

## CHAPTER MXX.

## AN ACT FOR THE SETTLEMENT OF THE PUBLIC ACCOUNTS OF THE UNITED STATES OF AMERICA.

(Section I, P. L.) Whereas the good people of the United States of America labor under great inconveniences from the public accounts remaining unsettled and from many large sums of money and much other property being wrongfully detained from them by persons who have been intrusted therewith, or who have become possessed thereof:

(Section II, P. L.) And whereas it would be expensive, dilatory and difficult to settle and adjust the same in the ordinary way of proceeding in the courts of justice:

(Section III, P. L.) And whereas sufficient powers and authorities in the offices for this purpose by the said United States in congress assembled appointed have not been heretofore given; and it is become highly expedient for the public good, that the plans which have been adopted and recommended by congress for the settlement of the said public accounts and for the recovery from individuals of moneys and effects belonging to the United States of America, be carried into speedy and effectual execution:

(Section IV, P. L.) And whereas by an act made and passed in congress on the twenty-seventh day of February, one thousand seven hundred and eighty-two it was ordained and provided that five commissioners should be appointed for the settlement of accounts under the direction of the superintendent of the finances of the United States of America; namely, one for the quarter master's department, one for the commissary's department, one for the hospital department, one for the clothier's department, and one for the marine department, each of which commissioners shall have full power and authority to liquidate and finally settle the accounts of the departments respectively assigned to them, up to the last day of December,

which was in the year of our Lord one thousand seven hundred eighty and one, inclusive of the [said] day; and by the same act it was recommended to the several legislatures of the said states to empower the said commissioners to call for witnesses and to examine such witnesses on oath or affirmation touching such accounts as were or should be respectively assigned to them for settlement, and also to make provision by law for the speedy and effectual recovery from individuals of debts due and effects belonging to the United States of America:

[Section I.] (Section V, 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 every of the said commissioners shall be and hereby is vested with [full] power and authority within his respective department to issue his process when and so often as the same shall be deemed necessary at the suit of the United States of America, in the nature of a summons, directed to any person or persons whatsoever (within his proper department) who, at any time or times on or before the last day of December which was in the year of our Lord one thousand seven hundred eighty and one, was or were officers or persons appointed or employed, or who acted in the department aforesaid; and against any person who acted either as principal, deputy, assistant or agent, or who was employed by any such principal, deputy, assistant or agent in any of the said respective departments, or against any other person or persons whatsoever within this state, concerning whom it shall be alleged, that he, she or they have or had in his, her or their hands or possession any moneys or other personal property belonging to the United States of America, either at the time of issuing such process or at any time before; or against whom the said United States have or may have any claim or demand whatsoever, and requiring him, her or them to be and appear before such commissioner at a certain day and place in the said process to be expressed; provided that the same be not sooner than fifteen days, to be computed from the service of such process, and that the same process set forth briefly the cause for which the said person or persons shall be so summoned; and upon the

appearance of any person or persons either voluntarily or [after] being summoned in manner aforesaid, to proceed to the hearing and examination of the allegations, vouchers and evidence for and against such person or persons and to liquidate his, her or their accounts, and to pass judgment thereon according to law and as the merits of the case shall require. And that the said commissioner may be fully enabled to perform and execute the trust reposed in him, it shall and may be lawful for such commissioner at any time or times, and as often, as it shall be deemed necessary, to issue one or more subpoena or subpoenas for, and to call before him any witness or witnesses, and to examine such witness or witnesses upon oath or affirmation, touching the merits of the matter in controversy before such commissioner, and generally to use and exercise such effectual and like means for the collecting and procuring of evidence either for or against any defendant or defendants or person or persons whose account may be depending before such commission for liquidation and settlement, as any of the courts of common law may or can use and exercise in suits and causes depending before them.

(Section VI, P. L.) Provided always, That the place of appearance of any party so summoned as aforesaid be not at any place without the county wherein such party doth reside.

