

HOUSE OF REPRESENTATIVES, November 15, 1864.—Read first and second times, made special order for Thursday week, and from day to day, and ordered to be printed.

[By Mr. ORR, from Committee on Quartermaster and Commissary Departments.]

A BILL

To be entitled “An Act to protect the Confederate States against frauds and to provide remedies against officers and employees of the Government committing them.”

1 *The Congress of the Confederate States of America do enact, That*
2 in all cases where officers or employees in the Quartermaster's or
3 Commissary's Department shall have received public money for
4 disbursement, or shall have been concerned in making contracts
5 for the Government, or contracts for any property thereafter to
6 be used for Government purposes, it shall be the duty of each
7 person so employed or concerned, within *three* months after the
8 passage of this act, and every six months thereafter, east of the
9 Mississippi river, and within *four* months west of the Mississippi
10 river, and every six months thereafter, to file an inventory or
11 schedule in writing, on oath, to be administered by any officer
12 authorized, by the laws of the State where the schedule is
13 prepared, to administer oaths, of all the property, real, personal

14 and mixed which he possessed in his own right at the time of his
15 entry into the public service, and the value thereof. This
16 inventory or schedule shall further contain a statement—

17 I. Of all property of every description which he may possess in
18 his own right at the time of his making and verifying the same.

19 II. Of all property of every description purchased or possessed
20 since his entry into the public service and sold or transferred by
21 him.

22 III. Of all property of every description, including bills of
23 exchange, promissory notes, stocks shares, mortgages, certificates
24 of deposit, rights and credits, the ownership of which has been
25 changed, and in which he has or may have had an interest since
26 his entry into the public service.

27 IV. Of all property of every description and pecuniary interest
28 acquired since his entry into the public service, and held in the
29 name of his wife, or any member of his family, or held in the
30 name of another for the use or benefit, or in trust for himself,
31 his wife, or any member of his family.

32 V. A description of all moneys, valuables, bills of exchange,
33 promissory notes, certificates of deposit, shares in any company
34 or bank, whether corporate or incorporate, acquired in whole or
35 in part since his entry into the public service by himself or his
36 wife, or any member of his family.

37 VI. A statement of the indebtedness of said officer or employee,

38 which has been paid or otherwise discharged since his entry into
39 the public service, giving the names and residence of the credit-
40 ors.

1 SEC. 2. The person making this schedule shall triplicate it ;
2 one to be filed with the Adjutant and Inspector General, one with
3 the clerk of the District Court of the Confederate States, within
4 the jurisdiction of which said officer or employee shall be located
5 when this schedule is prepared, and one in the office of the clerk
6 of the Circuit Court of the State where the officer or employee
7 resided at the time of his entry into the public service. And if
8 not filed with the Adjutant and Inspector General within five
9 months after the passage of this act and regularly thereafter
10 every six months, it shall be his duty to report the name of each
11 delinquent to the Confederate States Attorney for the district
12 where the officer or employee may be, or may last have been,
13 on duty; and the said Attorney shall immediately cause the
14 clerk of said court to issue a summons for said delinquent, re-
15 turnable to the next term of said court, to compel the filing of
16 said schedule, or in case of refusal or failure, he shall be deemed
17 guilty of contempt of court and fined and imprisoned at the dis-
18 cretion of the court, and in addition thereto, he shall be liable
19 to the action hereinafter provided for: *Provided*, That officers
20 and their employees who, since their entry into the public ser-
21 vice, have continuously served with troops in the field shall not

22 be required to triplicate said schedule, but file one copy thereof
23 at the time stated with the Adjutant and Inspector General,
24 transmitting the same through the regular channel of commu-
25 nication.

1 SEC. 3. Should the schedule disclose an accumulation of prop-
2 erty, real, personal or mixed, beyond the natural increase thereof,
3 the Adjutant and Inspector General and the clerk of the District
4 Court shall notify the Confederate States Attorney for the dis-
5 trict where the officer or employee making the schedule may be,
6 and the District Attorney shall cause a summon to be issued by
7 the clerk of said district, returnable at the next term, to said
8 officer or employee, and their securities on their official bond, to
9 show cause why further proceedings should not be ordered. And
10 should said accumulation be not satisfactorily accounted for to
11 the court, the court shall direct an issue to be made up, and the
12 rules regulating the trial of the right of property or in *detinue*
13 shall prevail, except, that the burden of proof shall be on the
14 officer or employee to show that the acquisition was legitimately
15 obtained. The issue shall be made on the petition of the district
16 attorney, setting forth the bond or a copy thereof, of the officer
17 or employee and his securities, if judgment is desired against
18 the securities; and the facts on which the attorney relies for a
19 recovery, and if the verdict is for the Confederate States, judg-
20 ment shall be entered accordingly against the defendants to the

