

CHAPTER CCCXIII.

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

Whereas an act of assembly of this province laying a duty or excise on several liquors, &c., for and towards the support of government, entitled "An act laying an excise on all wine, rum, brandy and other spirits retailed within this province,"¹ is now near expiring:

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

[Section I.] Be it enacted by the Honorable Patrick Gordon, Esquire, [Lieutenant-] 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, brandy and other spirits retailed, sold, drawn or bartered by any person or persons whomsoever by any quantity under thirty-five gallons and delivered at one time after the fourteenth day of May, one thousand seven hundred and thirty, and before the fourteenth day of May, one thousand seven hundred and thirty-three, the rate or sum of six pence per gallon, and so proportionately for a greater or less quantity, to be assessed, rated and taxed in the manner hereafter directed in this act.

And for the more effectual discovery of the true quantity of rum and other strong liquors sold by retail within this province, as well as for preventing the abuses committed by selling rum and other strong liquors under pretense of permits or a justice's license:

[Section II.] Be it further enacted by the authority aforesaid, That no person or persons whatsoever shall sell or retail

¹ Passed December 12, 1723, Chapter 276.

any rum, wine, brandy or other spirits by any quantity less than thirty-five gallons until such person or persons shall have obtained a recommendation or license from the mayor, recorder and aldermen of the city of Philadelphia for the said city, or from the justices of the respective counties where such persons dwell, and shall have agreed and given bond for the sum that shall be set or agreed to be paid in lieu of the excise; which justices of the respective counties within this province, and the mayor, recorder and aldermen of the city of Philadelphia for the said city, in their respective courts of quarter-sessions of the peace, shall and are hereby required at the time when they shall license or recommend any person to sell rum or other strong liquors by way of retail within this province, or recommend to keep a public house [shall], upon the best judgment the said justices can make of the quantity of such liquors which [such] persons so to be licensed may be likely to retail, set a sum or assessment after the rate of six pence per gallon by way of excise, and in lieu of all excise, for such person so licensed or recommended to pay at the days and times in the said license or recommendation to be contained; for the payment of which sum the said persons so licensed shall, before he or they presume to sell any of the strong liquors aforesaid, give bond (with good security if the same be required) payable to the provincial treasurer in the same manner that bonds are appointed to be given by a law of this province, being a supplementary act to the act, entitled "An act that no public house, &c., be kept without license,"¹ a true account of which bonds so taken shall be kept by the persons taking the same; and the bonds shall be delivered to the collector of excise for the respective counties to which they belong; and the person taking the said bonds shall also deliver two lists of the persons' names so licensed or recommended, with the places of their abodes and the sums which such persons shall have given bond to pay, one to the collector of excise of each respective county and the other list to the provincial treasurer. And there shall be paid to the clerk of the quarter-sessions for his trouble in doing the ser-

¹ Passed August 26, 1721, Chapter 244.

vices required by this act the sum of three shillings and no more.

And in case the justices aforesaid shall neglect to set the rate by way of excise at the times and in the manner in this act directed to be paid by the persons by them licensed or recommended, then it shall and may be lawful for the collector of excise for such county where such neglect shall happen and he is hereby required to set a rate according to the best of his judgment on the person recommended to pay in lieu of the excise of six pence per gallon; and the person so rated shall thereupon give bond in the manner before directed for payment of the said sum or excise at the days and times in his or her said license or recommendation mentioned.

[Section III.] And be it further enacted by the authority aforesaid, That Charles Read, of Philadelphia, gentleman, shall be and is hereby appointed collector of the excise, &c., within the city and county of Philadelphia; and that Nathan Watson, of Bucks county, yeoman, shall be and is hereby appointed collector of the excise, &c., for the county of Bucks; and that Caleb Copeland, 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 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 the said collectors and each of them shall once in three months, or oftener if required, pay into 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 assembly of this province all reasonable charges which may have accrued in prosecuting persons offending against this act.

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) Charles Read, collector of the excise, &c., for the city and county of Philadelphia, in the sum of four hundred pounds; Nathan Watson, collector of the excise, &c., for the county of Bucks, in the sum of one hundred pounds; Caleb Copeland, 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.

[Section IV.] And be it further enacted by the authority aforesaid, That if any person or persons whatsoever during the continuance of this act (persons recommended and licensed to keep a public house or houses, according to the directions of an act of general assembly of this government in that case made and provided only excepted) shall retail or sell any quantity less than one quart of rum, wine, brandy or other spirits, to be delivered at one time to one person, or shall sell any quantity under thirty-five gallons without being licensed and having given bond as aforesaid, such person or persons so offending shall for every offense forfeit the sum of five pounds over and above the duties or excise of liquors by them agreed for to be retailed, to be recovered in the manner as by this act is directed, the one moiety to the collector or person who will sue

for the same, and the other moiety to the poor of the city or township where the same is committed.

And for the better discovery of such frauds and abuses:

[Section V.] 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 who issued out the said summons in any sum not exceeding twenty shillings and be committed to prison until paid.

[Section VI.] 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 such manner and form as hereinafter 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 the mayor and recorder or by the mayor or recorder with any one alderman 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 offense committed.

And if the party finds him or herself aggrieved by the judgment given by the said mayor, recorder, 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 counties 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.

And the said mayor, recorder, 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 the examination of the matters 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 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 be made.

[Section VII.] 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 VIII.] 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.

[Section IX.] And be it further enacted by the authority aforesaid, That Charles Read, Esquire, shall out of the first moneys that come into his hands on account of the excise of liquors retailed within this province answer and pay annually during the continuance of this act the sum of one hundred pounds to the officer appointed to pay the bounty on hemp raised within this province; and that the residue of the moneys that shall arise by virtue of this act 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 did or shall direct.

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

For prevention whereof for the future:

[Section X.] It is hereby enacted and declared, That such drawing, distributing or sharing any of the said liquors out of any vessel or vessels containing thirty-five gallons and upwards under any pretense whatsoever shall be deemed and taken to be retaining within the meaning of this act.

[Section XI.] And be it further enacted by the authority aforesaid, That the law of this province now in force for laying an excise on all wine, rum, brandy and other spirits retailed within this province, together with all things therein contained, shall continue and be in force until the tenth day of June next after the publication of this act and no longer.

Passed February 24, 1729-30. Apparently never considered by the Crown, but allowed to become a law by lapse of time, in accordance with the proprietary charter. See Volume III, Appendix V, Section I, and the Act of Assembly passed January 19, 1733-34, Chapter 331.