

CHAPTER MDCCLVIII.

AN ACT FOR THE PREVENTION OF VICE AND IMMORALITY, AND OF UNLAWFUL GAMING, AND TO RESTRAIN DISORDERLY SPORTS AND DISSIPATION.

Whereas the act of assembly entitled "An act for the prevention of vice and immorality, and of unlawful gaming, and to restrain disorderly sports and dissipation."¹ passed the twenty-fifth of September, one thousand seven hundred and eighty-six, will soon expire by its limitation, and it is proper and requisite to continue or supply the same with certain additional alterations and amendments, the better to secure the execution thereof. Therefore:

[Section I.] (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the first day of August next, if any person shall do or perform any worldly employment or business whatsoever on the Lord's day, commonly called Sunday, works of necessity and charity only excepted, or shall use or practice any unlawful game, hunting, shooting, sport or diversion whatsoever, on the same day, and be convicted thereof, every such person, so offending, shall, for every such offence, forfeit and pay four dollars, to be levied by distress, or in case he or she shall refuse or neglect to pay the said sum, or goods and chattels cannot be found, whereof to levy the same by distress, he or she shall suffer six days' imprisonment in the house of correction of the proper county.

Provided always, That nothing herein contained shall be construed to prohibit the dressing of victuals in private families, bake-houses, lodging-houses, inns and other houses of entertainment, for the use of sojourners, travellers or strangers, or to hin-

¹Chapter 1248.

der watermen from landing their passengers, or ferrymen from carrying over the water travellers or persons removing with their families on the Lord's day, commonly called Sunday, nor to the delivery of milk, or the necessaries of life, before nine of the clock in the forenoon, nor after five of the clock in the afternoon of the same day.

[Section II.] (Section II, P. L.) Be it further enacted by the authority aforesaid, That if any person of the age of sixteen years, or upwards, from and after the first day of August next, shall profanely curse or swear by the name of God, Christ Jesus, or the Holy Ghost, every person, so offending, being thereof convicted, shall forfeit and pay the sum of sixty-seven cents for every such profane curse or oath; and in case he or she shall refuse or neglect to pay the said forfeiture, or goods and chattels cannot be found whereof to levy the same by distress, he or she shall be committed to the house of correction of the proper county, not exceeding twenty-four hours, for every such offence of which such person shall be convicted; and whosoever of the age of sixteen years, or upwards, shall curse or swear by any other name or thing than as aforesaid, and shall be convicted thereof, shall forfeit and pay the sum of forty cents for every such curse or oath; and in case such offender shall neglect or refuse to satisfy such forfeiture, or no goods or chattels can be found, whereof to levy the same by distress, he or she shall be committed to the house of correction of the proper county, not exceeding twelve hours, for every such offence.

[Section III.] (Section III, P. L.) Be it further enacted by the authority aforesaid, That if any person, from and after the first day of August next, shall intoxicate him or herself, by the excessive drinking of spirituous, vinous, or other strong liquors, and shall be convicted thereof, he or she shall forfeit and pay the sum of sixty-seven cents for every such offence; or if such person shall refuse or neglect to satisfy the said forfeiture, or goods and chattels cannot be found whereof to levy the same by distress, he or she shall be committed to the house of correction of the proper county, not exceeding twenty-four hours.

[Section IV.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the justices of the supreme

