

CHAPTER DCCCLIX.

AN ACT FOR THE MORE EFFECUTALLY PREVENTING ENGROSSING AND FORESTALLING, FOR THE ENCOURAGEMENT OF COMMERCE AND THE FAIR TRADER, AND FOR OTHER PURPOSES THEREIN MENTIONED.

(Section I, P. L.) Whereas the evil practice of monopolizing and forestalling has a natural tendency to produce an artificial scarcity and to enhance the prices as well of foreign merchandise as country produce whereby the consumers are very much injured and the importer or merchant, who has run the risk receives not the least advantage:

(Section II, P. L.) And whereas such merchandise or country produce being often sold by one speculator to another, before it comes into the hands of the consumer, has a tendency equally injurious to the public good:

(Section III, P. L.) And whereas it is absolutely necessary in the most effectual manner by law to discourage such evil practices:

[Section I.] (Section IV, P. L.) Be it therefore enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That if any person shall buy, or cause to be bought any goods, wares or merchandise coming to any market or fair within this state, to be sold in such market or fair, or coming to any city, town, port, harbor, haven, or creek within this state to be sold, or shall make any bargain, contract or promise for the having or buying of any goods, wares or merchandise or any part thereof so coming as aforesaid, before the same shall be in the market, fair, city, town, port, harbor, haven or creek, ready there to be sold, or shall induce any person coming to this state or to any market or fair therein, to abstain or forbear to bring any goods, wares or merchandise [to this state] or any part thereof, shall be adjudged a forestaller; and on conviction thereof in any court of record in this state, shall

be fined by the said court in any sum not exceeding five thousand pounds, or imprisoned, not exceeding one year, or both, at the discretion of the court:

(Section V, P. L.) Provided, That the buying any goods, wares, and merchandise (except provisions coming to the market of the city of Philadelphia), carrying to market by any person for the use and consumption of himself or family for six months, shall not be deemed forestalling.

[Section II.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That if any person within this commonwealth shall buy to sell again within this state, or in any of the adjoining states, any butter, beef, pork, wool, flax, woolens, hemp, tallow, raw hides, tanned leather or shoes, of the produce or growth of this state, or raised or manufactured in this state, or if any person within this state shall obtain or get into his hands by buying, contracting, or promise, any goods, wares or merchandise within this state, except from the original importer or his consignee, and except as is herein after excepted, with intent to sell the same again within this state, or in any of the adjoining states, such person shall be adjudged an engrosser; and on conviction thereof as aforesaid, shall forfeit the articles aforesaid so brought or got into his possession or the value thereof, one half to the state, and the other half to the informer, and may be fined in any sum not exceeding five thousand pounds, or imprisoned for any time not exceeding one year, or both, at the discretion of the court: Provided, That the buying of any goods, wares or merchandise by any agent of this or the United States for the public use, or the purchasing materials for the carrying on manufactories, and so converted by, or for the use of the purchaser, or the buying provisions by any licensed tavern-keeper for the use of his tavern, or the buying cattle by butchers to kill, which they shall kill accordingly, or the buying cattle by any grazer and fattened on his own farm and sold again by him, shall not be deemed engrossing within this act.

[Section III.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That no person or persons shall purchase any goods imported into or manufactured within this state, to sell, barter or exchange again, unless he shall purchase

the same from the original importer, or his consignee, or manufacturer, under the penalty of forfeiting the goods so purchased one-half to the state, and the other half to the informer, and under the further penalty of any sum not exceeding one thousand pounds for each offense, and the onus probandi shall lie on such purchaser that such goods were bought as by this act is allowed; but this restraint shall not extend to licensed tavern-keepers, so as to prohibit them from purchasing liquors and other necessities for the common use of their taverns only.

[Section IV.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That every retailer shall sell goods purchased of the importer (or his consignee) or manufacturer for ready money if required, at not more than at the rate of twenty-five per centum on the purchase money paid to the importer (or his consignee) or manufacturer, and the charges of transportation or carriage to the place where exposed to sale, to be ascertained as herein after directed, except the articles of salt and brown sugar, which shall be sold at not more than thirty per centum profit on the purchase money and charges aforesaid.

