, That any person who shall declare falsely in any oath or affirmation required by this act, being duly convicted thereof in any court of the United States, having jurisdiction of such offence, shall suffer the same penalties as are provided for false swearing or affirming, by the act before mentioned, and to be in like manner sued for, recovered and appropriated.

And be it further enacted, That this act shall continue and be in force for the term of seven years, and from thence to the end of the next session of Congress, and no longer.

JONATHAN TRUMBULL, Speaker of the House of Representatives.
JOHN ADAMS, Vice-President of the United States, and President of the Senate.
APPROVED, FEBRUARY SIXTEENTH, 1792.
GEORGE WASHINGTON, President of the United States.

[In No. 82 of this Gazette, were published some sketches of the Debate on the petition of Mrs. Catharine Greene.—At the close of those sketches it was observed, that Gen. Sumpter made sundry remarks on extracts of letters wrote by Gen. Greene during the late war, which extracts are inserted in Gordon's History of the American Revolution.—It having been observed that the short statement then given, does not contain the particular ideas which were meant to be impressed in bringing forward those extracts—the following which is a more full account of what was delivered, is inserted.]

GEN. SUMPTER observed, that in bringing forward those letters he had no desire to criminate or calumniate the character of any person, neither was he disposed on the present occasion even to recriminate, altho highly justifiable; his chief object being that of explaining and declaring the real state of facts, and the letters being intimately connected with the subject, obliged him to lay them before the committee, who would judge of their weight and importance.

The letters from which he read extracts are of the dates of 23th April, 1781—1st and 4th of May of the same year, addressed from General Greene to Le Chevalier de la Luzerne, Le Marquis de la Fayette, and Governor Reed of Pennsylvania.

On the 28th of April, General Greene writes thus to the Chevalier de la Luzerne—

"This distressed country, I am sure, cannot struggle much longer, without more effectual support: they may struggle a little while longer, but they must fall; and I fear their fall may lay a train to sap the independence of the rest of

America. I have, agreeably to your Excellency's advice, impressed the states all in my power with a sense of their danger, but they have not the means to make the necessary exertions. We fight, get beaten, rise and fight again: and the whole country is one continued scene of blood and slaughter."

On the 11th of May he wrote to the Marquis de la Fayette—

"You may depend upon it, that nothing can equal the sufferings of our little army, but their merit. Let not the love of fame get the better of your prudence, and plunge you into a misfortune in too eager a pursuit after glory. This is the voice of a friend, and not the caution of a General."

On the 4th of the same month he wrote to Governor Reed of Pennsylvania—

"Those whose true interest it was to have informed Congress and the people to the northward with the real state of things, have joined in the deception, and magnified the strength and resources of this country infinitely above their ability.—Many of those who adhere to our party, are so fond of pleasure that they cannot think of making the necessary sacrifices to support the revolution. There are many good and virtuous people to the southward; but they cannot animate the inhabitants in general, as you can to the northward. When ruin appears to approach any state, they are alarmed and begin to think of exerting themselves; but its approach no sooner receives a check, than they sink back into a careless inaction. Virginia has exerted herself in giving a temporary support to the army; but her pleasure and her policy prevent her giving us such permanent aid as her strength and resources are capable of affording.—Maryland has done nothing, nor can I hear of any exertions there equal to the emergencies of the war. Delaware has not answered my letters. These states have few men here, and those they have are daily discharged. North-Carolina has got next to no regulars in the field, and few militia, and these the worst in the world; for they have neither pride nor principle to bind them to any party, or to a discharge of their duty. Generals Marion and Sumpter have a few people who adhere to them, perhaps more from a desire and opportunity of plundering, than from any inclination to promote the independence of the United States. I have been playing the most hazardous game to keep up appearances in this quarter, until more effectual support could be afforded. But our number is reduced to a mere shadow. The war to the northward is nothing: it is a plain business. Here the war rages like a fire; and the enterprize and activity of the enemy almost exceed belief. I have run every risk and hazard, and find the difficulties thicken upon me daily; and you know I am not of a desponding spirit or temper. If our good friends the French cannot lend a helping hand to save these sinking states, they must and will fall. Here we are contending with more than five times our number, and among a people much more in the enemy's interest than our's."

After having finished reading, General Sumpter proceeded.

Mr. Chairman, what could have induced General Greene to have made such communications as these at the time, is to me altogether incomprehensible, unless the misfortune of his defeat at Camden, previous thereto, had alarmed him and affected his opinions in too great a degree. However this may be, I conceive it was altogether unjustifiable and foreign from the real state of things, to advance the sentiments expressed in those letters, because they must have tended to mislead the public mind and give an improper direction to the measures of government. Here, Mr. Chairman, I would observe, that the prospect of our country was at that moment bright, inasmuch as to warrant a well founded hope of a speedy possession of it; this is a circumstance within the knowledge of several officers of distinction.

In one of the letters of the 4th of May, to Governor Reed, there is a complaint, "that those whose true interest it was to have informed Congress and the people to the northward of the real state of things, have joined in the deception, and magnified the strength and resources of the country infinitely above their ability." As a proof that this assertion was unfounded I will observe, that previous to his return to South-Ca-