

order of some person or persons authorized by them respectively; he, she or they, being legally convicted thereof in any court of record in this state shall be imprisoned at the discretion of the court and moreover shall forfeit all his, her or their goods and chattels and one moiety of the lands to the use of this commonwealth.

[Section III.] (Section VII, P. L.) And be it enacted by the authority aforesaid, That if any person or persons shall take and prosecute any of the hereinbefore mentioned felons to conviction within this state, upon every such conviction and procuring a certificate thereof under the hands of the judges before whom the conviction shall be, or either of them, which the said judges are hereby directed and required to give, such person or persons shall receive of the treasurer of this commonwealth the sum of one hundred pounds lawful money of this state, which the said treasurer is hereby directed and required to pay out of the public money in his hands, and the same shall be allowed to him at the settlement of his accounts.

Passed November 26, 1779. See the notes to the ordinance of the First Constitutional Convention, passed August 1, 1776, Chapter 728, and the Act of Assembly passed January 29, 1777, Chapter 738.

CHAPTER DCCCLXX.

AN ACT FOR THE EFFECTUAL SUPPRESSION OF PUBLIC AUCTIONS AND VENDUES; AND TO PROHIBIT MALE PERSONS, CAPABLE OF BEARING ARMS FROM BEING PEDDLERS OR HAWKERS.

(Section I, P. L.) Whereas the practice of selling goods and merchandises by public auction or vendue in the present embarrassed state of commerce occasioned by the war now carrying on between the United States of America and Great Britain hath been made use of as a device for enhancing the prices of commodities and of depreciating the bills of credit of this state and of the United States of America:

(Section II, P. L.) And whereas the restrictions and prohibitions heretofore laid upon sales by public auction or vendue have not proved effectual:

For remedy whereof:

[Section I.] (Section III, P. L.) Be it 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 from and after the publication of this act no goods, wares or merchandises, or other property whatsoever (except as is hereinafter excepted) shall be offered or exposed to sale, or sold by public auction, vendue or outcry in any place within the territories of this commonwealth by any person or persons whatsoever.

[Section II.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall, contrary to the directions of this act, offer or expose to sale, or shall sell by public auction, vendue or outcry within this commonwealth, any goods, wares or merchandises or property (except as is hereinafter excepted) he, she or they so offending shall forfeit and pay for every such offense a sum of money equal to the value of the goods, wares or merchandises and other property so offered or exposed to sale, or so sold by public auction, vendue or outcry, to be recovered by action of debt, or by indictment, by any person who will sue or prosecute for the same, the one-half part thereof to the use of the person so suing or prosecuting, and the other half part thereof to the use of the overseers of the poor of the city or place where the offense shall be committed.

(Section V, P. L.) Provided always, That this act shall not be construed to extend to sales at public auction or vendue, which shall be made by any sheriff or other officer in the execution of his office, who is not specially restricted by this act; nor to sales by public auction or vendue holden by executors or administrators of any real or personal estate which were bona fide of their respective testators or intestates; nor to the sale of lands, houses and other real estate, nor to the sale of the household goods (which have been in wear and use), horses, cattle and live stock being the bona fide property of resident housekeepers actually removing from any township or district of this state to another, or out of the state.

(Section VI, P. L.) Provided nevertheless, That all sales by

public auction, vendue or outcry permitted by this act which shall be holden or made within the city of Philadelphia, or within two miles of the court house in High street, in the said city, other than the sales by sheriffs and other officers, executors and administrators as aforesaid, shall be holden and made in the manner hereinafter limited and directed and not otherwise.

