

CHAPTER CMLXXXVI.

AN ACT FOR THE MORE EFFECTUAL SUPPRESSION OF ALL INTER-COURSE AND COMMERCE WITH THE ENEMIES OF THE UNITED STATES OF AMERICA.

(Section I, P. L.) Whereas, large quantities of British products, and manufactures, and goods, wares and merchandise which come from the dominions and places possessed by the king of Great Britain are from time to time introduced and consumed in this state, notwithstanding the laws heretofore made to prevent such clandestine and mischievous practices:

(Section II, P. L.) And whereas, not only decency and gratitude to our great ally, the most Christian King, but sound policy should induce every citizen of the United States to prefer and promote the sale and consumption of the growths, products and fabrics of his dominions more especially, and the commodities which may be had from the nations who are parties with us in the war against the King of Great Britain, thereby strengthening our friends and weakening the resources of our and their enemies who seek to enslave us:

Wherefore:

[Section I.] (Section III, P. L.) Be it enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That all goods, wares and merchandise of the growth, product or manufacture of Great Britain, or of any country, territory or place under the dominion or power of the King of Great Britain, and all goods, wares and merchandise whatsoever, which have or shall come from any country, territory or place possessed or held by the said king or by his forces, shall be considered as contraband, and as contraband shall be liable to be seized, condemned and confiscated in the manner hereinafter set forth and directed, other and except such goods, wares and merchandise which have been or shall be taken, bona fide, as prize upon the water and brought into this state for trial

and condemnation, or which have been or shall be, bona fide, condemned as prize in some court of admiralty only within the United States, [and] which shall be imported directly from the particular state where such condemnation shall be: Provided, the same goods, wares and merchandise be accompanied with a certificate thereof from the judge of such court, expressing the qualities and quantities of such goods, wares and merchandise, together with the nature and kind of the packages wherein they be contained, and their marks and numbers, and the time of such condemnation; and except also all common salt, saltpetre, gunpowder and lead, and likewise all goods, wares and merchandise that shall manifestly appear to have been imported before the passing of this act, which prize goods, certified as above directed, salt, saltpetre, gunpowder and lead, or goods heretofore imported, shall not be liable to be condemned by virtue of this act, and except, moreover, all goods and effects, which do bona fide belong to the United States, or any of them, or to the Most Christian King; or necessary clothing, which shall be introduced in[to] this state for prisoners of war: Provided, the nature and quantities of such clothing be certified to the president and council of this state before they be imported by the commander-in-chief of the forces of the United States or by some other officer thereunto specially appointed by the honorable the Congress of the United States: Provided always, That all goods, wares and merchandize imported directly from any port or place in the dominions of France, Spain or the United Provinces or other powers at open war with Great Britain shall not be liable to confiscation, seizure or molestation by virtue of this act.

[Section II.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That from and after the passing of this act it shall be lawful for any person or persons whatsoever to seize and take possession of all goods, wares and merchandise which he, she or they may find within this state, or which shall be found moving through any part of this state, and which, in the opinion of such person or persons, shall be contraband, and the same, together with the carriage or carriages, horses, cattle, vessels or boats which shall be employed

in conveying or transporting the said goods, wares and merchandise and every cask, box, trunk, wrapper or other package wherein the same may be contained and found; and the person or persons who shall make such seizure as aforesaid shall immediately thereupon make out, in the presence of the person or persons in whose possession they shall find the same, if they, or any of them, will be present, a fair and particular inventory in writing of the goods, wares and merchandise and other property which shall be by him, her or them seized and taken as aforesaid, and shall insert in such inventory the names of the person or persons from whom the same shall be taken, and the names and places of abode of the person or persons who shall seize and take the said goods and other property, and the time and place of such transaction; and the person or persons making such seizure, or one of them, shall deliver a fair and true copy of such inventory to the former possessor or possessors of the goods which shall be seized; and the person or persons seizing shall moreover, without delay, make information of the same and deliver the inventory aforesaid to one of the justices of the peace for the county wherein such seizure shall happen, and shall prosecute the same before the said justice, who shall inquire, hear and determine concerning the justice of such seizure as hereinafter is directed; and the same justice shall, upon receiving such information and inventory as aforesaid, immediately issue his order, with a copy of the said inventory annexed thereto, to the sheriff or coroner of the county or, in case the goods and property seized be of small value, to the constable of the township or place, to take possession of the goods and other property set forth in such inventory, and to keep the same safely till the justice of the seizure thereof shall be tried and adjudged; and such officer shall cause the goods and property, which shall be thereupon delivered to him, to be appraised by two skillful and indifferent persons, named by the said justice and sworn or affirmed to make just and reasonable appraisement by the same or some other justice of the peace for the county; and the person or persons making any seizure under this act shall safely, and without injury or diminution, and without delay, deliver over

to such sheriff or other officer all goods and other property by him, her or them so seized as aforesaid, under pain of forfeiting to the use of the state all advantage or benefit which might otherwise arise to him, her or them from such seizure; and the said sheriff, coroner or constable, shall make a return to the said justice as soon as conveniently may be of the goods to him delivered, together with the said appraisement.