[Section V.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That no person or persons within this commonwealth (except the original importer, consignee, or manufacturer, and except as is herein excepted) shall from and after the [twentieth] day of [October instant] presume to sell or expose to sell any goods, wares or merchandise before he, she or they shall obtain a permit for so doing from some one of the commissioners of trade hereinafter named of the proper county where such seller resides.

(Section X, P. L.) And to the end that the good purposes of this act may be the more effectually answered:

[Section VI.] Be it further enacted by the authority aforesaid, That before any person shall obtain such permit, he, she or they shall take the following oath or affirmation, which such commissioner is hereby required to administer before he shall grant such permit, viz.: I, A. B., do swear (or solemnly, sincerely and truly declare and affirm), that I will not directly or indirectly ask, demand, take or receive, any greater or other profits on any of the goods, wares and merchandise which I shall sell

during the continuance of an act, entitled "An act for the more effectually preventing engrossing and forestalling, for the encouragement of commerce and the fair trader and for other purposes therein mentioned, than is allowed in and by the said act; that I will not knowingly, either directly or indirectly buy, contract for, or get into my possession any such goods, wares or merchandise from any other person or persons than the original importer, consignee or manufacturer with intent to sell the same again within this state; and that I will in all things to the utmost of my power comply with the directions of the said act." And if any person or persons except as aforesaid, shall sell or expose to sale any goods, wares or merchandise before he, she or they shall obtain such permit and before he, she or they shall take the oath or affirmation aforesaid, every person so offending shall forfeit double the value of the goods so sold or offered for sale, one-half thereof to the informer and the other half to the use of the state.

(Section XI, P. L.) And whereas the venders of goods in this state may still have on their hands goods, wares and merchandise, by them purchased before the publication of this act, under pretext and color of which they may abuse the good people of this state, by demanding and receiving extravagant and enormous prices for the same, as also for goods hereafter to be purchased:

For prevention whereof:

[Section VII.] (Section XII, P. L.) Be it further enacted by the authority aforesaid, That every person and persons having goods, wares or merchandise in his, her or their hands or possession before the publication of this act, shall and is hereby required on demand to sell the same for ready money, at the same rate which other goods of the same kind and quality are sold for at the same time.

[Section VIII.] (Section XIII, P. L.) And be it enacted by the authority aforesaid, That no person or persons shall purchase any goods, wares or merchandise condemned in the court of admiralty, from the original purchaser thereof, to sell, barter or exchange again and the original purchaser shall sell the same again, reserving sufficient for the use of himself and his family

for six months if required, at not more than the rate of twenty-five per centum profit on the original purchase money, and the charges of transportation or carriage to the place where exposed to sale, except the articles of salt and brown sugar which shall be sold at not more than thirty per centum profit on the purchase money with charges as aforesaid.

[Section IX.] (Section XIV P. L.) And be it further enacted by the authority aforesaid, That if any such purchaser of condemned goods shall refuse to sell the same at the prices above limited for ready money, if required, he shall forfeit and pay the sum of one thousand pounds for every such refusal.

(Section XV, P. L.) And whereas the wicked arts of speculators, forestallers and engrossers, who infest every part of the country and are industriously purchasing up grain, flour and salt, at the most exorbitant prices, render it impracticable to obtain timely and sufficient supplies for the army and navy, unless the most rigorous measures are adopted without delay:

[Section X.] (Section XVI, P. L.) Be it therefore enacted, That it shall and may be lawful for any justice of the peace in any county of this state, and he is hereby authorized and required on information being given on oath or affirmation, of any quantity of grain, flour or salt being purchased by or in the possession of, any individual, inhabiting, residing or being within this state, who may have engrossed the same or having the care, custody or possession thereof, being engrossed, to issue his warrant empowering the informer or informers to seize the same for the use of the United States; and such justice of the peace shall forthwith call to his assistance two other justices of the peace of the same city or county, who (if the seizure shall be approved of by them or a majority of them), shall retain the flour or grain, or salt so seized, for the use of the said states; and shall, as soon as may be, transmit a certificate from under their hands of the quantity of grain, flour or salt so seized to the president and council, who shall cause the substance of such certificate to be entered on their proceedings; and the said justices, or any two of them, shall have full power and authority to call on the sheriff of the county, or his deputy, to aid and assist them in carrying this act into effect, which said sheriff, or deputy shall,

and is hereby required to aid and assist such justices accordingly.

