

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, A. D. 1733, and continued by adjournments until the seventeenth day of August, 1734, the following acts were passed:

CHAPTER CCCXXXI.

AN ACT FOR REVIVING AN EXCISE ON WINE, RUM, BRANDY AND OTHER SPIRITS.

Whereas by an act of assembly of this province, entitled "An act for emitting and making current thirty thousand pounds in bills of credit,"¹ passed in the tenth year of the late King George, it was among other things therein contained provided that the sum of thirteen hundred pounds in the said bills should be delivered to the treasurer of this province to discharge several debts due from the said province, which said sum and the bills of credit formerly lent to the same end were to be sunk as the money due or to be due to the province from the collectors of the impost and excise by virtue of the acts therein mentioned was paid to the treasurer aforesaid. And whereas the act, entitled "An act for laying a duty on all wine, rum, brandy and other spirits whatsoever,"² in the said act mentioned is now expired by its own limitation and part of the money lent as aforesaid is as yet unpaid:

Therefore, to the end further provision be made for the payment of the said public debts and defraying other necessary charges of government:

[Section I.] Be it enacted by Patrick Gordon, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, by and with the advice and consent of the

¹ Passed December 12, 1723, Chapter 275.

² Passed December 12, 1723, Chapter 276.

representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be throughout this province raised, levied, collected and paid for all rum, brandy and other spirits sold, drawn or bartered by any person or persons whatsoever by any quantity under seventy gallons, and for all wine sold, drawn or bartered under the quantity of one hogshead and to be delivered at one time and to one person at any time after the twenty-fifth day of this instant month called January, one thousand seven hundred and thirty-three, and before the twenty-fifth day of the month called January, one thousand seven hundred and thirty-six, the rate or sum of four pence per gallon, and so proportionably for a greater or lesser quantity.

[Section II.] And be it further enacted by the authority aforesaid, That every retailer of all or any of the said liquors, before he or they draw, sell or barter any of the said liquors, shall enter his or her name and place of abode with the collectors of the respective counties hereinafter appointed or their deputies in books to be by them kept for that purpose, and shall also take and have from the said collectors or their deputies respectively a permit for drawing or selling such liquors, for which entry and permit they shall pay one shilling and no more.

Provided always, That no such permit or license be granted to any person or persons to retail the liquors aforesaid the rates and duties whereof (by this act imposed) do not amount to the value of three pounds per annum, and so in proportion for a lesser time, unless such retailer or retailers at the time of their obtaining such permit and license as aforesaid will undertake (and give security if thereunto required by the said collectors respectively) well and truly to pay so much to the said collectors as shall make up the rates and duties by this act imposed the sum of three pounds per annum, and so proportionably for a longer or shorter time.

And all such retailers and every one of them are hereby enjoined once in every three months or oftener if required to

make true and particular entries with the collector [sic] or their deputies aforesaid respectively upon oath or affirmation (which the said collectors or their deputies are hereby fully empowered to administer) of all wine, rum, brandy and other spirits which they or any of them shall have vended, bartered or retailed within that time, and so from time to time during the continuance of this act; and shall and are hereby required to account and pay unto the said collectors or their deputies respectively once in every three months or oftener if required all such sum and sums of money as shall become due and payable by virtue of this act,

[Section III.] And be it further enacted by the authority aforesaid, That all and every retailer of all or any of the liquors aforesaid shall on the entry of the names and places of abode with the officers aforesaid give unto the said collectors or their deputies an exact and true account of all wine, rum, brandy and other spirits which shall be in their possession at the time of entry aforesaid and of whom purchased; and shall also from time to time after the said twenty-fifth day of this instant month called January, before they take into their houses, shops, cellars, vaults or stores any cask or quantity of liquors liable to pay the duties imposed by this act, make entry of all and every of [sic] such cask or quantity of liquors with the collectors aforesaid or their deputies respectively, with the marks, numbers and contents thereof and of whom purchased, and shall receive from him a certificate or duplicate of such entry if required by the party, for which entry and certificate the said retailer shall pay six pence and no more.

[Section IV.] And be it further enacted by the authority aforesaid, That if any retailer shall presume to retail, draw, sell or barter any of the liquors aforesaid without having first entered his or her name and place of abode with the collectors or their deputies as this act directs, every such retailer shall forfeit and pay the sum of five pounds over and above the duties for all such liquors retailed by them as aforesaid.