[Section III.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said justice shall consider the party or parties seizing any goods or property under this act as the plaintiff or plaintiffs, and the person or persons in whose possession such goods or property were found as defendant or defendants; and the same justice shall appoint a day and place for the trial of the justice of the seizure, and shall cause fair written notices thereof in writing to be publicly set up at the most noted places within the township or district wherein he resideth, and within at least three other neighboring districts, containing the names of the plaintiff or plaintiffs and of the defendant or defendants, if they be known, and describing the general nature of the goods and other property which shall have been seized, and the cause of seizure; such day of trial to be after ten days and within fourteen days after the affixing of such notices. And if no person shall appear and undertake the defense of the goods and property seized, the said justice may pronounce sentence of condemnation against the same. And if the person or persons from whom such goods and other property hath been seized, or others claiming the goods, shall appear before the said justice and request farther time, or in case the said justice shall see cause for so doing, he shall defer the said trial until the end of twenty days; and the said justice, if thereunto requested by either party, in case the goods seized, besides any carriage, beast, boat or vessel, shall upon appraisement as aforesaid, appear to be of the value of ten pounds and upwards, shall associate with himself on such trial two other justices of the peace of the county, which three justices shall hear and by major voice determine concerning the justice of the said seizure, but if either party request it, the justice before whom the information shall first come, or in case

he be sick or absent, one of the other justices who had been with him associated as aforesaid shall, by precept directed to the sheriff or coroner of the county, require the said sheriff or coroner to summon twenty-four good and lawful men of the county to come before him on the day appointed for trial as aforesaid, twelve whereof, being elected and qualified according to legal form and manner, shall hear, try and determine the justice of the seizure, and upon the verdict of the said jury the said justices, or two of them, shall enter judgment; and no person except in the city of Philadelphia who shall dwell in the township or district wherein the seizure has been made shall be of the said jury.

(Section VI, P. L.) Provided always, That no person be admitted to defend any goods or property seized as aforesaid till such person or persons enter security with the justice before whom the information shall be made, to answer and pay all charges and costs which shall be caused by the defense or interference aforesaid.

(Section VII, P. L.) Provided also, That no carriage, beast, boat or vessel shall be liable to condemnation as aforesaid unless the goods or merchandise connected therewith exceed the value of ten pounds.

[Section IV.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That upon all trials before one or more justices, with or without a jury, by virtue of this act, the justice or justices shall, in a summary way, examine into the facts by witnesses or other legal evidence, and without considering the form or manner of the seizure, shall examine into the real merits of the cause; and it shall be sufficient for the plaintiff or plaintiffs upon trial to allege any fact or facts, sufficient to condemn the goods and property seized, without being obliged to prove the same, but the whole burden of the proof shall lie upon the defendant or defendants and not upon the plaintiff or plaintiffs, and no replevin shall issue or be served upon any goods or property seized under this act; nor shall any certiorari on the part of any defendant or claimant lie to remove any information or seizure, either before or after

trial, into the supreme court, but the proceedings before the said justice or justices shall be final.

[Section V.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That if, from and after the passing of this act, any person shall apply to a justice of the peace of any county within this state for a warrant to search for any goods, wares or merchandise made contraband by this act, and shall make oath or affirmation that he or she suspect and really believe that goods, wares or merchandise declared by this act to be contraband are deposited or concealed in the dwelling house or out-house, vessel or other place occupied by any person or persons whatsoever, the said justice shall forthwith issue his warrant to a constable of the county, requiring him to make diligent search, in the day time, in such suspected place or places (to be specified in such warrant) for contraband goods, and to break open any dwelling house, out-house, vessel or place for the purpose of searching as aforesaid, if admittance be refused; and if, upon search therein, any goods suspected to [be] contraband be there found, such constable, before he remove the same, shall make and subscribe an inventory thereof as hereinbefore directed, the same to be made in the presence of two freeholders of the township or place, delivering a fair copy thereof to the occupiers of the house, vessel or place; and the said constable shall dispose of the goods so found in any house and supposed to be contraband as in case of goods seized and taken as aforesaid.

