

any future collector, it shall and may be lawful for the general assembly for the time being, to appoint another collector by resolve: And in case any vacancy shall happen in the recess of the house, the president or vice-president in council shall then have the said appointment.

Passed September 7, 1778. See the note to the Act of Assembly passed March 14, 1761, Chapter 467; and the Act of Assembly passed March 1, 1780, Chapter 881.

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## CHAPTER DCCCXI.

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### AN ACT FOR ESTABLISHING A COURT OF ADMIRALTY.

(Section I, P. L.) Whereas it is necessary that due provision should be made for the trial and determination of crimes, controversies and suits properly within the cognizance of the maritime law, and not inquirable at common law:

[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 a person of known integrity and ability shall be appointed and commissioned by the supreme executive council of this commonwealth for and during the term of three years by the name and style of "Judge of Admiralty of the state of Pennsylvania," who shall hold a court of admiralty which shall have cognizance of all and all manner of controversies, suits and pleas, within the jurisdiction of the admiral and not determinable at common law: (crimes excepted) and thereupon adjudge, decree, pass sentence, and award execution thereof, as the maritime law and the laws of this commonwealth shall require.

[Section II.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That all captains, commanders, prize-masters or other person[s] having taken and brought into any port in this commonwealth any ship or other vessel belonging to

the enemies of these United States, or that have been employed by them contrary to the resolves of the honorable continental Congress or the laws of this commonwealth shall within three days after his or their arrival with such ship or other vessel taken as aforesaid exhibit to the Judge of Admiralty a libel in writing, therein giving a full and ample account of the time and manner of the capture of the said ship or other vessel and the employment she was in when so taken, and of the persons who were aiding and assisting to the best of his or their knowledge at the time of her capture; and shall without delay deliver to the register of the court of admiralty aforesaid (upon his or their oath or affirmation) all books, papers and writings found on board any such ship or vessel taken and brought in as aforesaid, to the intent that the jury may have the benefit of evidence therefrom arising.

[Section III.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That immediately after such libel as aforesaid shall be exhibited to the judge of admiralty aforesaid, he shall cause the register of the said court to give notice in some of the public newspapers of the city of Philadelphia of the day set for the trial, at least twenty-one days before the said day of trial, and shall insert therein the name (if known) and description of the ship or other vessel so captured and brought in, to the intent the owner or owners or any person concerned may appear and show cause (if any they have) why such ship or vessel with her cargo and appurtenances should not be condemned as lawful prize for the use of the captors; and the process and proceedings upon any ship or other vessel, her cargo and appurtenances that shall be re-taken from the enemy by any person or persons as aforesaid shall be in the same manner as is herein provided for other ships or vessels, and shall be sold and disposed of for the benefit and to the uses directed by the resolves of the continental Congress in cases of re-captures.

(Section V, P. L.) Provided nevertheless, That if it shall be made appear to the satisfaction of the judge of admiralty aforesaid, that the cargo is damaged or consists of perishable articles, then and in such case he shall appoint three reputable persons skilled in the articles of which the cargo consists of the city or

county where the trial shall be, who shall upon their oath or affirmation carefully appraise and value the said cargo and deliver the said appraisement bill to the register of the said court, with their oaths or affirmations annexed; and the judge of admiralty shall immediately order the marshall of the court to sell the same reserving the money arising from the sales, in his hands until the said trial shall be determined.

[Section IV.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the judge of admiralty shall after notice being given as aforesaid, issue his warrant to the marshal of the court of admiralty to be appointed as hereafter directed commanding him to summon and return twelve good and lawful men of the city or county where the trial shall be, to appear before the said judge of admiralty at such time and place as he shall appoint, not less than five days after the date of the said warrant; and the said marshal is hereby authorized and required to execute said warrant and make return thereof, as in and by the said warrant he shall be directed; and the jury returned as aforesaid shall be established by like modes and subject to like challenges as in the supreme courts; and they shall be sworn or affirmed to return, and give a true verdict upon the aforesaid libel, according to evidence; and the finding of the said jury shall establish the facts without re-examination or appeal. And if it shall appear to the judge of admiralty aforesaid by the verdict of the jury that the said ship or other vessel belonging to the enemy had been employed as aforesaid he shall condemn said ship or other vessel, her cargo and appurtenances as lawful prize, and shall order the whole to be sold at public vendue for the benefit of the captors.

[Section V.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That in all cases of captures, an appeal from the decree of the judge of admiralty of this state shall be allowed to the continental Congress or such person or persons as they may from time to time appoint for hearing and trying appeals. Provided the appeal be demanded within three days after definitive sentence, and such appeal be lodged with the secretary of Congress within thirty days afterwards: And provided that the party appealing shall become bound before

the said judge of admiralty in such sum as he in his discretion may think proper as security to prosecute the appeal to effect and in case of the death of the secretary during the recess of Congress then the said appeal shall be lodged in Congress within thirty days after the meeting thereof.

[Section VI.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the execution of any decree, so appealed from as aforesaid, shall not be suspended by reason of such appeal, in case the party or parties appellate shall give sufficient security to be approved of by the judge of admiralty by whom such decree shall be given to pay the full value thereof to the appellant or appellants in case the decree so appealed from shall be reversed.

[Section VII.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the supreme executive council shall appoint and commission an able and suitable person to be register of the said court of admiralty, who, before he enters upon the duty of his office shall take an oath or affirmation for the faithful discharge of his said office before the president or vice-president in council, and his attestations shall be received as evidence and the depositions of the witnesses in any of the cases aforesaid shall be taken before the judge and filed in the register's office, and that the same shall be at all times admitted in evidence in case of the death or absence of the witness, and that the said depositions shall and may be taken *ex parte*, on such notice being given to the adverse party, as the said judge shall direct and appoint.