21 amount of the bond, (if so much should be awarded by the jury,)
22 and should the bond not cover the amount of the verdict, judg-
23 ment for the residue shall be entered against the officer or em-
24 ployee; and the court may direct a money judgment to be entered
25 or a judgment for the specific property, or both, and the cost on
26 which execution shall issue, and the officer or employee may be,
27 by order of the court, imprisoned till the judgment is finally
28 discharged, or the court may render such special judgment as
29 will protect the Government from all loss in the premises. The
30 money when collected, to be paid to the Secretary of the Treas-
31 ury or other officer authorized by him to receive the same. The
32 District Attorney shall be entitled to receive *fifteen per cent.* of
33 the amount of collections and the Marshal *ten per cent.*

1 SEC. 4. It shall be the duty of the Confederate States attor-
2 neys of the respective districts to inspect the schedules filed, and
3 he may traverse the same if no accumulations are disclosed, and
4 like proceedings shall be had thereon as is hereinbefore directed.

1 SEC. 5. Any person believing frauds to have been committed
2 by any of said officers or employees, may institute an action, *qui*
3 *tam*, in any of the district courts of the Confederate States,
4 whether a citizen of the State where instituted or not, against
5 such officer or employee, and their securities on their bond; and
6 to facilitate a full and searching examination into the alleged
7 fraudulent transactions, the party instituting the suit under an

8 order of the court, shall have the right, previous to the trial,
9 to fully examine and inspect all the reports, abstracts and vouchers
10 which, under the existing laws and army regulations are required
11 to be made to the War Department, and on a bill of discovery
12 for that purpose filed, (the answer to which may be overcome by
13 satisfactory evidence,) the defendant shall disclose the name or
14 names and residence of any person from whom any property has,
15 at any time been purchased or received, and the prices and dates
16 at which it was so purchased or received, and the date of the
17 order directing such purchase or contract, and should it appear
18 that such purchases were made from the relatives of said officer
19 or employee, or from any person employed as clerk, agent, part-
20 ner or otherwise of said officer, a legal presumption of fraud
21 shall arise, and the burden of proof shall be upon the defendant,
22 to show that the purchases were made at the regular and current
23 rates of the country; and, on the trial of the issue, the like
24 rules and proceedings shall be had as is hereinbefore [provided]
25 for, except that one-half of the judgment shall be in favor of the
26 party prosecuting the suit, and the other half in favor of the
27 Confederate States; and in the trial of such issues, if the
28 schedule of the officer discloses an accumulation, or whenever
29 the plaintiff, by testimony, shows an accumulation of property,
30 real, personal or mixed, the burden of proof shall be upon the
31 defendant, to account satisfactorily for the same: *Provided*, That

32 the plaintiff in such *qui tam* action shall be compelled, if re-
33 quired, to deposit the costs of the case, or give security therefor,
34 and such plaintiff shall also be liable to an action in favor of the
35 defendant, for damages in case it shall appear that the action was
36 instituted against such officers or employees maliciously, and
37 without reasonable or probable cause.

1 SEC. 6. A similar schedule or inventory shall be made and
2 filed in the same manner by every official employee belonging to
3 the class of persons described in the first section of this act,
4 whose term of official employment shall commence subsequent
5 to the passage of this act, and the provisions of this act, shall,
6 in all respects, fully apply to them and to all other disbursing
7 officers of the Government with whatever branch they may be
8 connected.

1 SEC. 7. No person now in commission or appointment shall
2 be permitted to resign until they have fully complied with the
3 provisions of this this act, but a verdict and judgment,
4 against such officer shall have the effect of revoking his commis-
5 sion, and he shall be conscribed and held to military service
6 during the existing war.

1 SEC. 8. Nothing herein contained shall be so construed as to
2 bar the Government from any rights now existing between it
3 and said officers and employees. And no judgment recovered by
4 one party shall constitute a bar to a suit instituted by another

5 party unless the same items are controverted, and not then, if
6 there is any reasonable ground to apprehend collusion between
7 the former party and the officer or employee; and on this an issue
8 may, by the court, be given to the jury as in cases of attach-
9 ment.

1 SEC. 9. The inventories shall, at all times during business
2 hours, be open to the inspection of all persons desiring to
3 examine them, and it shall be the duty of the officer in charge
4 of them to furnish certified copies thereof, for which service the
5 officer making the transcript shall have the right to charge *twenty*
6 cents per hundred words, and said copies shall be received as
7 evidence, or suits may be instituted thereon as hereinbefore
8 provided, in any of the courts of the Confederate States, when
9 authenticated, as is now provided for authenticating judicial
10 records: *Provided*, That nothing in this act shall be so construed
11 as to compel the clerks of the State courts to receive and file the
12 schedule of any officer or employee, but filing the same, the
13 clerk may demand the fees for furnishing the transcript.

1 SEC. 10. Whenever the interest of the Confederate States
2 demands it, or on the motion of the party prosecuting the suit,
3 the court may transfer the case to the district court having
4 jurisdiction where the defendant resides, there to be concluded.