

Susannah Hummel, of Venango county, Sarah Lebo, of Lycoming county, Mary Bennett, of Mercer county, Jane McKinzie, of Beaver county, and Elizabeth Updegraf, of Lancaster county, widows of soldiers of the revolutionary and Indian wars, or to their respective orders, forty dollars immediate as a gratuity and an annuity of forty dollars each, during life, payable half yearly, to commence on the first day of January, one thousand eight hundred and thirty-nine.

Gratuity to
Mary Dimm

SECTION 6. That the state treasurer be, and he is hereby authorized and required to pay to Margaret Dimm, of Lycoming county, or to her order, forty dollars immediately as a gratuity in full, for services rendered by her husband in the revolutionary war.

WM. HOPKINS,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—This twentieth day of May, A. D. eighteen hundred and thirty-nine.

DAVID R. PORTER.

No. 101.

AN ACT

Relating to the trial of Bemis and others, in York county.

N. S. Bemis
and others
charged with
kidnapping
may enter in-
to recogni-
zance in York
county

SECTION 1. *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 upon the voluntary surrender of Nathan S. Bemis, Jacob Forwood, Edward Prigg, and Stephen Lewis, or either of them, to the court of quarter sessions of the peace, for the county of York, to answer unto certain bills of indictment for kidnapping, now depending against them in said court, the judges of said court shall and may, and are hereby authorized and directed to take the several recognizances of the said parties, or of either of them so surrendering, as aforesaid, in the penalty of one thousand dollars each, conditioned for his appearance to answer unto said indictments, and to abide by such final decision in the premises, as shall be had and made in the manner hereinafter provided for.

SECTION 2. After the said recognizance, or recognizances, shall have been entered into, as aforesaid, it shall and may be lawful for the attorney general of this commonwealth, and the defendant or defendants, or their counsel, to agree to a written statement of all the facts relating to the charges contained in said indictments; which facts, when so agreed upon, shall be placed upon and made part of the record, in the form of a special verdict, and in case no such statement of facts shall be so agreed upon, the jury of the said court of quarter sessions shall, under the direction of the said court, find a special verdict in each of the said indictments submitted to them, incorporating therein all such facts as shall be given in evidence for and on behalf of the commonwealth, or the said defendants, or either of them, so that all questions touching the constitutionality of an act of the legislature of this commonwealth, passed on the twenty-fifth day of March, Anno Domini, eighteen hundred and twenty-six, entitled "An act to give effect to the provisions of the constitution of the United States relative to fugitives from labor, and for the protection of free people of color, and to prevent kidnapping;" and all other laws of this commonwealth, so far as the same applies to said indictments, or either of them, may be fully and clearly raised upon said special verdict.

SECTION 3. Upon the finding or agreeing upon a special verdict, as aforesaid, the said court of quarter sessions shall enter and pronounce such judgment, as to it shall seem lawful; and if the same shall be in favor of the defendant or defendants, the attorney general of this commonwealth shall cause the same to be removed by writ of error into the supreme court of Pennsylvania, at the next sitting thereof, for the middle district, after the judgment aforesaid. And if said judgment is in favor of the commonwealth, then, and in such case the court shall not award sentence against the said defendants, or either of them, *Provided, They shall respectively make oath of their determination to sue out a writ of error, and that the same is not intended for delay.* And on such judgment, either of said defendants shall be entitled to sue out a writ of error as matter of right, and remove said records, respectively, into the supreme court for the middle district of Pennsylvania, which is hereby required to take cognizance thereof, and give such judgment thereon as to said court shall seem lawful.

SECTION 4. If upon such hearing the supreme court shall give judgment in favor of the commonwealth, on the case or cases so removed, on the defendant or defendants making oath of an intention to sue out a writ of error from the supreme court of the United States, and that the same is not intended for delay, it shall be lawful for said court to retain said record

Special verdict by agreement

or

to be found by the jury

To try the constitutionality of the act of 1826

Court to give judgment

To be removed to the supreme court

Proviso

Cause may be removed to supreme court U. S. by defendants

Proceedings
if not removed

If judgment
of supreme
court of Penn-
sylvania is in
favor of de-
fendants—
they to go
without day

Proceedings
if judgment
of supreme
court U. S.
is in favor of
defendant

If in favor of
common-
wealth

Duty of At-
torney Gen-
eral to procure
a hearing

for the space of six months, and to certify said record or records to the supreme court of the United States on any writ or writs of error, directed to it from said court, according to the acts of congress in such cases made and provided. And if no such writ or writs of error are issued to said court within the time aforesaid, said record or records shall be remitted to the court of quarter sessions of York county for final sentence, according to the laws of this commonwealth. But if the decision of the supreme court of Pennsylvania, upon the record or records aforesaid, shall be in favor of the defendant or defendants, such court shall enter judgment or judgments of acquittal on said verdict or verdicts, and that the person or persons so acquitted shall go without day

SECTION 5. If the judgment of the supreme court of Pennsylvania, in said case or cases, shall be reversed by the supreme court of the United States, all further proceedings on said indictments against the said Bemis, Ferwood, Prigg, and Davis, shall be discontinued, and a judgment of acquittal shall be entered thereon; but if said judgment or judgments shall be affirmed, then, and in such case the said court of quarter sessions of the peace, for the county of York, shall and may, on being certified of such affirmance, proceed to award sentence against the defendants, or such of them as shall have surrendered themselves, and been tried as aforesaid, according to the acts of assembly of this commonwealth, in such cases made and provided.

SECTION 6. The attorney general of this commonwealth shall, and he is hereby authorized and required to procure a hearing of the aforesaid case or cases, upon the record or records, so certified before the supreme court of Pennsylvania, and the supreme court of the United States, as soon as may be, according to the rules and practice of said courts.

WM. HOPKINS,

Speaker of the House of Representatives.

CHARLES B. PENROSE,

Speaker of the Senate.

APPROVED—This twenty-second day of May, eighteen hundred and thirty-nine.

DAVID. R. PORTER.