[Section VIII.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That the supreme executive council of this state shall appoint and commission one reputable person by the name and style of "Marshall of the Court of Admiralty," who, before he enters on the duties of his office shall take an oath or affirmation for the faithful performance of the several duties required of him and shall become bound to the president or vice-president of the state for the time being with two or more sureties, to be approved of by the supreme executive council in the sum of ten thousand pounds; which obligations shall be drawn in the same manner with like condition liable to like

suit and use and recorded as bonds taken from sheriffs and their sureties ought to be by the laws of this commonwealth.

[Section IX.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the judge of admiralty shall take and receive for every decree or final sentence the sum of fifteen pounds; for attesting all depositions eight shillings, for every stipulation made before him sixteen shillings. And the register and marshall of the said court of admiralty shall severally take and receive double the fees for their services respectively as is mentioned in and by an act of the former government, entitled "An act for regulating and establishing fees."<sup>1</sup> And the marshall shall receive the following commissions for selling, collecting and paying over, that is to say, one per cent. for any sum not exceeding two thousand pounds and three-fourths per cent. for any sum above two thousand and not more than ten thousand pounds, and for any sum above ten thousand pounds the sum of one-half per cent., which commissions he shall [take] and receive and no more for all his trouble and expenses in selling, collecting and paying over as aforesaid.

[Section X.] (Section XII, P. L.) And be it further enacted, That in suits for the wages of mariners employed in merchant ships and vessels; that in all cases wherein no more than four months' wages shall be demanded by the libellant no jury shall be summoned but the matter in variance shall be heard before and determined by the said judge of admiralty.

(Section XIII, P. L.) And whereas the trial of pirates and other sea felons in the then British Colonies, now free states of North America hath been heretofore without a jury and in a method much conformed to the civil law, the exercise of which jurisdiction was contrary to the spirit of the common law, although the legislature of England had by a statute passed in the twenty-eighth year of Henry the Eighth, entitled "For pirates," relieved this grievance as to the subjects within the realm.

(Section XIV, P. L.) And whereas the constitution of this state provides that in all prosecutions for criminal offenses, no

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<sup>1</sup> Passed August 22, 1752, Chapter 398.

man can be found guilty without the unanimous consent of a jury.

[Section XI.] (Section XV, P. L.) Be it therefore enacted by the authority aforesaid, That all traitors, pirates, felons and criminals who shall offend upon the sea and their aiders and abettors upon the sea, shall be inquired of, tried and adjudged by grand and petit juries, in the manner prescribed by, and according to the directions given for the trial and judgment of traitors, pirates, felons, and others offending upon the sea, in the said statute passed in the twenty-eighth year of Henry the Eighth, entitled "For pirates."

(Section XVI, P. L.) Provided always, That such trial may be had in any court of oyer and terminer to be holden in and for the city of Philadelphia, the justices of the supreme court for that occasion taking to their aid and associating with them, the judge of admiralty for the time being, who is hereby constituted a commissioner of oyer and terminer for that purpose; and the judge of admiralty shall be president of the said court of oyer and terminer in the absence of the chief justice.

(Section XVII, P. L.) And provided also, That if any person upon arraignment before the said court of oyer and terminer shall stand mute, or shall not give direct answers, such person shall be deemed to have pleaded not guilty, and the trial shall proceed accordingly.

[Section XII.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That if any person legally summoned to attend on any jury in the court of admiralty, or the court of oyer and terminer aforesaid, shall make default, or having attended shall depart before he be dismissed by the courts aforesaid, he shall be proceeded against as is customary in such cases before the supreme court; and if any person shall corruptly and falsely swear anything in any cause or matter depending before the judge or court aforesaid, or shall suborn any person so to do, such person or persons so offending and being thereof legally convicted shall suffer all the pains and penalties, forfeitures and disabilities, to which by law persons convicted of perjury or subornation of perjury are liable, and which they ought to suffer.

[Section XIII.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That all and every the proceedings of the court of admiralty shall be liable to the prohibition of the supreme court of this commonwealth in like manner, and to the like effect as by the laws of England the courts of admiralty there have been to the prohibition of the court of King's Bench.

Passed September 9, 1778. Repealed by the Act of Assembly passed March 8, 1789, Chapter 887.

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## CHAPTER DCCCXII.

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AN ACT TO REPEAL THE ACT, ENTITLED "AN ACT FOR REGULATING THE SEVERAL ARTICLES HEREIN MENTIONED FOR A LIMITED TIME,"<sup>1</sup> AND ALSO SO MUCH OF THE ACT, ENTITLED "AN ACT FOR THE BETTER SUPPLY OF THE ARMY OF THE UNITED STATES OF AMERICA," AND THE SUPPLEMENT THERETO AS IS HEREINAFTER MENTIONED."<sup>2</sup>

(Section I, P. L.) Whereas the honorable continental Congress recommended to the several states to enact laws for regulating the prices of goods, wares and merchandise and in consequence thereof the assembly of this state enacted a law for that purpose, entitled "An act for regulating the prices of the several articles herein mentioned for a limited time," but as the neighboring states have not all complied with the aforesaid recommendation it is now judged expedient to repeal the same:

(Section II, P. L.) And whereas it was represented to this house by Congress that the armies of the United States were at one time reduced to a difficulty in obtaining provisions for their support, to remedy which a law was enacted, entitled "An act for the better supply of the army of the United States of America," and a supplement thereto, entitled "A supplement to the act, entitled 'An act for the better supply of the armies of the United States:'"<sup>3</sup>

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<sup>1</sup> Passed April 1, 1778, Chapter 795.

<sup>2</sup> Passed January 2, 1778, Chapter 782.

<sup>3</sup> Passed February 27, 1778, Chapter 783.