[Section VI.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That all goods, wares and merchandise and other property, which shall be seized and condemned under this act, shall, by warrant of the said justice or justices directed to the said sheriff or other officer, be forthwith advertised to sale and sold by public auction or vendue, such advertisement to contain the time and place of sale and the quantity and quality of the goods, and being previously made at least ten days before sale, by notices in writing, set up at the most noted places of the township or place where the sale is intended to be holden, and of at least three of the neighboring townships; but if such goods, wares and mer-

chandise, besides and carriage, beast, boat or vessel employed in transporting them exceed the value of fifty pounds upon appraisement as aforesaid, then the like notice shall be also inserted in one of the weekly newspapers of the city of Philadelphia, at least ten days before such sale, and the justices before whom the trial shall be, or any two of them, on the return of such warrant for selling of such goods and the particulars of such sale, shall first adjust and settle all reasonable charges and cost upon such seizure, and deduct all such expenses as the defendant or claimant shall not be liable to answer, from the moneys arising from such sale, and then shall make an order on such sheriff, coroner or constable, requiring him to pay one equal moiety of the residue thereof to the plaintiff or plaintiffs, and the other moiety to the county treasurer, who shall transmit and pay the same to the treasurer of the state, for the use of the commonwealth, such county treasurer retaining thereout for his care and trouble, one per centum.

[Section VII.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the costs upon all proceedings before the said justices, in all cases where the value of the goods seized, besides any carriage, beast, boat or vessel shall not exceed ten pounds, on appraisement as aforesaid, shall be as in summary proceedings for small debts, and in other cases as in like cases in the inferior courts of record of this state: Provided, That the fees of the sheriff or other officer for selling any goods under this act, shall be five per centum.

[Section VIII.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That no person shall be sued or prosecuted for anything done in pursuance of this act, unless the suit or prosecution shall be commenced in six months after the cause shall be given, provided the defendant do not depart out of the state, and then the suit or prosecution to be commenced within six months after his or her return, nor shall such suit or prosecution be laid without the proper county, and if the plaintiff willfully delay or discontinue his suit, or the prosecutors willfully delay or forbear prosecution, or if a verdict be given for the defendant, or judgment be entered

for him upon demurrer or otherwise, the defendant in every such case shall recover treble costs.

(Section XIII, P. L.) And whereas it is just and necessary, that all persons who trade with the enemy or enemies of the United States should suffer other exemplary punishment besides the loss of the goods or effects seized and condemned:

[Section IX.] Be it further enacted by the authority aforesaid, That any person or person duly convicted of trading with any subject or subjects of the King of Great Britain, according to this act, or to any place within the dominion or territories of the said king, shall, for every such offense, in addition to the forfeiture aforesaid, forfeit and pay into the treasury of this commonwealth, and for the use thereof, a sum equal to one-third of the value or sum for which the goods seized and condemned were sold for, or suffer three months' imprisonment in the gaol of the county where such seizure and condemnation were made at the election of the party offending, prosecution to be made in any court of quarter sessions of the peace or court of oyer and terminer.

[Section X.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if any person shall, after the passing of this act, come out of the lines of enemy in the state of New York or elsewhere, except prisoners of war, and be found [with]in this state, without license first obtained from the president and council of this state, such person shall be arrested and imprisoned by any justice of the peace, upon his own knowledge or having information thereof until he or she find security to stand trial as hereinafter mentioned, if his or her case shall appearailable; and, moreover, such intruder shall forfeit any sum not less than thirty pounds, and not exceeding five hundred pounds, for such offense. And no person shall pass from this state into the lines of the enemy in the state of New York, or elsewhere without license for so doing first obtained from the president and council of this state, or other proper authority, under like penalty, not exceeding five hundred pounds, to be levied for either of the above offenses at the discretion of the justices of the court of quarter sessions of the county where the party offending

shall be arrested and imprisoned, the one moiety thereof to the informer, who shall prosecute to conviction, and the other moiety to the use of the state: Provided always, That nothing in the foregoing clause contained shall tend to affect any person passing through this state, who shall be furnished with a proper pass from the executive powers of any other state in the union and which shall be approved of by the president and supreme executive council of this state.

[Section XI.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That an act of assembly, entitled "A supplement to the act for regulating navigation and trade,"¹ passed on the tenth day of April last, shall be and hereby is repealed and made void: Provided, That nothing in this repeal shall reach to or affect any proceedings which have taken place during the continuance of the said act.

[Section XII.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue and be in force until the end of the present war between the United States and Great Britain.

Passed September 20, 1782. Recorded L. B. No. 2, p. 3, etc. See the Act of Assembly passed March 20, 1783, Chapter 1019.

CHAPTER CMLXXXVII.

AN ACT TO AMEND THE SEVERAL ACTS OF THIS COMMONWEALTH, DIRECTING THE MODE OF ELECTING MEMBERS OF THE GENERAL ASSEMBLY THEREOF.

(Section I, P. L.) Whereas business of great consequence has been frequently delayed, and manifest injury thereby done to this commonwealth by reason that persons elected to serve as members of assembly have not given their attendance according to the constitution and laws of this state, and the time to which the house stood adjourned, or have been called by the supreme executive council:

¹ Chapter, 967.