

CHAPTER DCCXXXVIII.

AN ACT FOR MAKING THE CONTINENTAL BILLS OF CREDIT AND THE BILLS OF CREDIT EMITTED BY RESOLVES OF THE LATE ASSEMBLIES LEGAL TENDER AND FOR OTHER PURPOSES THEREIN MENTIONED.

(Section I, P. L.) Whereas it is highly necessary that the bills of credit emitted and made current by the Continental Congress and the bills of credit emitted and made current by the late assemblies of Pennsylvania ought to be made legal tender in all payments and to be alike taken by every person in this state in the discharge of debts and for the purchasing the necessaries of life and materials of defense, and it is evidently necessary that the counterfeiting of the said bills of credit made current by public authority should be prevented:

[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 from and after the sixth day of February next the bills of credit emitted and made current by the Continental Congress shall pass current in this state and be received in payments and discharge of all manner of debts, rents, sum and sums of money whatsoever due or hereafter to become due, payable or accruing upon or by reason of any mortgage, bond, specialty, bills, note, book account, promise, assumption or [any] other contract whatsoever according to the sum which the said bills respectively entitles the bearer thereof to receive, each dollar therein expressed to be taken and esteemed at the rate or value of seven shillings and six pence and of equal value in the payment of such debts with a Spanish milled silver dollar weighing seventeen penny weight and six grains, any clause, proviso or device in any bond, note or other instrument of writing to the contrary thereof in any wise notwithstanding.

[Section II] (Section III, P. L.) And be it further enacted by the authority aforesaid, That the bills of credit made current

by the resolves of the late assemblies of Pennsylvania and the bills of credit emitted on loan by an act of assembly of the twenty-sixth of February, one thousand seven hundred and seventy-three,¹ shall in like manner be and is hereby declared to be a legal tender, and shall be taken and received in payment and discharge of all manner of debts whatsoever as aforesaid according to the sum specified in said bills, and if any person or persons from and after the said sixth day of February next shall refuse to receive any of the said bills of credit when properly tendered in payment of any debt or demand whatsoever, provided the whole of such debt or demand be tendered, he, she or they so refusing shall be forever barred from suing for or recovering the same in any court of this state, and if any suit or suits shall be commenced for such debt or demand after tender and refusal as aforesaid, the defendant may plead payment and give this act and the special matter in evidence.

[Section III] (Section IV, P. L.) Provided nevertheless, and be it further enacted by the authority aforesaid, That after any such tender as aforesaid being made, if the creditor to whom such money is tendered shall within four days next thereafter make demand of the said debt before two creditable witnesses it shall and may be lawful for such creditor to sue for and recover such debt, but shall recover no interest on said debt after such tender or costs on his action.

[Section IV] (Section V, P. L.) And be it further enacted by the authority aforesaid, That where any such tender shall as aforesaid be made in order to pay any debt or demand of money due and payable of any kind whatsoever and refused and not demanded within four days after such tender as aforesaid, then and in such case the said debt or money due or payable mentioned in any mortgage, bond, specialty, bill or note, book account or any other debt whatsoever is hereby declared to be forfeited, the one-third part thereof to the debtor and the other two-third parts to this state; and every such debtor who shall make such tender is hereby directed and required to pay the two-third parts of every debt so forfeited into the hands of the treasurer of the county appointed to receive the state tax, whose

¹ Passed February 26, 1773, Chapter 672.

receipt shall be a sufficient discharge to such debtor for the moneys by this act forfeited, retaining the one-third part in his, her or their own hands.

