

as aforesaid shall be admitted as a competent witness in all cases on the trial of offenders against this act, any law, custom or usage to the contrary in anywise notwithstanding.

Passed December 19, 1780. See the note to the Act of Assembly passed June 1, 1780, Chapter 912, and the Acts of Assembly passed June 21, 1781, Chapter 945; June 25, 1781, Chapter 948; January 31, 1783, Chapter 1003; March 25, 1785, Chapter 1140; March 18, 1786, Chapter 1214. Recorded L. B. No. 1, p. 406, &c.

CHAPTER CMXXII.

AN ACT TO PERMIT THE EXPORTATION OF FLOUR OF WHEAT FROM THIS STATE BY SEA UNDER CERTAIN LIMITATIONS AND RESTRICTIONS.

(Section I, P. L.) Whereas prohibitions on the exportation of provisions must ever be injurious to this country except in years of scarcity, and as this cause of the late embargoes is in some measure removed by the greater plenty wherewith it hath pleased Providence to bless the land, and as the ability of this state to furnish its quota of supplies for carrying on a just and necessary war depends materially on the freedom of trade:

And whereas, by an act of assembly passed on the twenty-eighth day of February last, entitled "An act for laying an embargo on the exportation of provisions from this state by sea for a limited time,"¹ the exportation from this state by sea of all provisions for the food of man, was, from and after the publication thereof until the first day of September following, forbidden under the penalties and forfeitures in the said act provided and contained:

And whereas, the said act having expired by its own limitation was, by another act of assembly, passed on the twenty-second day of September last, revived and continued for and during the term of six months and from thence to the end of the next sitting of the general assembly:

¹ Passed February 28, 1780, Chapter 876.

[Section I.] (Section II, 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 it shall and may be lawful, during the continuance of the said embargo, the said-recited acts notwithstanding, to lade and export by sea, out of this state, flour of wheat, the same being first inspected and found to be good and merchantable and packed according to law, in the manner and upon the conditions and under the regulations hereinafter provided and set forth, and not otherwise. That is to say: In every ship or other vessel, truly and bona fide armed, fitted and provided with six or more carriage guns and suitable ammunition for the same, each of the said guns to be of such caliber as to be capable of discharging an iron ball weighing at least three pounds avoirdupois, and the said vessel to be manned with twenty seamen and other persons of the age of eighteen years or more each, for and during the intended voyage, who shall be actually hired and employed for the defense and service of such vessel, any quantity of such flour not exceeding four hundred hundreds weight of one hundred and twelve pounds to the hundred. In every ship or other vessel truly and bona fide fitted and provided with ten or more carriage guns and suitable ammunition for the same, each of the said carriage guns to be of such caliber as to be capable of receiving and discharging an iron ball weighing at least four pounds avoirdupois, the said vessel to be manned with thirty seamen and other persons of the age of eighteen years or more, actually hired and employed for the defense and service of such vessel, for and during the intended voyage, any quantity of such flour not exceeding one thousand hundreds weight as aforesaid. In every ship and other vessel truly and bona fide armed, fitted and provided with fourteen or more carriage guns and suitable ammunition for the same, each of the said guns to be of such caliber as to be capable of receiving and discharging an iron ball weighing at least four pounds avoirdupois, the said vessel to be manned with not less than forty seamen and other persons of the age of eighteen years or more, actually hired and employed in the defense and ser-

vice of such vessel, for and during the intended voyage, any quantity of flour that such vessel can reasonably lade and carry.

[Section II.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That no flour designed for exportation in pursuance of this act shall be laden on board of any ship or vessel before the master of such ship or vessel shall deliver to the naval officer of the port of Philadelphia a memorial in writing, therein expressing and setting forth such design, the name and kind of vessel, her size [or] tonnage, the name and names of the owner or owners, and the place of their several abodes, the number and size of the carriage guns with which such vessel is or is intended to be armed and fitted, and the number of seamen and others as aforesaid that he will hire and employ during the intended voyage, together with the quantity of flour he is desirous to lade, and requesting the said naval officer to grant his permit for the lading thereof; in which said memorial whatever respects number shall be expressed in words at length, and not in figures; whereupon, the said naval officer having first taken a bond to the commonwealth from the said master and two sufficient resident sureties, each obligee bound severally as well as jointly, for at least double the value of such flour designed to be shipped as aforesaid, conditioned for the true and faithful compliance of said master and the owners of such vessel, with the several requisites, regulations and limitations of this act, the said naval officer shall grant a permit for the lading of such quantity of flour as is in such case allowed by this act.