[Section XI.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the said justices, or any two of them shall and they are hereby required, as soon as may be, after determining the grain or flour aforesaid to be liable to seizure, to cause the same to be delivered to the commissary general, quarter master general, or either of their deputies or assistants, he or they paying or tendering the current price to the owner or person entitled to receive the same; and if there shall be any diversity of opinion respecting the current price between the owner or persons entitled to receive the same and the commissary general, quarter master general, his or their deputies or assistants, the justices of the peace aforesaid or any two of them are hereby authorized and required to fix and ascertain what the current price shall be deemed to be; and the said justices, or any two of them, shall and they are hereby required immediately on determining the grain, flour or salt so seized to have been engrossed, to bind over the said engrosser or engrossers if present, by recognizance, with good security, to appear at the next court of general quarter sessions of the proper city or county where the said grain, flour or salt shall be so engrossed, there to answer for the offense aforesaid, or in default of such security to commit the said offender or offenders to gaol there to remain until delivered by a due course of law; and if such engrosser or engrossers be absent, or shall reside in any other county within this state, the said justices or any two of them, shall issue their warrant, directed to the sheriff of the county where the party or parties reside or may be found, to apprehend him or them, and when apprehended such sheriff shall carry the party or parties before some justice of the county where apprehended, who shall bind him or them over as aforesaid.

[Section XII.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That in case any justice of the peace or sheriff, being duly called upon, shall refuse or neglect to do his duty as by this law required, he or they shall forfeit

and pay the sum of five hundred pounds for each refusal or neglect.

[Section XIII.] (Section XIX, P. L.) And be it enacted by the authority aforesaid, That if any action or suit shall be commenced against any person or persons for anything done in pursuance of this act, the defendant or defendants, in any such action or suit, may plead the general issue, and give this act, and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this act; and if it shall appear so to have been done, the jury shall find for the defendant or defendants, and if the plaintiff shall become non-suit or discontinue his action after the defendant or defendants have appeared, or if judgment shall be given upon any verdict or demurrer against the plaintiff, the defendant or defendants shall and may recover treble costs.

(Section XX, P. L.) And whereas the salutary laws heretofore made to prevent and punish forestalling and engrossing, have not been duly executed or productive of all the good consequences which the good people of this state hath reason to expect from them; by reason whereof, and by the destructive practices of speculators and domestic enemies, our currency hath been depreciated to an incredible degree, when we consider that the Almighty Ruler of the universe hath in the course of his providence, blest our arms with such uncommon success, that it will be owing to our own want of public virtue if we are not soon a free, independent and happy people; and because in the tumult of war the laws of civil society often lose their force, it is thought necessary in order that this act may be the more effectually put into execution, to appoint commissioners of trade in the city of Philadelphia and in each county within this commonwealth:

Therefore:

[Section XIV.] (Section XXI, P. L.) Be it enacted by the authority aforesaid, That William Henry, Ephraim Bonham, Frederick Hagner, George Ord, Emanuel Eyres, William Jackson, Paul Cox and William Sharp, Esquires, shall be and are hereby appointed commissioners in and for the city and liberties of Philadelphia; James Hazlet, (Captain) David Schneider, Israel Jones, Andrew Crawford, Josiah