(Section VI, P. L.) And whereas divers persons in this state (taking advantage of the necessitous) when they put money on loan or in other contracts have bargained with and bound the borrower or purchaser to pay the debt in sterling money of Great Britain according as the exchange might be between the cities of Philadelphia and London. And as the intercourse between the said cities is now so far obstructed that no such exchange can be ascertained, and except some rule is settled by law the debtor cannot pay his debt though he be so disposed and has in his possession bills of credit for that purpose:

For remedy whereof:

(Section V) Be it further enacted, That where any person stands bound to pay in sterling money aforesaid according to the exchange as aforesaid such creditor shall receive continental bills of credit or bills of credit of this state in payment and discharge of any such debt at the rate of one hundred and fifty-five pounds Pennsylvania currency for one hundred pounds sterling if tendered as aforesaid, and on refusal thereof shall be deemed and taken to be within the meaning of this act in cases of refusal of the bills of credit in tender as aforesaid.

(Section VII, P. L.) And whereas bonds or other writings may have been given for money to be paid in half johanneses, weighing nine pennyweight [or] as much in bills of credit as will purchase the same:

[Section VI.] It is hereby declared and enacted, That eight continental dollars in bills of credit aforesaid or three pounds in bills of credit of this state aforementioned or of any of the bills of credit of Pennsylvania shall be deemed and taken to be worth one gold Portugal half johannes weighing as aforesaid, and in the same proportion for all other gold coin. And all persons whomsoever refusing to take and receive such bills of credit in payment and discharge of such debt and redemption of such bond or other writing as aforesaid shall be deemed and taken to be within the meaning of this act, and shall forfeit such debt

and be in all things dealt with as in this act is directed in cases of refusal on tender.

[Section VII] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That every such debtor who shall make tender of any debt or demand as aforesaid which shall be refused and not again demanded as aforesaid is hereby directed and required under the penalty of two shillings out of the pound of such debt within the space of six days to inform one or more of the commissioners of the county for the time being elected or appointed to levy the public taxes of the sum so tendered and to whom, and the time when and the names of the witnesses present at such tender. And the commissioners of every county shall keep fair books of entries of all such sums of money forfeited by this act and lay the same before the committees of assembly appointed to settle the public accounts for the time being, and in case any debtor neglect[s] to give such information then any other person who gives the first information shall be entitled to the aforesaid two shillings in the pound and three pence per mile traveling charges for his trouble.

[Section VIII.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the commissioners for the time being of every county of this state are hereby authorized and required to ask, demand, sue for and recover two-third parts of every debt or sum of money so as aforesaid tendered and refused and not afterwards demanded as aforesaid, which action or actions, suit or suits, shall be brought or commenced and prosecuted by the said commissioners by name and style of the commissioners of such county, and the process shall be the same and as effectual in law as if such mortgage, bond, specialty or note was given to such commissioners bona fide for a valuable consideration or as if such other debt was contracted with said commissioner or commissioners; and after receiving the same some one of them shall enter satisfaction in the records of such mortgage as is required by an act of general assembly of Pennsylvania in cases of discharging mortgages.

(Section X, P. L.) And if any person or persons having so as aforesaid tendered any money in payment of any debt, and the same being refused and sued for and recovered by the commis-

sioners or paid without any suit commenced, it shall and may be lawful for every such debtor to ask for and demand his, her or their mortgage, bond, specialty, bill or note, or a discharge of his, her or their debt if it shall be of any other kind or denomination, every such demand being made before two creditable witnesses; and such creditor refusing or neglecting to deliver up to such debtor such writing or give such discharge as aforesaid, it shall and may be lawful for every such debtor to sue for and recover of and from such creditor, his or her heirs, executors or administrators, a sum of money equal to the sum for which such mortgage, bond, specialty, bill or note was given, together with interest and costs of suit.

[Section IX] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That in every case where any title, deed or deeds have been or shall be lodged or deposited in the hands of any person or persons to whom any mortgage has been or may be made and the money mentioned therein forfeited as by this act declared, and such mortgagor, his or her heirs, executors or administrators, or the owner of the lands and tenements mentioned in such deeds, shall demand the same and be refused, it shall and may be lawful for such mortgagor, his or her heirs, executors or administrators, or such owner of the lands to sue for and recover of such mortgagee, his or her heirs, executors, administrators or assigns, a sum of money not exceeding double the value of the lands and tenements mentioned in such deeds; and if any such person or persons as aforesaid being sued shall at any time before the determination of such suit deliver up to the plaintiff or lodge such deed or deeds whole and undefaced in the prothonotary's office of the court wherein such action shall be and pay the cost of suit and a sum as the court shall order not exceeding twenty pounds to the prosecutor for his trouble, in that case such action shall cease.