(Section IV, P. L.) Provided always, That no permit shall be available for lading of any flour in pursuance of this act unless the same shall be shipped in the proper vessel and within forty days after the date of such permit, nor unless such lading be in the day time and at some unenclosed wharf within the city of Philadelphia. Provided also, That no suit shall be brought on any bond taken as aforesaid unless within two years after the date.

[Section III.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That in any suit which may be brought on any bond taken as aforesaid by the naval officer, the burden of the proof shall lie upon the obligees or obligee,

defendants or defendant in such suit and not upon the state; and it shall be sufficient on the part of the commonwealth, in order to recover in such action to allege any proper matter for that purpose without proving the same.

(Section VI, P. L.) And whereas, it is the intent and meaning of the legislature that the shipping of flour in pursuance of this act shall not distress the public service or intercept proper supplies for the army; and it is reasonable that those who partake of the advantages herein given should make some recompense for the same:

[Section IV.] (Section VII, P. L.) Be it therefore enacted by the authority aforesaid, That before any ship or vessel on which any flour shall be laden in pursuance of this act, shall be cleared out the master of such ship or vessel shall produce to the said naval officer a certificate, to be filed by the said naval officer, from the proper [officer] to be appointed by the president and council for that purpose, acknowledging the receipt, or, in case the same shall not be accepted, the tender of a quantity of good merchantable flour of wheat for the use of the public equal to one-third part [of] the quantity of flour laden in such vessel, the same to be paid for at the market price, at the time of delivery. Provided, That the supreme executive council shall be and hereby is vested with power to take off the first above-mentioned restriction when it appears to them that the quota of flour desired by Congress of this state is provided or for other reasons by them deemed sufficient.

[Section V.] (Section VIII, P. L.) Provided also, and be it further enacted by the authority aforesaid, That nothing in this act shall be construed to discharge the master of any ship or other vessel lading flour in pursuance of this act from exhibiting and delivering to the said naval officer a fair and true manifest of the lading of such ship or other vessel, or from attesting to the same, or from giving bond for the due lading thereof or any other requisite of the act of assembly, entitled "An act for the regulation of navigation and trade in this state,"¹ passed on the tenth day of September, one thousand seven hundred and seventy-eight.

¹ Passed September 10, 1778, Chapter 813.

[Section VI.] And it is hereby further enacted, That if such master shall neglect to perform the said requisites, such neglect shall be a forfeiture of the bond taken from him and his sureties before he was permitted to lade flour in pursuance of this act.

[Section VII.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the fines, penalties and forfeitures provided for offenses against this act and the act first herein recited for laying an embargo and reviving and continuing the same, shall be imposed and levied on all persons and ships and their lading, this act notwithstanding, unless it shall be made appear to the satisfaction of the court and jury that the conditions, regulations and limitations of this act have been fully complied with.

[Section VIII.] Lastly, it is declared that nothing in this act is intended to restrain or limit the power given by the constitution to the president and council to lay embargoes whenever they think proper.

Passed December 22, 1780. See the note to the Act of Assembly passed February 28, 1780, Chapter 876; and the Acts of Assembly passed February 27, 1781, Chapter 928; June 7, 1781, Chapter 943. Recorded L. B. No. 1, p. 407, &c.

CHAPTER CMXXIII.

AN ACT TO REVIVE AND AMEND AN ACT ENTITLED "AN ACT TO SUSPEND THE OPERATION FOR A LIMITED TIME OF THE SEVERAL LAWS OF THIS COMMONWEALTH FOR MAKING THE BILLS OF CREDIT OF THE UNITED STATES A LEGAL TENDER IN THE PAYMENT OF DEBTS EQUAL TO GOLD AND SILVER." ¹

(Section I, P. L.) Whereas the above-recited act, entitled "An act to suspend the operation for a limited time of the several laws of this commonwealth for making the bills of credit of the United States a legal tender in the payment of debts equal to gold and silver," ¹ passed the thirty-first day of May last past,

¹ Passed May 31, 1780, Chapter 911.