(XLVIth YEAR.) THE (No. 2308.)

MARYLAND GAZETTE.

THURSDAY, APRIL 7, 1791.

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.

(Continued from our laſt.)

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, guaging, 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 caſe, 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 caſe, 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 caſe, 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 caſe, 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 authoriſe 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 fraudulently depoſited, hid or concealed, 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 caſes, 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 caſes, 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 diſtil, 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 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 ſupervifors 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 caſes, 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 favour; 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 damage, 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 nonſuited, 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 inquire 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 inquiry 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 or 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, recompence, 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 cauſed 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 endeavour 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 concur in the delivery of any of the