(Section XII, P. L.) And in all cases where tender shall be made as aforesaid and the person to whom such tender may be made shall afterwards assign; transfer or set over any mortgage, bond, specialty, bill or note, every such person shall be and is hereby declared to be guilty of fraud, and forfeit and pay to the person to whom such assignment as aforesaid may be made or to

his or her heirs, executors or administrators a sum equal to double the sum mentioned in such mortgage, bond, specialty, bill or note so assigned or transferred, to be recovered by an action of debt in any court of record in this state.

[Section X] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That if any person whatsoever shall after the said sixth day of February next aforesaid refuse to take and receive any of the bills of credit aforesaid in payment for any live stock, necessary of life, commodity, manufacture, article or goods whatsoever which he or she shall sell or expose to sale or offer the same for a less price or smaller sum of money to be paid in gold or silver or in any one sort of the bills of credit or other current money passing in payment of debts in this state than in the bills of credit emitted by the Continental Congress or in bills of credit emitted by resolves of assembly aforesaid, every such person shall forfeit to the use of the state a sum of money equal to as much as the sum he or she had refused to take for the commodity so sold, or that he or she had asked for or rated such stock, necessary of life, commodity, manufacture, articles or goods at, and on proof thereof being made by two creditable witnesses before any one of the justices of the peace of the county such justice shall (if such sum of money as aforesaid forfeited shall not exceed five pounds) issue his precept in the name of the state in the nature of a summons or capias, as the case may be, and prosecute and recover the sum so proved to be forfeited in the manner prescribed and directed by the laws for recovery of debts not exceeding five pounds, together with costs of suit; and if any such forfeiture as aforesaid shall exceed five pounds, the justice before whom any such proof shall be made shall within six weeks send an account in writing to the commissioners of the county or one of them, containing the names of the witnesses proving the same and the person who and the sum that he or she has so forfeited, and the said commissioners are hereby enjoined and required as soon as may be to sue for and recover such sum or sums of money in the same manner, and when so recovered pay the same to the same persons as is in this act directed in cases of refusal on tender; and when any justice shall recover any money so as aforesaid for-

feited he shall pay the same to the treasurer aforesaid, who shall give his receipt for the same; and every justice of the peace in this state shall once in each year send an account to the said commissioners of the sum or sums of money he shall have recovered so as aforesaid forfeited, which the commissioners shall make fair entries of and report the same to the committee of assembly aforesaid for the time being; and the fees or allowance to the said commissioners for the services and duties by this act required shall be the same as they have a right by law to take and receive in other cases. And if any of the said commissioners shall refuse or neglect to do and perform his or their duty by this act directed and required, such commissioners respectively shall be fined in a sum of money not exceeding ten pounds by the next court of quarter sessions and another or others appointed in his or their stead by the said court, every such fine to be for the use of the state, and be recovered as fines are directed to be recovered by the act for raising county rates and levies.

[Section XI] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons from and after the publication of this act shall counterfeit or alter any of the aforesaid bills of credit with design to increase the value of such bill by this act made a legal tender or any of the bills of credit made current by any of the assemblies, conventions or congresses of any of the United States of North America or utter any of the said bills of credit so counterfeited or altered knowing them to be such, and being duly convicted thereof shall suffer all the pains and penalties, fines and forfeitures, which by the late laws of Pennsylvania could or might have been inflicted on any person or persons so offending.

Passed January 29, 1777. See the note to the Ordinance of the First Constitutional Convention passed August 1, 1776, Chapter 728. The act in the text was repealed by the Act of Assembly passed June 21, 1781, Chapter 945.