Hart, Michael Croll, and John Richards, Esquires, shall be and are hereby appointed commissioners in and for the county of Philadelphia; David Denny, Andrew Boyd, Junior, John Kinkead, John Beaton, Persifer Frazier, Adam Grubb and Peter Bell, Esquires, shall be and are hereby appointed commissioners in and for the county of Chester; John Gill, Abraham Du-Bois, Nathaniel Elliott, Joseph Thomas, and Theophilus Foulke, shall be and are hereby appointed commissioners in and for the county of Bucks; Thomas Whitesides, John Whitehill, William Henry, Robert Craig, John Harris (at Harris' Ferry) and John Thomb, Esquires, shall be and are hereby appointed commissioners in and for the county of Lancaster; Adam Whitman, Henry Haller, Valentine Eckart, Christian Lower, Junior and Daniel Utree, Esquires, shall be and are hereby appointed commissioners in and for the county of Berks; Robert Levers, John Arndt, and William McNair, Esquires, shall be and are hereby appointed commissioners in and for the county of Northampton; Henry Slagle, William McLean, Benjamin Pedan, John Hay, Philip Gardner, Peter Schultz, Andrew Shriver, Junior, and James Dill, Esquires, shall be and are hereby appointed commissioners in and for the county of York; William Brown of Carlisle, James Taylor, James Young, and William McClure, Esquires, shall be and are hereby appointed commissioners in and for the county of Cumberland; David Espy, Samuel Davidson, Jacob Hall and Benjamin Burd, Esquires, shall be and are hereby appointed commissioners in and for the county of Bedford; Frederick Antis and David McKenny, Esquires, shall be and are hereby appointed commissioners in and for the county of Northumberland; John Proctor, Hugh Mitchell, John Kyle, and Philip Jenkins, Esquires, shall be and are hereby appointed commissioners in and for the county of Westmoreland.

[Section XV.] (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners, or a majority of them, for the city and liberties of Philadelphia, shall meet together at the court house of the said city on the sixteenth day of this instant October; and the said commissioners, or a majority of them, for the counties of this state, shall meet together at the court house of their respective counties, on the day

to be to them appointed and notified by the clerks of the quarter sessions of the peace, respectively, (which said clerks are hereby authorized and required to send such notice and appointment immediately on receiving copies of this act, to the respective commissioners), which said commissioners before they proceed to act shall take the following oath or affirmation before some justice of the peace, who is hereby empowered and required to administer the same, to-wit: "I,, do swear, (or solemnly, sincerely, and truly declare and affirm), that I will diligently, faithfully and impartially execute the trust in me reposed as a commissioner of trade for the city or county of, according to the directions of an act, entitled "An act for the more effectual preventing, engrossing and forestalling, for the encouragement of commerce and the fair trader, and for other purposes therein mentioned.'" And a majority of such commissioners when met, whether on adjournment to the same or any other place shall be sufficient to proceed to business and they may appoint a clerk. And the said commissioners shall have and receive from each of the persons obtaining permits in pursuance of this act, the sum of three pounds for each permit to be by them granted: And if the justices of the court of quarter sessions shall be of opinion, from time to time, that the sums so received shall not be an adequate compensation for the respective services of the said commissioners and clerks, that then and in that case they shall order such further compensation to be made out of the city or county treasury, as they shall think proper.

[Section XVI.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That if any person shall use insulting or abusive language to any such commissioner when in the execution of his office, upon conviction thereof, in the court of quarter sessions of the proper county, shall be fined by the said court in any sum not exceeding one hundred pounds.

[Section XVII.] (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That if any commissioner appointed by this act, shall refuse to serve, not having a lawful excuse in the opinion of the court of general quarter sessions of the proper county, such commissioner for such refusal shall

forfeit any pay any sum not exceeding five hundred pounds, lawful money of Pennsylvania; and the other commissioners or a majority of them shall upon the refusal of any commissioner to act as aforesaid, or should any commissioner die, or be otherwise rendered incapable to discharge the duties of this act, proceed to choose some fit person to act in his room, who shall, previous to his acting, take the oath or affirmation aforesaid.

[Section XVIII.] (Section XXV, P. L.) And be it enacted by the authority aforesaid, That the said commissioners and every of them shall have full power and authority, and they are hereby directed and required to make diligent inquiry throughout their city or county of all breaches against this act, and shall have all the power and authority of justices of the peace, to call all persons before them against whom information shall be made on oath or affirmation as offenders against this act, and may bind them over with sufficient security to appear at the next court of general quarter sessions to be held for the proper city or county, or for default of such security may commit the offender to gaol, there to remain till delivered by a due course of law; and if the commissioners aforesaid, or any of them, shall have reason to believe that any person or persons can give information of any offense being committed against this act, they shall immediately cause such person or persons to come before them, who shall be examined on oath or affirmation, and if need be shall compel such person or persons to enter into recognizance for his, her or their appearance, to testify against such offenders.