Or if after such entry made any such retailer shall refuse or neglect to make true and particular entries every three months

as directed by this act, or shall refuse or neglect to account with or pay to the said collectors or their deputies what shall appear to be due by this act upon the entries made by them as aforesaid once in every three months or oftener if thereunto required, every such retailer shall forfeit and pay for so neglecting or refusing to enter the liquors drawn every three months respectively and to account and pay as aforesaid, for the first offense the sum of forty shillings, and for the second and every other offense five pounds, and have their permit or license taken away, and are hereby declared incapable of retailing or selling any of the liquors aforesaid during the continuance of this act.

[Section V.] And be it further enacted by the authority aforesaid, That if any person shall make short or fraudulent entries of the liquors in his or her possession as aforesaid, or shall neglect or refuse to enter and take permits for such liquors as he or she shall receive into his or her house, shop, cellar, vault, store or other place after the twenty-fifth day of this instant month called January, all such liquors not entered as aforesaid shall be forfeited; and the collectors hereafter named or their deputies are hereby respectively empowered to enter at any time when they shall see convenient the house, cellar, vault, shop or store of any retailer, and to compare the liquors in such house, cellar, vault, shop or store with the entries made, and to seize and take away all such liquors as shall be found not truly entered as aforesaid.

[Section VI.] And be it further enacted by the authority aforesaid, That the said collectors or their deputies may enter into any house, cellar, vault, store or other room to search, examine and gauge the liquors of any retailer as often as he or they shall see fit; and upon their refusing him liberty so to do, he may force and break open doors to gauge and examine the same, and in case of opposition, if necessity requires, shall take to his assistance the sheriff or one or more constables of the town or county respectively, who without any other warrant are hereby under the penalty of five pounds for every refusal or neglect required to be aiding and assisting to the said collectors and their deputies therein for the better and more

effectually collecting the duties, penalties and forfeitures imposed by this act.

Provided always, That there shall be allowed by the collectors or their deputies unto the several retailers of the liquors aforesaid fifteen per cent for leakage and wastage; and if any cask shall happen to start or burst, no duties shall be reckoned for so much of the said liquors as such retailer shall prove was lost thereby.

[Section VII.] And be it further enacted by the authority aforesaid, That John Hyatt, of Philadelphia, gentleman, shall be and is hereby appointed collector of the excise, &c., within the city and county of Philadelphia; and that John Hall, of Bucks county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Bucks; and that John Owen, of Chester county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Chester; and that James Mitchell, of Lancaster county, gentleman, shall be and is hereby appointed collector of the excise, &c., for the county of Lancaster; which said several collectors are hereby severally empowered by themselves or their deputies, to be by them duly constituted and for whom they shall be accountable, to demand, collect, receive and recover the excise appointed to be paid by this act of and from all and every person and persons (within the respective counties and places for which they are appointed) retailing or vending any of the liquors by this act liable to pay the duties aforesaid, and also to recover and receive all and every the duties, fines and forfeitures laid or imposed or [that] shall happen to arise or become due for anything done contrary to the true intent and meaning of this act.

And the said collectors are hereby required to keep true and fair accounts in writing of all their doings in the premises, which accounts they shall when thereunto required submit to the view and inspection of the provincial treasurer for the time being, and thereupon settle and adjust the said accounts and also lay the same before the assembly of this province when and so often as they shall be thereunto required.

And the said collectors and each of them shall once in three months or oftener if required pay in to the provincial treasurer

all such sums of money as they shall receive by virtue of this act, deducting out of the same ten per cent for all sums by them received for their trouble and care in collecting and paying the same, and shall be further allowed in the final adjusting their accounts with the assemblies of this province all reasonable charges which may have accrued in prosecuting persons offending against this act.

And the said treasurer out of the moneys by him to be received of the collectors aforesaid shall duly pay in to the trustees of the general loan office of this province the quotas yet remaining unpaid of the [said] thirteen hundred pounds as the same shall become due in the manner directed by the first-recited act for making [current] thirty thousand pounds in bills of credit, and for the remainder of the said moneys shall be accountable to the assembly of this province, retaining thereout five pounds per cent for his trouble in receiving and paying the same.

