

the supplement thereto, passed the eighteenth day of April, one thousand seven hundred and ninety-four, shall be, and the same are hereby, repealed.

Passed April 18, 1795. Recorded L. B. No. 6, p. 1.

See Act of April 11, 1799, Chapter 2080, as to sale of adjoining lands reserved.

<sup>1</sup>Chapter 1715.

<sup>2</sup>Chapter 1677.

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## CHAPTER MDCCCLVII.

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### AN ACT FOR PROVIDING FOR THE INSPECTION OF GUNPOWDER.

Whereas gunpowder imported from abroad, and manufactured within this state, hath frequently been found to vary much in its strength, and sometimes of inferior qualities, and its defects not discovered until brought into actual use:

And whereas the modes heretofore used to prove the force thereof have been found uncertain and variable:

And whereas Joseph Leacock, of the city of Philadelphia, hath invented an engine, called a pendulum powder proof, with a graduated arch and catch-pall, by which it is conceived that the force of gunpowder may be proved by experiment, and the article reduced to certain and uniform standards of strength, whereby the manufacture may be advanced toward ultimate perfection, and the purchaser and consumers protected against fraud and imposition:

[Section I.] (Section I, P. L.) 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 from and after the first day of October next, all gunpowder manufactured within this state, with intent to sell the same within the city or county of Philadelphia, shall be put in good and tight kegs, or casks, of twenty-five, fifty or one hundred pounds net weight each, made of well seasoned timber, bound together with at least twelve hoops, and

having a hole bored in each head, of the diameter of one fourth part of an inch, well stopped with corks, and having the tare weight of each cask marked thereon, and that all such gunpowder, and all other gunpowder, wheresoever manufactured, imported into the port of Philadelphia, or brought into the city or county of Philadelphia for sale, shall be deposited forthwith, on such importation or bringing in by land or water, in the public magazine in the said city, and delivered to the care of the keeper of the same, who shall give his receipt for the same, deliverable to the order of him or them who shall so deposit the same.

[Section II.] (Section II, P. L.) And be it further enacted by the authority aforesaid, That David Rittenhouse, Francis Gurney and Thomas Proctor, be, and they are hereby, appointed commissioners, to procure at least two pendulum powder proofs, upon the construction invented by the said Joseph Leacock, as nearly uniform in the length of the radius and weight of pendulum, and in length, caliber and weight of the pistol, as they can procure the same, and therewith make experiments of the respective strength or force of the several species of gunpowder imported from abroad, and manufactured within this state, sufficient in number to ascertain the quality and force of three different degrees of strength in explosion, and marking the number of degrees on the graduated arch of the said engine, to which equal quantities by weight of the said three species of gunpowder, rammed with equal force into the pistol, shall elevate the said pendulum, and the powder, which shall be barely capable of raising the said pendulum to the lowest rate of elevation, shall be the standard for the state of Pennsylvania for gunpowder of the first or lowest proof; and the powder, which shall be capable of raising the said pendulum to the highest rate of elevation, shall be the standard of gunpowder for the state of Pennsylvania of the third or highest proof; and the middle or second proof standard of gunpowder shall be ascertained by the number of degrees on the said graduated arch, to which the same quantity by weight in equal moieties of the first and third proof powder shall be capable of raising the said pendulum, and the said standard being so fixed and ascertained, the said commissioners shall

make report thereof, in writing, by indentures under their hands and seals, one part thereof, together with one of the said two pendulum powder proofs, and as accurate a draught and description thereof as can be made, shall be returned to the governor, to be filed and remain in the office of the secretary of the commonwealth; one other part shall be returned to the master of the rolls, to be recorded in his office, and filed among the laws of the state; and the other part, together with the other pendulum powder proof, to be delivered to the first inspector of gunpowder to be appointed in pursuance of this act, and by him, and his successors in office, to his and their successors, as often as another officer shall be appointed.

[Section III.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That so often as the said pendulum powder proofs, in the possession of the inspectors, shall, by natural wear, or by accident, be rendered unfit for use, or its accuracy doubted, the same shall be compared with the other remaining in the secretary's office, and if found necessary, a new one constructed and made conformably thereto in measure and weight, for the use of the inspector at his own costs and charges.

[Section IV.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners shall prepare and report a plan for the necessary buildings, and an estimate of the expenses thereof, and the same being laid before and approved by the governor, he shall cause to be erected and built, on the most proper part of the lot belonging to the public magazine aforesaid, a brick building for the use of the inspector, with two apartments, one for the purpose of keeping his engine apparatus, and for making proofs, and the other for the purpose of keeping the samples of gunpowder in safety, the expense of which building shall be paid and defrayed by warrants to be drawn by the governor on the state treasurer, which shall be allowed him on settlement of his accounts, out of the fund for the support of government. Provided, That the whole amount of the expense thereof do not exceed the sum of five hundred dollars.

[Section V.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for

the governor of this commonwealth, and he is hereby required, as soon as conveniently may be after the passing of this act, and as soon afterwards as the office shall become vacant by death, resignation or otherwise, to appoint one suitable and skillful person to be inspector of gunpowder in and for the city, port and county of Philadelphia; who, before he enters on the duties of his office, shall take and subscribe the oath or affirmation required by law for the support of the constitution of the United States, and of this state, and moreover take and subscribe, before the governor, an oath or affirmation, that he will well and faithfully perform all and singular the duties required by this act, according to the best of his knowledge, skill and ability, and without prejudice or partiality.

