

CHAPTER CCLI.

AN ACT LAYING AN EXCISE OR DUTY ON ALL WINE, RUM AND OTHER SPIRITS RETAILED IN THIS PROVINCE.

To the end that due provision be made for the payment of public debts and defraying the necessary charges of government:

[Section I.] Be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent 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 wine, rum and other spirits retailed, sold, drawn or bartered by any taverner, public house keeper, or other person obliged to take license, so to do at any time after the fourteenth day of this instant May, and before the fourteenth day of May, which will be in the year of our Lord one thousand seven hundred and twenty-five, the rate or sum of eight 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 [such] taverner, public house keeper, or other person licensed as aforesaid, before he or she draw, sell or barter any wine or rum or other spirits, shall enter his or her name and place of abode with the collector hereinafter appointed, or his deputy, in a book to be by him kept for that purpose, for which entry they shall pay six pence, and no more. And all such taverners, public house keepers and other persons as aforesaid and every of them are hereby enjoined, once in every three months or oftener if required, to make true and particular entries with the collector or his deputy aforesaid upon oath or affirmation, which the said collector or his deputy are hereby empowered to administer, of all such wine, rum and other spirits, which they or any of them shall vend, barter or retail 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 collector, or his deputy, 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 taverner, public house keeper and other person as aforesaid, shall, on the entry of their names and places of abode with the officer aforesaid, give unto the said collector, or his deputy, an exact and true account of all wine, rum and other spirits which shall be in his or their possession at the time of the entry aforesaid; and shall also from time to time after the said fourteenth day of this instant May, before they take into their houses, shops, cellars, vaults or stores any cask or quantity of wine, rum or other spirits liable to pay the duty imposed by this act, make entry of all and every such cask, or quantity of wine, rum and other spirits with the collector aforesaid, or his deputy, with the marks, numbers and contents thereof; and shall receive from him a certificate or duplicate of such entry, if required by the party; for which entry and certificate the said persons shall pay six pence and no more.

[Section IV.] And be it further enacted by the authority aforesaid, That if any taverner, public house keeper, or other person obliged to take license, as aforesaid, shall presume to retail, draw, sell or barter any wine, rum, or other spirits, as aforesaid, without having first entered his or her name or place of abode with the collector, or his deputy, as this act directs, every such taverner, public house keeper or other person shall forfeit and pay the sum of five pounds over and above the duties for all wine, rum and other spirits retailed by them as aforesaid.

Or if, after such entry made, any such taverner, public house keeper or other person, 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 and pay to the said collector or his deputy, once in three months or oftener if thereunto required, what shall appear to be due by virtue of this act upon such entries made by them as aforesaid, every

such taverner, public house keeper, or other person, shall forfeit and pay for so neglecting or refusing to enter the wine, rum and other spirits drawn every three months respectively, or 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 license taken away; and are hereby declared incapable of retailing or selling any wine, rum or other spirits during the continuance of this act.

Provided always, That nothing herein contained shall be construed to hinder or debar any taverner, public house keeper or other person licensed, as aforesaid, to sell, vend, or barter wine, rum or other spirits, by the cask or wholesale, or to retail any quantity of [wine, not less than a gallon, or any quantity of] rum, or other spirits, not less than a quart duty free, so as the same be not used, expended or drank in such public house or tavern, or in any shed, shelter, yard, covert, or other place belonging to the same.

[Section V.] And be it further enacted by the authority aforesaid, That if any person shall make short or fraudulent entries of the wine, rum, [or other spirits] in his or her possession, as aforesaid, or shall neglect or refuse to enter such wine, rum [or other spirits] as he or she shall receive into his or her house, shop, cellar, vault or store, after the said fourteenth day of May, all such wine, rum and other spirits not entered, as aforesaid, shall be forfeited. And the collector hereafter named and his deputy or deputies are hereby empowered to enter at any time, when they shall see convenient, into the house, shop, cellar, vault or store of any taverner, public house keeper, or other person, as aforesaid, and to compare the liquors in such cellar, vault, shop or store with the entries made, and to seize and take away all such wine and rum as shall be found not truly entered as aforesaid.

