

[Section II] (Section III, P. L.) And be it further enacted, That if two-thirds parts of the members of such counties respectively that do elect and send members to serve in the general assembly of this state shall neglect or refuse to appear and take their seats in the house within ten days after the time fixed by the constitution of this commonwealth, the majority of such as do appear in order to take their seats are hereby authorized and empowered to issue their writs to the sheriff or coroner of the respective counties where such neglect or refusal shall be, commanding him to cause an election to be held for electing a member or members to supply every such vacancy in such county (which election shall be held as the laws of Pennsylvania direct for filling vacancies in assembly as the same may be altered or revived by this house), which writs shall be as good and available to all intents and purposes as writs for supplying vacancies in the general assembly can or ought to be if they were issued by the speaker by direction of a full house. And the members which shall be so elected shall meet the other members in assembly on the fourteenth day after every such election, to which time and no longer the members that shall issue such writs may adjourn.

Passed January 21, 1777. See the Act of Assembly passed October 11, 1777, Chapter 764.

CHAPTER DCCXXXVII.

AN ACT TO REVIVE AND PUT IN FORCE SUCH AND SO MUCH OF THE LATE LAWS OF THE PROVINCE OF PENNSYLVANIA AS IS JUDGED NECESSARY TO BE IN FORCE IN THIS COMMONWEALTH AND [TO] REVIVE AND ESTABLISH THE COURTS OF JUSTICE AND FOR OTHER PURPOSES THEREIN MENTIONED.

(Section I, P. L.) Whereas by the unconstitutional power claimed by the British King and parliament over the American colonies and the cruel and oppressive measures which the said King and parliament have pursued to establish that power it

became necessary for the colonies to declare themselves free and independent states, which was accordingly done pursuant to a resolve of the Continental Congress. Whereupon all authority being in any person under the said King consequently ceased, and the laws enacted by his representatives here became of no force or effect, although the same were for the most part suited to the circumstances of the people:

And whereas it is absolutely necessary for the well governing every state that laws properly adapted to the circumstances of the inhabitants be at all times in force:

[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 each and every one of the laws or acts of general assembly that were in force and binding on the inhabitants of the said province on the fourteenth day of May last shall be in force and binding on the inhabitants of this state from and after the tenth day of February next as fully and effectually to all intents and purposes as if the said laws and each of them had been made or enacted by this general assembly, and all and every person and persons whosoever are hereby enjoined and required to yield obedience to the said laws as the case may require until the said laws or acts of general assembly respectively, shall be repealed or altered or until they expire by their own limitation and the common law and such of the statute laws of England as have heretofore been in force in the said province, except as is hereafter excepted.

[Section II] (Section III, P. L.) Provided always and be it further enacted by the authority aforesaid, That so much of every law or act of general assembly of the province aforesaid as orders the taking or subscribing any oath, affirmation or declaration of allegiance or fidelity to the King of Great Britain or his successors or oath of office and so much of every law or act of general assembly aforesaid as acknowledges any authority in the heirs or devisees of William Penn, Esquire, deceased, the former governor of the said province, or any other person whomsoever as governor, and so much of every law or act of general assembly as ascertains the number of members of

assembly in any county, the time of election and the qualifications of electors; and so much of every law or act of assembly aforesaid as declares, orders, directs or commands any matter or thing repugnant to, against or inconsistent with the constitution of this commonwealth, is hereby declared not to be revived, but shall be null and void and of no force or effect, and so much of the statute laws of England aforesaid relating to felonies as takes notice of or relates to treason or misprison of treason or directs the style of the process in any case whatsoever shall be and is hereby declared of no force or effect, anything herein contained to the contrary notwithstanding.

[Section III] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That courts of general quarter sessions and gaol delivery and courts of petty sessions, courts of common pleas, orphans' courts and supreme courts, courts of oyer and terminer and general gaol delivery, shall be held and kept in each respective county in this state at the times and places directed and appointed by the said laws or acts of general assembly, and circuit and nisi prius courts as directed in and by an act of general assembly of the said province passed the twentieth day of May, one thousand seven hundred and sixty-seven, entitled "An act to amend the act for establishing courts of judicature within this province"¹ by the justices and judges that shall be hereafter elected and appointed, the same to commence in each county on the same days of the same months respectively appointed by the said laws for holding such courts that shall be next after the judges or justices of such courts are qualified to hold the same, and shall have, use and exercise all the powers, authority and jurisdiction that by the aforesaid laws, justices and judges of such courts respectively heretofore have had, used and exercised, and the powers of chancery given to the justices by the constitution of this state, agreeable nevertheless with this act and such other act or acts of general assembly as shall be hereafter made, and every officer of all and every of the courts in this state that is or shall be appointed shall have, use and exercise the same or like powers that such officer or officers of the same title, character and distinction might, could

¹ Passed May 20, 1767, Chapter 560.

or ought to have had, used and exercised under the charter and laws of Pennsylvania [until displaced]. And all constables, overseers of the poor, supervisors of the highways and the wardens and street commissioners of the city of Philadelphia that were last appointed or elected in the said province are hereby authorized and strictly enjoined and required to exercise their several and respective powers and execute, do and perform all the business and duties of their several and respective offices until others are appointed in their stead and places.

[Section IV] (Section V, P. L.) And be it further enacted by the authority aforesaid, That all persons [who] have been appointed to any public office or offices by the said King of Great Britain or the late governors of Pennsylvania or by acts of general assembly aforesaid are hereby declared to be no longer officers in the several and respective offices to which they were so appointed, the trustees of the loan office only excepted.

[Section V] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the president and council shall appoint one of the justices in each respective county to preside in the respective courts, and in his absence the justices who shall attend the court shall choose one of themselves president for the time being.

[Section VI] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That every action that was in any court in the province of Pennsylvania at the last term that the said court was held, except discontinued or satisfied, shall be and is hereby declared to be in the same state and on the same rule and may be prosecuted in the same manner in the courts in each respective county to be hereafter held and kept as if the authority of such court had never ceased, and if any recognizance has been taken and not returned it is hereby declared good and valid in law and shall be returned and prosecuted as the laws direct saving the style, and where any person had obtained a judgment before any justice of the peace for any debt or sum of money and such judgment not discharged, the person in whose favor the judgment is, may on producing a transcript of such judgment to any justice of the peace in the county where the defendant dwells or can be found demand and obtain an

execution for the money mentioned in such judgment, which shall be of the same force and effect as if the judgment was obtained before the justice that granted the execution.

[Section VII] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That in all cases whatsoever where any person, being an officer of the province of Pennsylvania and by direction of the laws of the said province gave bond to the governor for the use of the province and the condition of such bond not fully complied with, all such bonds are hereby declared to be in force for the purposes they were designed and good and available in law, and may be sued and prosecuted in the name of the commonwealth in any court of record within this state as fully and effectually as such bonds might or could have been heretofore sued and prosecuted under the late government of Pennsylvania, and the money thereby recovered shall be applied as such acts direct, except where any such forfeiture or part thereof was granted to the governor, and in that case such forfeiture so granted shall be paid into the state treasury for the public use, and all fines and forfeitures granted to the governor of Pennsylvania by the laws by this act put in force shall and [are] hereby declared to be for the use of the state and shall be paid into the state treasury.

[Section VIII] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the style of the process in all courts and all prosecutions for offenses against the state shall be as the constitution directs.

Passed January 28, 1777. See the note to the Act of Assembly passed May 22, 1752, Chapter 255; and the Acts of Assembly passed February 5, 1777, Chapter 739; August 31, 1778, Chapter 804; September 10, 1778, Chapter 815.