(Section XXVI, P. L.) And whereas millers by being allowed to buy wheat, and to manufacture the same into flour, may, under color thereof, hoard the same up contrary to the true meaning and intent of this act; for prevention whereof:

[Section XIX.] (Section XXVII, P. L.) Be it enacted by the authority aforesaid, That every miller who shall purchase wheat, shall manufacture the same into flour, and expose such flour to sale as soon as may be, and if any miller shall purchase or get into his possession any quantity of wheat (besides what shall be deemed necessary for the support of himself and family for one year,) and shall not manufacture the said wheat into

flour within six weeks after the same came into his possession, except he is prevented by some unavoidable cause, or having manufactured the same into flour shall refuse to expose such flour to sale at the current price, every such person shall be adjudged an engrosser, and shall be punished as engrossers are directed to be punished by this act.

(Section XXVIII, P. L.) And whereas merchants and others may, under pretence of purchasing flour or grain for exportation, engross large quantities thereof and elude this act:

For prevention wherof:

[Section XX.] (Section XXIX, P. L.) Be it further enacted, That if any merchant, exporter or any person on his or their behalf, shall purchase any flour or grain, except what may be necessary for the support and consumption of himself and family for six months, every such person or persons shall bona fide, export the same according to the true intent and meaning of this act, within six weeks after the same shall be purchased by him or them as aforesaid, unless prevented by some unavoidable cause or accident: And if any merchant, importer, or other person, shall buy or get into his possession any quantity of flour or grain, except as aforesaid, under pretence that the same was bought for exportation, and shall not export the same as aforesaid, except prevented as aforesaid, every such person shall be adjudged an engrosser and liable to the like punishment.

[Section XXI.] (Section XXX, P. L.) And be it further enacted by the authority aforesaid, That the naval officer shall, and he is hereby required to publish in one of the English and German newspapers, monthly and every month, a list of all vessels which shall arrive in the port of Philadelphia, with a list of their cargo, and to whom they belong or to whom consigned.

[Section XXII.] (Section XXXI, P. L.) And be it further enacted by the authority aforesaid, That the importers of goods, wares, or merchandise shall expose the same to sale within the space of two weeks after the same shall arrive at the Port of Philadelphia; and if any importer or his agent shall neglect or refuse to expose to sale any goods or merchandise, except what may be necessary for the use of himself and family for six months, on being tendered the current price therefor in ready

money; every person so offending shall be adjudged an engrosser, and punished as by this act is directed.

Passed October 8, 1779. See the note to the Act of Assembly passed January 2, 1778, Chapter 779. The act in the text was repealed by the Act of Assembly passed March 22, 1780, Chapter 779.

CHAPTER DCCCLX.

AN ACT TO ENABLE THE SHERIFF OF THE CITY AND COUNTY OF PHILADELPHIA, FOR THE TIME BEING, TO CONFIN PRISONERS IN THE OLD GAOL IN THE SAID CITY.

(Section I, P. L.) Whereas in and by an act of assembly of this commonwealth passed the twenty-seventh day of August in the year of our Lord one thousand seven hundred and seventy-eight, entitled "An act to indemnify William Dewees, Esquire, the late sheriff and James Claypoole, Esquire, the present sheriff of the city and county of Philadelphia for removing the prisoners from the new gaol and imprisoning them and others in the old gaol of the city of Philadelphia,"¹ it is enacted that the sheriffs of the city and county aforesaid may keep and hold [prisoners] in the gaol of the said city and county, from the time of passing the said act for and during the term of one year:

(Section II, P. L.) And whereas it is necessary to enable the said sheriffs to confine prisoners in the said gaol for a longer time and to indemnify James Claypoole, Esquire, the present sheriff of the said city and county for imprisoning sundry persons in the said gaol after the expiration of one year, from and after the passing of the said act:

[Section I.] (Section III, P. L.) Be it therefore enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That the sheriff of the city and county aforesaid for the time being may keep, hold and imprison in the said old gaol all traitors, felons,

¹ Passed August 27, 1778, Chapter 802.