(Section VII, P. L.) And although a monopoly of the sale of goods by public auction or vendue, in time of peace and order as the same was heretofore established in the city of Philadelphia, might be an unjustifiable limitation of private right and productive of inconvenience, yet for the more effectual attainment of the purposes of this act within the city of Philadelphia and the vicinity of the same, it is necessary that a sole auctioneer be established in the said city during the continuance of the restraint introduced by this act:

[Section III.] (Section VIII, P. L.) Be it therefore enacted by the authority aforesaid, That the sale by public auction, vendue or outcry within the said city and within two miles of the said court house from and after the publication of this act of all lands and other real estate and of all other property permitted by this act to be sold by public auction, vendue or outcry other than the sales by sheriffs and other officers, executors and administrators as aforesaid shall be performed by an officer who shall be appointed and commissioned for that purpose by the supreme executive council and who shall be styled The Auctioneer of the City of Philadelphia; and if any person or persons other than the said auctioneer, his deputy or assistants shall in the said city or within two miles of the said court-house offer or expose to sale, or shall sell by public auction, vendue or outcry any lands, houses or other property, permitted by this act to be sold by public auction, vendue or outcry as aforesaid, he, she or they so offending shall forfeit and pay for every offense a sum of money equal to the value of the lands, houses, goods or other property so offered or exposed to sale or so sold by public auction, vendue or outcry, to be recovered by action of debt, or by indictment in like manner and to like use as in the case of persons who shall sell by public vendue any goods by this act prohibited to be so sold as aforesaid.

[Section IV.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the said auctioneer to enquire diligently after all offenses against this act which shall be committed within his jurisdiction as above described, and to inform against the offenders, and to recover the penalties directed and provided by this act, but not exclusive of any other person who will sue or prosecute for the same; and the said auctioneer shall, before he enters upon the duties of his said office become bound with two sufficient sureties unto the president of the supreme executive council of this state in the sum of twenty thousand pounds, conditioned for the faithful performance of the duties required of him, and for the honest and just satisfaction and payment of his employers and every of them, and besides the usual attestations required of the officers of this state by law, shall take an oath that he will, to the best of his skill and abilities, faithfully perform and execute the duties required of him by this act.

[Section V.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That the recompense of the said auctioneer for selling at public auction, collecting the money and paying over the same, without loss or waste shall be as follows: For household goods, cattle and live stock, five per centum; for horses, two and a half per centum, and for ships, houses and lands an half per centum.

(Section XI, P. L.) And whereas the sale by public auction or vendue of goods taken as prize upon water and condemned in the court of admiralty has been found very prejudicial to the credit of the paper money of the United States, emitted by the honorable Congress, by affording frequent and easy opportunities of gratifying private avarice and advancing and heightening the nominal value of commodities:

For remedy whereof:

[Section VI.] (Section XII, P. L.) Be it enacted by the authority aforesaid, That during the continuance of this act the marshal of the court of admiralty of this state shall not sell any goods, wares or merchandises or other property by public auction or vendue, saving and excepting the ships or other vessels taken and condemned as prize, which vessels he shall

put up with and sell together with their tackle, furniture and cannon, and not separately; and saving, also, such goods really perishable in their nature or greatly damaged so as not to be kept without further injury till the trial of the capture be finished, the same to be reported to the judge of the court of admiralty of this state upon the oaths of judicious and indifferent persons appointed to view the same, under like penalties and forfeitures, to be recovered in like manner and to like use as the forfeitures hereinbefore mentioned and directed.

[Section VII.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the said marshal shall make out an exact inventory of the prizes taken upon water and condemned in the court of admiralty and shall have them appraised by three or more sworn appraisers, to be appointed by the said judge, at the true value thereof in current money; which inventory and appraisement in which the distribution hereinafter directed shall be distinguished, shall be filed with the register of the said court of admiralty; and, in case no appeal be entered in due time or in case there shall be execution of the decree of the said court, upon security being entered in double the value, the same (except ships and vessels and such perishable and damaged goods as aforesaid) shall be divided and distributed by the said marshal in equal and fair shares and proportions, to the agent of the owners of the ship of war, if any there be, of the one part, and to the agent of the captain or commander, mariners and other persons entitled, by being present at the seizure of such prize, on the other part; or, if two or more ships of war shall have right to such prize, then into two general divisions, one for each, to be subdivided between the owners and crew of both of the said ships as aforesaid, where such divisions and subdivisions shall be proper and just, but into no further or less parts or shares. And in case it shall so happen that the nature of the property to be distributed as aforesaid shall not admit of a division and distribution perfectly equal, then the right to the same in kind shall be determined by lot and the unavoidable difference therein shall be equalized and paid in money by the party receiving such goods, to the other party, and the like mode of distribution