[Section VI.] And be it further enacted by the authority aforesaid, [That the said collector] and his deputy, or deputies, may enter into any house, cellar, vault, store or other room, to search, examine and gauge the wine, [rum] and other spirits of any taverner, public house keeper, or other person licensed, as aforesaid, when and as often as he or they shall see fit; and in case of opposition, he may force and break open doors to gauge

and examine the same; and where it may be necessary shall take to his own 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 collector and deputies therein, for the [better] and more effectual collecting the duties, penalties and forfeitures imposed by this act.

Provided always, That there shall be allowed by the collector or his deputies, unto the several taverners, public house keepers or other persons licensed as aforesaid, fifteen per cent of all wine and rum by them sold, for leakage or wastage; and if any cask shall happen to start or burst, no duty shall be reckoned for the wine, rum or other spirits which the owner shall prove he has lost thereby.

And the said collector, before he enters upon the execution of his office, is hereby required to give bond, with two sufficient securities to the said treasurer for the time being in the sum of five hundred pounds, for the faithful discharge of his duty, and for his accounting and paying all such sums of money as he shall from time to time receive by virtue of this act.

And the said collector is hereby empowered to appoint deputies (for whom he shall be answerable) in the respective counties of this province, which said deputies are hereby fully empowered to act as deputy collectors in their respective counties, to all intents and purposes as fully as the said collector could do by virtue of this act.

Provided always, That the said deputy collectors shall make no entries, nor receive the duties imposed by this act from any taverner, public house keeper, or other person licensed as aforesaid, but such who are in the respective counties where such deputy collector shall reside.

And the said collector is hereby required to give public notice by printed advertisements fixed on all 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 the said entries are to be made pursuant to this act.

[Section VII.] And be it further enacted by the authority aforesaid, That Charles Read, of the city of Philadelphia, merchant, shall be and is hereby appointed the collector and receiver of the duties, fines and forfeitures aforesaid, laid and to be laid, imposed and levied by virtue of this act; which the said collector or his deputy is hereby empowered to demand, collect, receive and recover of and from all and every the taverners, public house keepers, and other persons licensed as aforesaid.

And the said collector is hereby required to keep fair and true accounts in writing of all his doings in the premises; which accounts, together with his books and entries, he shall from time to time submit to the view and inspection of the provincial treasurer for the time being, and also lay the same before the assembly of this province when and so often as he shall be thereunto required.

And the said collector shall once in three months, or oftener if required, pay unto the provincial treasurer all such sums of money as he shall receive by virtue of this act, deducting out of the same ten per cent for all sums by him received and paid as aforesaid, for his trouble and care in collecting, receiving and paying the same; and shall be further allowed in the final adjusting his accounts with the assembly of this province, all reasonable charges which may have accrued in the prosecuting of the seizures and persons offending against this act.

[Section VIII.] Provided always, and be it further enacted, That in case the said Charles Read shall decline or neglect to discharge the trust reposed in him by this act, or shall misbehave himself therein, or die during the continuance of this act, that then and in [any] such case the provincial treasurer for the time being is hereby empowered and required to appoint another in his place or stead, who shall have the same power and authority as by this act is given to the said Charles Read, until the assembly appoints another; and the said collector so appointed shall be subject to the same restrictions and penalties as this act directs.

[Section IX.] And be it further enacted, That the collector for the time being, with the approbation of the treasurer, shall have full power and is hereby empowered from time to time during the continuance of this act, to contract and agree with

any person or persons for their respective rates and duties hereby imposed for the greatest benefit and advantage of this part of the public revenue.

[Section X.] 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 and persons, and in manner and form as hereafter is mentioned and 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 two justices of the peace residing within the said city; and all such forfeitures and offenses made and committed within any of the counties of 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.

[Section XI.] And be it further enacted by the authority aforesaid, That if the said officer, or his deputy, or any sheriff or constable, shall be sued and prosecuted for anything done by them in pursuance of this act, he 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 non-suit, or suffer a discontinuance, the defendant shall recover treble costs, to be recovered as is usual in such cases.

[Section XII.] And 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 the said collector or his deputies respectively, 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 discovering 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 [said] summons in any sum not exceeding twenty shillings and be committed to prison until such sum be paid.