court, severally, throughout this state, every president of the courts of common pleas within his district, every associate judge of the courts of common pleas, and every justice of the peace within his county, the mayor and aldermen of the city of Philadelphia, and each of them, within the limits of said city, and each burgess of a town corporate, within his borough, are hereby empowered, authorized and required to proceed against and punish all persons offending against this act, and every person who shall profane the Lord's day, or who shall profanely curse or swear, or who shall intoxicate him or herself, as mentioned in the next preceding section of this act, and for that purpose each of the said justices or magistrates, severally may and shall convict such offenders, upon his own view and hearing, or shall issue, if need be, a warrant, summons or *capias* (according to the circumstances of the case) to bring the body of the person accused as aforesaid before him, and the same justices and magistrates, respectively, shall, in a summary way, inquire into the truth of the accusation, and upon the testimony of one or more credible witnesses, or the confession of the party, shall convict the person who shall be guilty as aforesaid, and thereupon shall proceed to pronounce the forfeiture incurred by the person so convicted, as herein before directed, and if the person so convicted refuse or neglect to satisfy such forfeiture immediately, with costs, or produce goods and chattels whereon to levy the said forfeiture, together with costs, then the said justices or magistrates shall commit the offender, without bail or main-prise, to the house of correction of the county wherein the offence shall be committed, during such time as is hereinbefore directed, there to be fed upon bread and water only, and to be kept at hard labor; and if such commitment shall be in any county wherein no distinct house of correction hath been erected, then the offender shall be committed to the common gaol of the county, to be therein fed and kept at labor as aforesaid. And every such conviction may be in the following terms viz: Be it remembered that on the day of in the year of A. B. of county, laborer, (or otherwise, as his or her rank, occupation or calling may be) is convicted before

me, being one of the justices of the _____, (or one of the aldermen or burgesses of the city or borough of _____ in the county of _____;) of swearing profane oaths by the name of _____; (or otherwise, as the offence and case may be) and I do adjudge him(or her) to forfeit for the same the sum of _____ cents. Given under my hand and seal the day and year aforesaid.

Provided always, That every such prosecution be commenced within seventy-two hours after the offence shall be committed.

[Section V.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons, after the first day of August next, cause to fight any cock or cocks, for money, or any other valuable thing, or shall promote or encourage any match or matches of cock-fighting, by betting thereon, or shall play at any match of bullets in any place, for money, or other valuable thing, or on any public highway, with or without a bet, or shall play at cards, dice, billiards, bowls, shuffle-board, or any game of hazard or address, for money, or other valuable thing, every such person, so offending, shall, upon conviction thereof, before any justice or magistrate as aforesaid, forfeit and pay three dollars for every such offence; and if any person or persons shall enter, start or run any horse, mare or gelding, for any plate, prize, wager, bet, sum of money, or other valuable thing, every such person, so offending, shall, upon conviction thereof as aforesaid, forfeit and pay the sum of twenty dollars.

(Section VI, P. L.) And whereas games of address, hazard, cock-fighting, bullet-playing and horse-racing, are frequently promoted and held at or near to taverns, or other public houses, as well licensed as tippling houses, and the houses of persons who retail spirituous liquors, or other strong drink. Therefore:

[Section VI.] Be it enacted by the authority aforesaid, That if any tavern keeper, public house keeper, keeper of a tippling house, or other retailer of wine, spirituous or other strong drink shall incite, promote or encourage any games of address, hazard, cock-fighting, bullet-playing, or horse-racing, whereat any money or other valuable thing shall be betted, staked, striven for, won or lost, or shall furnish any wine, spirituous liquors, beer, cider

or other strong drink, to any of the persons who shall be assembled, or attending upon any game of address, hazard or cock-fighting, bullet-playing, or horse-racing as aforesaid, or shall permit or allow of any kind of game of address or hazard, playing, betting or gaming for money, or other thing of value whatsoever, either at cards, dice, billiards, bowls, shuffle-board or any game, device, or manner, to be practiced, played or carried on within his or her dwelling house, out house, shed, or place in his or her occupancy, every such tavern keeper, keeper of a public house, keeper of a tipping house, or retailer of wine or spirituous liquors, beer, cider or other strong drink, who shall be legally thereof convicted before any of the justices or magistrates as aforesaid, or in any court of quarter sessions of the peace, or oyer and terminer and general gaol delivery held for the city or county wherein the offence shall be committed, shall forfeit and pay, for every such offence, the sum of fourteen dollars; and if such convict be a licensed public housekeeper, or retailer of wine or spirituous liquors or beer, the license of such person shall be thereupon null and void, and such offender shall be incapable of being again licensed in like manner, for one year thereafter, and upon a second conviction of the like offence, such person shall forfeit and pay the sum of twenty-eight dollars, and be forever incapable of being a public-housekeeper, or retailer as aforesaid, within this state.