And the said respective collectors before they enter upon the execution of their said respective offices are hereby required to give bonds with two sufficient sureties to the said treasurer for the time being in manner following: (That is to say) John Hyatt, collector of the excise, &c., for the city and county of Philadelphia, in the sum of four hundred pounds; John Hall, collector of the excise, &c., for the county of Bucks, in the sum of one hundred pounds; John Owen, collector of the excise, &c., for the county of Chester, in the sum of two hundred pounds; and James Mitchell, collector of the excise, &c., for the county of Lancaster, in the sum of one hundred pounds, for the faithful discharge of their respective duties and for their respective accounting and paying all such sums of money as they shall from time to time receive by virtue of this act.

And the said collectors are hereby required to give public notice by printed advertisements fixed on convenient public places, certifying the time of the commencement of this act and also the duties hereby imposed, with notice to the constables of their duty and full directions how and when entries are to be made in pursuance of this act.

[Section VIII.] Provided always, and be it further enacted,

That in case the said John Hyatt, John Hall, John Owen and James Mitchell or either of them shall refuse to take upon him or them to be the collector or collectors of the said duties, or having taken the same upon him or them shall afterwards neglect or decline the same or misbehave him or themselves therein or die during the continuance of this act, that then and in any such case the provincial treasurer shall appoint another or others in the place and stead of such person or persons so refusing, neglecting, misbehaving or dying, who shall have the same power and authority and shall be liable to the same restrictions and penalties as by this act is given to the collectors herein named until others shall be appointed by the assembly.

[Section IX.] And be it further enacted by the authority aforesaid, That no person or persons within this province shall during the continuance of this act retail less than one quart of rum, wine, brandy or other spirits, to be delivered at one time and to one person, unless such person or persons shall be regularly recommended to the governor for the time being and by him licensed according to the direction of an act of assembly of this province in that case made and provided. And if any person or persons shall presume during the continuance of this act to retail within this province less than one quart of wine, rum, brandy or other spirits to be delivered at one time and to one person without being legally recommended and licensed as aforesaid, he, she or they so offending shall forfeit and pay the sum of five pounds over and above the duties for all such liquors by them retailed as aforesaid or be committed to the workhouse or prison of the respective county where the offense shall be committed, there to be kept at hard labor for the space of five months, anything herein contained to the contrary notwithstanding.

[Section X.] And be it further enacted by the authority aforesaid, That all and every such person and persons who by virtue of licenses obtained from the governor shall be allowed to retail wine, rum, brandy or other spirits in less quantity than a quart as aforesaid, every such retailer or retailers who shall apply him, her or themselves to the justices of the court of quar-

ter-sessions of the counties to which he, she or they respectively do belong for a recommendation to the governor to renew their licenses for keeping of a public house or houses and retailing as aforesaid, every such person and persons shall on every such application and before any recommendation obtained produce certificates from the collectors of the said counties respectively to which he, she or they belong of having discharged all arrearages of money due to the said collectors or either of them for the rates and duties by this act imposed, or otherwise the said justices are hereby enjoined and required not to recommend such person and persons for the purpose aforesaid; and every such person or persons are hereby declared incapable of retailing any of the liquors aforesaid in less quantities than one quart as aforesaid; and in case any such person or persons shall, notwithstanding, retail in less quantities than one quart as aforesaid, he, she or they so offending shall be liable to such and the same penalties and forfeitures as by this act is imposed on other persons.

And for the better discovery of frauds and abuses:

[Section XI.] Be it further enacted by the authority aforesaid, That it shall and may be lawful for any justice of the peace in this province upon application made by any one of the said collectors or other person to summon any person or persons to appear before such justice at such time and place as he shall appoint, to give evidence upon oath or affirmation for discovery of frauds and abuses committed against this act. And if any person or persons summoned as aforesaid shall neglect or refuse to appear and give evidence as aforesaid, he, she or they so offending shall for every such offense be fined by the justice that issued out the summons in any sum not exceeding twenty shillings and be committed to prison until paid.

[Section XII.] And be it further enacted by the authority aforesaid, That all the forfeitures and offenses made, done and committed against this act or any clause or article therein contained shall be heard, adjudged and determined by such person or persons and in such manner and form as herein is directed: (That is to say) all such forfeitures and offenses made and committed within the city of Philadelphia shall be heard, adjudged

and determined by any two or more of the aldermen of the said city; and all such forfeitures and offenses made and committed within any of the counties within this province shall be heard and determined by any two or more of the justices of the respective counties where such forfeitures shall be made or offenses committed.

And if the party finds him or herself aggrieved by the judgment given by the said aldermen or justices, he or she may appeal to the justices of the peace of the next court of general quarter-sessions of the peace to be held for the respective city or county where the judgment shall be given, which court is hereby empowered and authorized to hear and determine the same and whose judgment therein shall be final.