[Section II.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any witness shall wilfully falsify, or knowingly swear or affirm to any untruth in a material point in any suit or cause to be instituted before any of the said commissioners by virtue of this act, the same shall be deemed perjury, and the person guilty thereof shall be liable to be prosecuted in any court of quarter sessions of this state within the jurisdiction whereof such offence shall be committed, and upon conviction thereof he or she shall suffer the like pains, penalties and disabilities to which those who commit wilful and corrupt perjury in any court of record of this commonwealth are liable.

(Section VIII, P. L.) And for the better discovering of the real and true merits of any cause, suit or controversy at any time or times hereafter to be brought, or which shall be depend-

ing before any such commissioner under or by the authority of this act,

[Section III.] Be it further enacted by the authority aforesaid, That upon the hearing of any such cause or causes, suit or suits, it shall and may be lawful for such commissioner to tender to such defendant or defendants interrogatories, and to examine him or them upon oath or affirmation as the case may require concerning such matter which shall be in issue or controversy in such suit or suits, cause or causes, and to compel the said defendant or defendants to answer thereto in the manner aforesaid under the penalty, that in case he, she or they refuse to answer to all or any of the facts alleged against him, her or them, such facts shall be considered, as confessed by him, her or them, and the said facts shall be deemed to be true.

(Section IX, P. L.) Provided always, That no interrogatories shall be put to such defendant or defendants, the answer to which may tend to criminate him, her or them, or to incur any penalty or forfeiture; and it shall be lawful for every such commissioner within his proper department to call upon any such defendant or defendants, and to compel him, her or them to produce upon oath or affirmation, to such commissioner, all and singular the books, accounts and original entries of his, her and their offices and employments, unless the same shall appear to have been unavoidably lost or destroyed, and in case of refusal, to commit him, her or them to the gaol of the county, there to remain, without bail or mainprize until such books, papers and original accounts be produced as aforesaid.

[Section IV.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That in every case wherein judgment or judgments shall be rendered in favor of the United States of America in any suit or cause, or upon any proceeding constituted as aforesaid, it shall and may be lawful for the party against whom such judgment or judgments shall be rendered to appeal therefrom within five days after he, she or they shall have notice of the rendering of such judgment or judgments, but not otherwise; provided such rendering be made ten days before the next sitting of the court of common pleas of the county in which county such judgment or judgments shall be

had, and upon such appeal or appeals being lodged within the two first days of the sitting of the said next court, such court shall proceed to hear the same upon the real merits of the case in the same term (unless reasonable cause be shown to the contrary) and without the usual imparlances and to determine thereupon, either by a jury returned instanter, or otherwise agreeably to the usual course of proceedings in such court, and shall cause execution to be done thereupon, as is usual in like cases between party and party; which judgment and determination shall be final and conclusive.

(Section XI, P. L.) Provided nevertheless, That no such appeal shall be received, unless sufficient security be given before one of the justices of said court on lodging such appeal to prosecute such appeal to effect and to satisfy the judgment rendered by the said commissioner, or such judgment as the said court may pronounce, and also to satisfy all costs in case the judgment appealed from be confirmed.

(Section XII, P. L.) And whereas by one other act passed by the United States of America in congress assembled, on the twentieth day of February, one thousand seven hundred and eighty-two, it was ordained and declared that a commissioner for each state should be appointed in the manner therein mentioned with full power and authority finally to settle the accounts between the state for which such commissioner shall be nominated and the United States of America; and also to liquidate and settle, in specie value, all certificates given for supplies by public officers to individuals, and other claims against the United States of America by individuals for supplies furnished to the army, the transportation thereof and contingent expenses thereon, within the said state, according to the principles of equity and good conscience in all cases which were not, or should not be provided for by congress: And whereas it is reasonable and will be highly conducive to the public good that the commissioner appointed or to be appointed for this state for the purposes in the last mentioned act or ordinance of congress declared, should by laws for this purpose enacted be vested with sufficient powers to carry into effectual execution the duties of his office:

[Section V.] (Section XIII, P. L.) Be it therefore enacted by the authority aforesaid, That the commissioner appointed or to be appointed for this commonwealth for the purposes in the last mentioned act or ordinance of congress declared, shall be and hereby is vested with full power and authority to summon witnesses and to examine them upon oath or affirmation, and execute the like means in this behalf and for the collecting and procuring of evidence as any commissioner appointed or to be appointed for the purposes set forth in the first above recited act of congress may or can do by virtue of this act; and if any such witness to be examined as last aforesaid shall wilfully falsify or shall knowingly swear or affirm to an untruth touching any material point concerning which he or she shall be examined as aforesaid, the same shall be deemed perjury and the offender upon conviction thereof in manner aforesaid shall suffer like pains, penalties and disabilities with such like offenders in this act before mentioned.

[Section VI.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That every comptroller, treasurer, register, auditor and clerk appointed or to be appointed by the United States in congress assembled, or by the superintendent of finance, or otherwise by authority of congress, for the purposes mentioned in one other act or ordinance of congress, made and [passed] on the eleventh day of September, one thousand seven hundred and eighty-one, is hereby vested with full power and authority to carry into effectual execution the duties and functions of his respective office, and appointment in like manner and as fully as if the same ordinance were enacted and declared by the laws of this commonwealth, in the words or to the effect in which it has been expressed by the United States of America in congress assembled; and every such comptroller and auditor appointed, or to be appointed as aforesaid, hereby is vested with as full power and authority to compel the attendance of any witness or witnesses before him, and to examine every such witness upon oath or affirmation touching such matters as shall be depending before him in the way of his said office or employment, and generally to procure and collect evidence and testimony, as fully and effectually as any of the

commissioners herein before mentioned may or can do by virtue of this act, and every witness to be examined by such controller or auditor in manner aforesaid, is enjoined to make true answer under the like pains, penalties and disabilities as are by this act before mentioned and provided in other cases.

[Section VII.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That every commissioner and officer appointed and to be appointed in pursuance of the several acts and ordinances of congress before mentioned, previously to his undertaking to exercise the powers and authorities by this act vested in him, shall take and subscribe the following oath or affirmation before the president or vice president of the supreme executive council of this state, to wit: "I A. B. do solemnly swear (or affirm) that I will truly and faithfully execute the office of \_\_\_\_\_ to which I am appointed, and the powers in me vested by an act, entitled 'An act for the settlement of the public accounts;' without favor, affection, hatred or malice, according to the best of my judgment and abilities."

[Section VIII.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That when any account shall be finally settled, and any judgment shall be rendered by any commissioner pursuant to the directions of this act, which shall not be appealed from as aforesaid, the same, or a transcript thereof shall be signed by the commissioner, and may be filed in any court of common pleas within this state, with the prothonotary of such court, and thereupon an execution shall be issued as on other judgments for the debt or sum of money which has been found to be due, together with costs to be taxed by the said prothonotary), for the service of such process as aforesaid, like to those which are allowed to the sheriff for serving a summons or subpoena, and for the attendance of witnesses [the same] as are allowed in the said court.

[Section IX.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That if the person or persons to be summoned as aforesaid as parties or defendants, by any such commissioner, shall refuse or neglect to appear agreeably to the directions of the said process; or if any of the said commissioners shall deem it necessary in the first instance, such com-

missioner may cause process to issue from any court of common pleas in this state, or out of the supreme court at his election, at the suit of the United States of America, for any debt, demand, sum of money or personal property, which is now due, owing, or belonging, or which shall hereafter be due, or belong to the United States of America, against any such person or persons, or his, her, or their executors, or administrators, or against any person or persons, who have received or hereafter shall receive money from the treasury of the United States of America, or by order of congress, or for [the] use of congress, and who have not rendered, or shall not render an account thereof, and in case a declaration shall be filed with the prothonotary of the court, before the writ be issued, and a copy of such declaration served on the defendant and defendants, or left at his, her or their last place of abode, ten days at least before the return of the said writ, it shall and may be lawful for the said court, and the said court are hereby authorized and required to cause such defendant or defendants to plead to issue, and to proceed to trial and judgment at the court to which such writ shall be returned; and the said court shall not allow of any imparlance, unless where evidence shall be wanted without which the party cannot safely go to trial; which fact, and also of a reasonable endeavor to obtain such evidence, shall be made to appear to the satisfaction of the court by affidavit of the party, or the testimony of a legal witness and in case the writ and declaration in such suit shall be served within the term of ten days as aforesaid, it shall and may be lawful for the justices of the said court to allow of one imparlance and no more, unless evidence be wanted as aforesaid.