And if any person or persons find him or themselves ag-

grieved by the judgment given by the said justices, he, [she] or they may appeal to the next court of quarter-sessions to be held for the said city or county respectively, who are hereby empowered and authorized to hear and determine the same, and whose judgment therein shall be final.

All which said 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 offenses committed contrary to this act, to summon the party accused, and upon his or their appearance or contempt to proceed to examination of the matter of fact, and upon due proof thereof, either by the confession of the party or by the oath or affirmation of one or more credible witnesses, to give judgment or sentence, as before 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 offense committed, upon the goods and chattels of such offenders, and to cause sale to be made of the said goods and chattels, if any 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 be made.

[Section XIII.] 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 penalty of the forfeiture of twenty shillings for every refusal or neglect, to return on oath or affirmation into the court of quarter-sessions in their respective counties the names and places of abode of all taverners, public house keepers and other persons licensed as aforesaid, in their several townships or districts, retailing or vending any wine, rum or other spirits, liable to pay the duty imposed thereon by this act, and that the collector before named, or his deputy, may and shall have recourse to the returns of the constables, for the better collecting the duties, fines and forfeitures arising on this act.

[Section XIV.] And be it further enacted, That one-half part of all the fines and forfeitures arising by this act shall go to

him or them who shall inform or sue for the same, and the residue shall remain in the hands of the provincial treasurer for the time being, for the uses and purposes hereinafter mentioned.

Provided always, That nothing in this act contained shall be construed to countenance or authorize any person or persons to sell wine, rum and other spirits within or without doors, or keep public house, or houses of entertainment, who are not licensed so to do, pursuant to the laws of this province in such cases provided.

[Section XV.] And be it further enacted by the authority aforesaid, That [so much of] the law of this province, made in the fifth year of His Majesty's reign, entitled "An act for laying a duty on wine, rum, brandy and other spirits, retailed in this province,"¹ as enables the officer or officers therein appointed to collect, sue for and receive the duties and forfeitures due, or to become due during the continuance of the said act, shall continue and be in full force until all the moneys and forfeitures due, or to become due, or that shall be forfeited by force or virtue of the said act, shall be fully paid, satisfied and recovered, according to the true intent and meaning of the said act.

[Section XVI.] And be it further enacted by the authority aforesaid, That the collector hereinbefore appointed shall yearly, out of the first moneys that shall come to his hands of the duty or excise hereby imposed, retain and keep the sum of one hundred pounds as a stock for payment of the bounty of one penny per pound, agreed to be paid for such merchantable hemp as shall be raised in this province; and that the residue of all moneys arising or that hath arisen by virtue of this or any other or former law of this province, whereby an impost, duty or excise is laid upon liquors, or any other law whatsoever, and not otherwise appropriated, shall be paid into the hands of the provincial treasurer for the time being, who shall retain five per cent for his trouble in receiving and paying the same as the assembly for the time being shall direct and appoint;

¹ Passed April 25, 1719, Chapter 239.

and the same shall be by him, his heirs, executors and administrators paid accordingly, and not otherwise.

Passed May 12, 1722. Expired May 14, 1725, before being considered by the King in Council. See additional Act passed March 30, 1723-24, Chapter 268, and repealed by Act of Assembly passed December 12, 1723, Chapter 276. For the application of the fund realized by the Act, see also Chapter 261.

CHAPTER CCLII.

AN ACT TO PREVENT THE EXPORTATION OF FLOUR NOT MERCHANT- ABLE.

[Section I.] Be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all bolters and bakers within this province shall provide a brand-mark, which shall be entered on record in the next quarter-sessions after the publication of this act for the county where they reside, together with their names and places of abode; and shall cause the same to be set on every cask of flour or biscuit by them made and to be made for transportation, before the same is carried from the place of making, on the penalty of five shillings for every cask unmarked as aforesaid; for the recording of which brand-mark, as before directed, the clerk of the said court shall have and receive of the party one shilling, and no more.

[Section II.] And be it further enacted by the authority aforesaid, That all wheat flour bolted for transportation, which shall be exported or offered to sale after the first day of June next, shall be made merchantable and of due fineness and honestly and well packed in cask made of seasoned timber, and weighed with weights tried by and made according to the standard, without any mixture of coarser or other flour or any other thing whatsoever, under the penalty of one shilling for every cask, to be paid by the maker of such flour.