Provided always, That no alderman or justice who shall sit on the first hearing of any such cause shall sit to hear and determine in the same cause in case any appeal shall happen to be made therein.

And the said aldermen and justices of the said city and counties of this province are hereby authorized and strictly enjoined and required, upon any complaint or information exhibited and brought of any such forfeiture made and offense committed contrary to this act, to summon the party accused, and upon his or her appearance or contempt to proceed to examination of the matters of fact, and upon due proof thereof, either by confession of the party or by the oath or affirmation of one or more credible witnesses, to give judgment or sentence as before is directed, and to award and issue out warrants under their hands and seals for the levying of such forfeitures, penalties and fines as by this act is imposed for any such offenses committed upon the goods and chattels of such offender, and to cause sale to be made of such goods and chattels (if they are not redeemed within five days), rendering to the parties the overplus if any be, the charges of distress and sale being first deducted, and for want of sufficient distress to imprison the party offending until satisfaction made.

[Section XIII.] And be it further enacted by the authority aforesaid, That if the said magistrate, officer or any sheriff or constable shall be sued and prosecuted for anything done by

them in pursuance of this act, he or they may plead the general issue and give this act and special matter in evidence for his or their justification; and in case a verdict shall be given against the prosecutor or he shall become nonsuit or suffer a discontinuance, the defendant shall recover treble costs, to be recovered as is usual in other cases.

[Section XIV.] And be it further enacted by the authority aforesaid, That all and every the constables of the respective townships or districts in this province shall and are hereby required, under the penalty of the forfeiture of twenty shillings for every refusal or neglect, to return on oath or affirmation unto the court of quarter-sessions in their respective counties the names and places of abode of all persons in their several townships or districts retailing or vending any liquors liable to pay the duties imposed by this act, and that the collector of such respective county may and shall have recourse to the returns of the constables for the better collecting the duties, fines and forfeitures arising upon this act.

And whereas it has been the practice of divers persons that were not retailers of the said liquors formerly to draw off certain quantities of wine, rum and other spirits and distribute the same amongst their neighbors, on purpose to elude the payment of excise:

For prevention whereof for the future:

[Section XV.] It is hereby enacted and declared, That such drawing, distributing or sharing of any rum, wine, brandy or other spirits out of any cask or casks whatsoever into any quantity or quantities less than seventy gallons each shall be deemed and taken to be retailing within the meaning of this act.

Provided always nevertheless, It shall and may be lawful to and for any distiller in this province to sell to any retailer or retailers any quantity of spirits of his own distilling not less than ten gallons to one person and to be delivered at one time, first making entry thereof with the collector of the county where he resides, with the retailer's name and place of abode to whom sold and number of gallons, and also at the same time taking an oath or affirmation that the same spirits by him sold as aforesaid were *bona fide* distilled in this province and from

materials of the growth or produce of the said province, and are clear of all mixtures of rum or any other foreign spirits whatsoever (and the said retailer shall account for and pay the duty thereof to the said collector, pursuant to the directions of this act), anything herein contained to the contrary in anywise notwithstanding.

Provided also, That the collectors of the excise aforesaid nor any of them nor their or either of their deputies nor any other person or persons to be appointed in their or either of their places or stead shall during the continuance of this act vend, barter, sell, exchange or trade in any of the liquors aforesaid made excisable by this act under the penalty of fifty pounds, to be recovered by action of debt, bill, plaint or information by any person who will sue for the same to effect, one-half thereof to the use of the person so suing, the other half to be paid in to the provincial treasurer aforesaid towards the support of the government of this province; and the person or persons duly convicted of any such offense or offenses against this act is and are hereby disabled from acting any longer in their respective offices; and the treasurer aforesaid is hereby authorized and required to name another or others in lieu or stead of the person or persons so offending, who shall have the same powers and authorities and be liable to the same restrictions and penalties as the collectors named in this act until others are appointed by the general assembly of this province.

Passed January 19, 1733-34. Expired before being considered by the Crown. See the Act of Assembly passed August 25, 1733, Chapter 346.

CHAPTER CCCXXXII.

AN ACT TO PREVENT THE EXPORTATION OF BREAD AND FLOUR NOT MERCHANTABLE.

Whereas by a law of this province made for preventing the exportation of flour not merchantable, the credit of the said province in one of its most considerable branches hath in some