[Section VI.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the inspector of gunpowder so to be appointed, for the time being, to attend at the said public magazine, and his office so to be built, as often as shall be necessary, to inspect and examine all gunpowder there to be deposited, to draw samples from each cask of powder which shall be so as aforesaid bored, and to open or otherwise get samples of casks of powder not bored as aforesaid, and removing such samples to his office, there to prove the same by the pendulum proof aforesaid, and note the standard quality of each cask, to provide himself with cedar plugs stamped on the outer end with the letters S. P. and the figures number one, number two, and number three, to designate the first, second and third proofs of standard gunpowder of the state of Pennsylvania, and another stamped with the letters S. C., to designate condemned gunpowder, and therewith carefully to plug up the holes opened or made for the purpose with such marked plugs, as the proof quality of the powder in each cask respectively contained, and occasionally to weigh the said casks; and if, upon weighing the same, suspicion should arise that the casks are false tared, or do not contain the quantity hereinabove mentioned for each cask, to empty the same, and weigh the cask and powder separately, to ascertain the deficiency, if any, in the net weight, and to fill the same to its due weight out of any other cask belonging to the same persons, marking the weight

taken on the ullage casks, and keeping an exact account in his books thereof, and of the names of the owners, and the persons bringing and depositing the same.

[Section VII.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That every cask of gunpowder inspected as aforesaid, shall be plugged up with a plug marked with the number next below the standard number of degrees to which the pendulum shall not be elevated in the proof, and that every cask of gunpowder inspected as aforesaid, which shall not elevate the pendulum to the standard of the first or lowest proof, shall be condemned, and one pint of clean water for every twenty-five pounds of powder therein contained shall be poured thereinto, and the hole plugged up with the plug marked S. P., before the same shall be delivered over to the owner to be refined and re-manufactured; and to prevent a failure in the inspection by the temporary indisposition of the inspector, it shall and may be lawful for him to execute all the duties hereby required by a deputy, to be appointed by him, and approved by the governor, the deputy first taking and subscribing the like oaths or affirmations hereby required from the principal.

[Section VIII.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the keeper of the said magazine shall, at all seasonable times in every judicial day in the year, admit the said inspector and his deputy and assistants into the said magazine, to do and perform the several duties hereby required of him and them, and shall not deliver any powder from the said magazine until the same shall be inspected as aforesaid.

[Section IX.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That no person appointed to the office of inspector, or his deputy, shall, during the time of holding or exercising the said office, be concerned, directly or indirectly, in manufacturing, buying or selling gunpowder, in gross or by retail, under penalty of forfeiting the sum of five hundred dollars for every such offense, to be recovered by any person who shall sue for the same, in any court having competent jurisdiction, one moiety for the use of this commonwealth, and the other to the use of him or them who shall sue for the

same; and upon conviction thereof, shall be removed from the said office, and wholly disqualified to take or hold any office of trust or profit under this commonwealth.

[Section X.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That if any person, from and after the first day of October next, importing or bringing into the port or city or county of Philadelphia any quantity of gunpowder exceeding twenty-five pounds, with intent to sell the same, shall neglect to deposit the same for inspection in the magazine aforesaid, or shall sell the same before it be inspected and marked as aforesaid, or shall sell any gunpowder that shall be condemned as aforesaid, as and for merchantable gunpowder, every person so offending shall forfeit all such gunpowder as aforesaid.

[Section XI.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the inspector shall be entitled to demand and receive of and from the owner and possessor of all gunpowder deposited in the said magazine, and by him or his deputy examined, proved and plugged as aforesaid, the following sums or rates, whether the same be approved or condemned, paid or secured before the same shall be removed from the magazine, if the inspector shall so require, for every cask of powder manufactured in this state, or any of the United States, bored and stopped with corks by the manufacturer containing twenty-five pounds, eight cents; for every like cask containing one hundred pounds, nine cents; for every cask of foreign powder, or powder manufactured in the United States not bored and stopped with corks as aforesaid, double the said price or rates; and for every cask he shall find deficient one per cent. in weight and shall fill up, fifty cents.

[Section XII.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if any dispute should arise between the owner, possessor or consignee of any such powder and the inspector, touching the proof or condemnation thereof, or of the goodness of the materials and the manner in which the casks are made, upon application by the owner, possessor or consignee of such powder, to one of the magistrates of the city or county of Philadelphia, where the dispute shall arise,

the said magistrate shall issue his warrant to three indifferent judicious persons to be triers thereof (one of them to be named by the said owner, possessor or consignee, one by the said inspector, and the third by the said magistrate) directing the said triers to view and examine the said powder, and make report to him forthwith touching the condition thereof, and if they shall find the said powder not merchantable, that they certify to them the cause thereof, and the said magistrate shall thereupon give his judgment agreeably to the report of the said triers, or any two of them, and in case the said magistrate shall on such report adjudge the powder not to be merchantable, he shall award the owner, possessor or consignee thereof, to pay all costs, but in case the said powder shall be found merchantable, the inspector shall be adjudged to pay all costs which may have accrued, and shall thereupon cause the powder to be marked as of the standard to be directed by the said triers.

Passed April 18, 1795. Recorded L. B. No. 6, p. 26, etc.

See the Act to prevent danger to Philadelphia by gunpowder, passed March 28, 1787, Chapter 1279.

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## CHAPTER MDCCCLVIII.

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AN ACT SUPPLEMENTARY TO THE SEVERAL ACTS OF ASSEMBLY FOR ESTABLISHING THE JUDICIAL COURTS OF THIS COMMONWEALTH, IN CONFORMITY TO THE ALTERATIONS AND AMENDMENTS IN THE CONSTITUTION.<sup>1</sup>

Whereas the times directed for holding the supreme court of this commonwealth are inconvenient. Therefore:

[Section I.] (Section I, P. I.) 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, from and after the present term of April, the three terms of the supreme court of this commonwealth shall be holden on the first Monday in September, and on the second Monday in December, and the third Monday in