Provided always, That w[h]ere any such licensed public housekeeper, or retailer as aforesaid, who shall be convicted as aforesaid, before any one justice, or other magistrate, shall think himself or herself aggrieved by such conviction, it shall and may be lawful for such licensed public housekeeper or retailer, to appeal to the next court of quarter sessions of the peace, to be held for the city or county wherein the offence was committed (and not after), which said court shall thereupon proceed, as soon as may be, to hear and determine the said appeal, and to affirm or reverse the proceedings had before the said justice, or other magistrate, and the determination of the said court shall be final and conclusive.

(Section VII, P. L.) And whereas divers persons, who keep inns, taverns and other public houses, under pretence of an act of assembly, entitled "An act for raising and collecting of money on the specified articles therein mentioned, for the support of government, and for other purposes therein mentioned."² passed the twentieth of March, one thousand seven hundred and eighty-three, whereby an annual tax is laid on every possessor of any billiard table, have set up billiard tables in their dwelling houses, or out-houses appertaining thereto, whereby the purposes of the act aforesaid have been frustrated, and divers idle and disorderly persons do assemble at such billiard tables, and do there mispend their time, and waste their substance, by playing for sums of money and by betting on the success of those who game thereat. For remedy whereof:

[Section VII.] Be it enacted by the authority aforesaid, That, from and after the first day of August next, no billiard table, E. O. table, or other device, for the purpose of gaming for money, or other valuable thing, shall be set up, kept or maintained in any dwelling house, out house or place occupied by any tavern keeper, inn keeper, public housekeeper, retailer of wine, spirituous liquors, beer or cider, whether such person have a license, or keep a tipping house, on pain of forfeiting every such billiard table, E. O. table, or other device, and of forfeiting, moreover, the sum of twenty-six dollars, upon conviction thereof, before any justice or magistrate as aforesaid, or in any court of quarter sessions of the peace, or of oyer and terminer and general gaol delivery, held for the city or county wherein the offence shall be committed. And the judges of the several courts of quarter sessions, upon application to them for a license to keep a tavern, or other public house, shall, if they see cause, inquire by the oath or affirmation of witnesses, or otherwise, whether such applicant do keep any such billiard table, E. O. table, or other device for gaming, within his or her dwelling house, out house, or other place, within such persons occupancy, and if it does not appear plainly to the judges aforesaid, that such person so applying hath no such device for gaming in his or her possession as aforesaid, the said judges shall not recommend such person to the

²Chapter 1018.

governor for a license, and no license issued to any person, who shall so possess as aforesaid, any such billiard table, E. O. table, or other device for gaming, shall be of any force or avail, but the same shall be void to all intents and purposes.

Provided always, That the person or persons offending against the provision of this section shall be entitled to the like appeal, as is provided in and by the sixth section of this act.

[Section VIII.] (Section VIII, P. L.) Be it further enacted by the authority aforesaid, That if any person or persons shall lose any money, or other valuable thing, at or upon any match of cock-fighting, bullet-playing, or horse-racing, or at or upon any game of address, game of hazard, play or game whatsoever, the person or persons who shall lose their money, or other valuable thing, shall not be compelled to pay or make good the same, and every contract, note, bill, bond, judgment, mortgage or other security or conveyance whatsoever, given, granted, drawn or entered into, for the security or satisfaction of the same, or any part thereof, shall be utterly void and of none effect.