shall take place in case of recapture unless the former owner shall forthwith pay down the salvage in current money. And the said marshal is, by virtue of this act, enabled to retain in his hands a sufficiency of the goods or property condemned to secure to him in all such cases of distribution as aforesaid the [payment of the] costs of suit and other reasonable charges by him expended for the securing and distributing the said captures.

[Section VIII.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the said marshal, for all goods so distributed, shall be entitled to a fee of one-fourth per centum and no more. And the said appraisers shall be allowed and paid a reasonable reward for each day which they shall be employed therein, to be ascertained by the said judge, the said allowance to be defrayed out of the said captures.

[Section IX.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That if any printer or other person, during the continuance of this act shall print, write or publish any advertisement of the sale of any goods or property not warranted or allowed by this act, he or she so offending shall forfeit and pay the sum of five hundred pounds, one-half part thereof to the person who shall sue for the same, and the other half part thereof to the use of the overseers of the poor of the city or place where the offense shall be committed, which sum shall be recoverable in a summary way before any justice of the peace of the proper city or county, in the manner in which demands not exceeding fifty pounds are recoverable with costs of suit.

[Section X.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, If any male person capable of bearing arms in the militia shall, during the continuance of this act by virtue of any license or otherwise, travel or go about as a peddler or hawker within this state, the person so offending shall forfeit the goods which he shall carry about with him for sale, or shall offer to sale, and any commissioned officer of the militia or constable may, and he is hereby enjoined to seize and prosecute the same to condemnation, if, under the value of fifty pounds before any justice of the peace of the county in a

summary way, if above the value of fifty pounds in the court of common pleas of the same county, to be distributed, the one-half to the said officer or constable, and the other half to the overseers of the poor, for the use of the poor of the township or place where the offense was committed, otherwise such offender shall forfeit the sum of five hundred pounds to be recovered by action of debt or by indictment and applied to the same use as the penalties and forfeitures imposed by this act on persons who shall sell goods by public vendue, contrary to this act, are directed to be recovered and applied as aforesaid.

[Section XI.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That an act of general assembly, entitled "An act for regulating peddlers, vendues, &c.,"¹ passed on the fourteenth day of February, which was in the year of our Lord one thousand seven hundred and twenty-nine, so far as the same relates to public vendues, and also so much of the said act as relates to peddlers and hawkers as is by this act altered or amended, and no more thereof is hereby repealed.

[Section XII.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That one other act of general assembly, entitled "An act to prohibit the sale of goods by public vendue, and to regulate hawkers and peddlers within this state,"² passed on the nineteenth day of June, which was in the year of our Lord one thousand seven hundred and seventy-seven, is also repealed.

[Section XIII.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue and be in force until the termination and end of the present war between the United States of America and Great Britain, and no longer.

Passed November 26, 1779. See the notes to the Acts of Assembly passed February 14, 1729-30, Chapter 308; June 19, 1777, Chapter 761; and the Acts of Assembly passed March 2, 1780, Chapter 883; March 8, 1780, Chapter 887; September 22, 1780, Chapter 915; September 23, 1780, Chapter 919; April 13, 1782, Chapter 975; December 9, 1783, Chapter 1063; March 30, 1784, Chapter 1090.

¹ Passed February 14, 1729, Chapter 308.

² Passed June 19, 1777, Chapter 761.