[Section X] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the said courts shall not allow of any plea to a declaration, in any of the said suits, other than the general issue, unless the same be verified by the affidavit of the party, or otherwise shown to be founded in fact by one credible witness or other legal evidence, and no demurrer to any declaration shall be allowed for want of pursuing the usual forms of declarations in such cases, but it shall be deemed sufficient in all actions upon the case or upon account to allege that

the defendant or defendants in such action was or were indebted to the United States of America in the sum demanded for money had and received to the use of the United States of America, and that payment thereof hath not been made, nor any account rendered for the same.

[Section XI.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the court wherein any suit or action as aforesaid shall be brought, may with the consent of the defendant or defendants; and where an action of account shall be brought and the party shall be legally adjudged a bailiff, receiver or otherwise accountable to the United States of America, the said court may without such consent, appoint auditors, of whom the said commissioner shall always be one, who, or a majority of them, may take, state and settle the accounts of the defendant or defendants, and make report to the court, who may give judgment for such balance, or for such sum of money as shall appear to be due to the United States of America, with costs of suit, and if any balance shall be reported to be due to any defendant or defendants who has or have been negligent in rendering his, her or their account, no costs whatsoever shall be adjudged to him, her or them.

(Section XX, P. L.) And in order that the said court may be the better enabled to discover the truth, and to administer complete justice in the premises:

[Section XII.] Be it further enacted by the authority aforesaid, That it may and shall be lawful for any such commissioner before the trial of any suit or action to exhibit interrogatories to such defendant or defendants, which interrogatories, being approved by the said court in term, time or a quorum of the justices of the said court in the vacation, the court or justices shall thereupon be authorized and empowered to examine him, her or them upon oath or affirmation, as the case may require, as to such matter as shall be in issue or controversy, and to compel such defendant and defendants to answer thereto, either in writing or orally before a jury or the auditors, under the penalty, in case of his, her or their refusal to make answer to the several facts alleged in such interrogatories that the facts not answered as aforesaid shall be taken to be true, and it also may

and shall be lawful for the said court, upon the application of such commissioner to compel such defendant or defendants to produce to the same court, or before the auditors all and singular the books, accounts and original entries of his, her and their office or offices, employment or employments or in case of a suit against any executor or executors, administrator or administrators, to compel such representatives of a deceased officer, or person employed as aforesaid, or any other person having in possession or in his, or her custody or power any such books, accounts and original entries, to produce them to such court and if the said book accounts and entries, or any of them be lost or destroyed, to discover to the court upon oath or affirmation, according to the best of his, her and their knowledge or belief, the time when the place, where, and the manner how the same happened, and the contents thereof as far as they know or believe; on pain of imprisonment till the same be complied with.

[Section XIII.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That after judgment shall be obtained as aforesaid, it shall be lawful to issue execution and the sheriff shall proceed thereon as usual in other cases: And all lands and tenements belonging to any debtor to the United States of America at the time of the commencement of any suit in any of the courts aforesaid or at any time after, shall be liable to such execution in whose hands or possession soever, the said lands or tenements may be found.

[Section XIV.] (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue and be in force for the space and term of three years from the publication thereof, and from thence to the end of the next session of the general assembly and no longer.

Passed March 20, 1783. Recorded L. B. No. 2, p. 73, etc. See the Act of Assembly passed December 1, 1784, Chapter 1118.