[Section IX.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall lose any money, or other thing of value, at or upon any game of address, or of hazard, or other play, and shall pay or deliver the same, or any part thereof, the person or persons so losing and paying, or delivering the same, shall have a right, within ten days then next or thereafter, to sue for and recover the money or goods so lost and paid, or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action of debt or case, for the value of the money or thing so lost, founded on this act, to be prosecuted in any court of record, or where the value is under a sum that may be recovered before any justice of the peace within this commonwealth, subject to an appeal as in other cases, in which action no essoin, protection or wager of law, nor more than one imparlance, shall be admitted, and in which actions it shall be sufficient for the plaintiff or plaintiffs to allege that the defendant or defendants is or are indebted to him, her or them, or hath or have received to his, her or their use, the money so lost and paid, or converted the goods won of him, her or them, to the use of the defendant or defend-

ants, whereby the action of the plaintiff or plaintiffs accrued to him, her or them, according to the form of this act, without setting forth the special matter.

[Section X.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That if any person within this commonwealth shall challenge, by word or writing, the person of another to fight at sword, rapier, pistol, or other deadly weapon, such person, so challenging, shall forfeit and pay, for every such offence, being thereof lawfully convicted, in any court of record within this commonwealth, by the testimony of one or more witnesses, or by the confession of the party offending, the sum of two hundred and eighty dollars, or shall suffer twelve months imprisonment, without bail or mainprise, and the person who shall accept any such challenge shall, in like manner, upon conviction, forfeit and pay the sum of one hundred and forty dollars, or suffer such imprisonment for and during six months, and if any person shall willingly or knowingly carry and deliver any written challenge, or shall verbally deliver any message purporting to be a challenge, or shall consent to be a second in any such intended duel, and shall be thereof legally convicted, as aforesaid, he or they, so offending, shall, for every such offense, forfeit and pay the sum of one hundred and forty dollars, or suffer six months imprisonment as aforesaid, and moreover, the person challenging and the person accepting the challenge, the person delivering the same and the person consenting to become a second to either of the parties, shall, for every such offence forfeit and be deprived of all the rights of citizenship within this commonwealth, for the space of seven years after conviction.

(Section XI, P. L.) And whereas a great abundance of taverns and public houses for the vending of spirituous liquors has been found to promote habits of idleness and debauchery. To the end that the number thereof be determined by the measure of real utility and necessity.

[Section XI.] Be it enacted by the authority aforesaid, That, the judges of the quarter sessions for the county of Philadelphia, and the several counties within this commonwealth, respectively, shall, at their first session in the year one thousand seven hundred and ninety-five, and at the first session of every year there-

after, limit and declare the number of taverns and public houses as aforesaid, which only may be licensed for the year following such session within the said city and counties, respectively; the said judges, in the distribution of their recommendations to the governor for licenses to keep such taverns and public houses, having regard to the particular neighborhoods and situations, the most suitable for the accommodation of the inhabitants and travellers, and the said judges are hereby authorized to issue their recommendations as aforesaid, as far as the number so limited and declared.

[Section XII.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, that one moiety of the forfeitures in money, accruing and becoming due for any offence against this act, shall be paid to the overseers of the poor of the city, borough or township wherein the offence shall be committed, for the use of the poor thereof, and the other moiety to the person or persons who shall prosecute and sue for the same, and the inhabitants of such city, or other place shall, notwithstanding, be admitted witnesses, to testify against any person who shall be prosecuted for any offence by virtue of this act.

Provided always, That no person shall be prosecuted or convicted for any offence against this act, unless such prosecution be commenced within thirty days after the offence has been committed.

[Section XIII.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That, from and after the said first day of August next, the act entitled "An act for the prevention of vice and immorality, and of unlawful gaming, and to restrain disorderly sports and dissipation,"⁸ and every article, clause and thing, therein contained, and the several acts of assembly which were thereby repealed, shall be repealed and become null and void, and that this act and everything herein contained, shall then and thereupon be in full force and virtue.

Passed April 22, 1794. Recorded L. B. No. 5, p. 278, &c.
Section X repealed by Act of March 31, 1806, P. L. 665.

⁸See Ante.