

D. G. M.





SEQUESTRATION ACT,

PASSED BY

THE CONGRESS

OF

THE CONFEDERATE STATES.

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APPROVED AUGUST 30, 1861.

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RICHMOND :  
TYLER, WISE AND ALLEGRE, PRINTERS,  
*Enquirer Job Office.*

1861.



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By this clause whatever at any time since the 21 May  
has been the property of an alien enemy is made  
liable to sequestration: if it can be discovered and  
identified.





claiming the same from and after the day such State so became a member of this Confederacy, and not before: *Provided, further,* That the provisions of the Act shall not extend to the stocks or other public securities of the Confederate Government, or of any of the States of this Confederacy held or owned by any alien enemy, or to any debt, obligation, or sum due from the Confederate Government, or any of the States, to such alien enemy: *And provided, also,* That the provisions of this Act shall not embrace the property of citizens or residents of either of the States of Delaware, Maryland, Kentucky or Missouri, or of the District of Columbia, or the territories of New Mexico, Arizona, or the Indian Territory South of Kansas, except such of said citizens or residents as shall commit actual hostilities against the Confederate States, or aid and abet the United States in the existing war against the Confederate States.

*No penalty  
is here  
provided.*

*By this  
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Sec. 2. *And be it further enacted,* That it is, and shall be, the duty of each and every citizen of these Confederate States speedily to give information to the officers charged with the execution of this law of any and every lands, tenements and hereditaments, goods and chattels, rights and credits within this Confederacy, and of every right and interest therein held, owned, possessed or enjoyed by or for any alien enemy as aforesaid.

Sec. 3. *Be it further enacted,* That it shall be the duty of every attorney, agent, former partner, trustee or other person holding or controlling any such lands, tenements or hereditaments, goods or chattels, rights or credits, or any interest therein, of or for any such alien enemy, speedily to inform the Receiver hereinafter provided to be appointed, of the same, and to render an account thereof, and, so far as is practicable, to place the same in the hands of such Receiver; whereupon, such person shall be fully acquitted of all responsibility for property and effects so reported and turned over. And any such person wilfully failing to give such information and render such account shall be guilty of a high misdemeanor, and upon indictment and conviction, shall be fined in a sum not exceeding five thousand dollars and imprisoned not longer than six months, said fine and imprisonment to be determined by the court trying the case, and shall further be liable to be sued by said Confederate States, and subjected to pay double the value of the estate, property or effects of the alien enemy held by him or subject to his control.

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Sec. 3. These words "holding or Controlling"; "for any such Alien Enemy"; & the acquittal "of all responsibility": would seem to indicate that under this section the debtor is, not him, self obliged to give information or be liable to the penalty herein provided: but that it is the agent &c &c either of the act of parties, or of operation of law upon, acting the Alien who is called upon to inform or be subject to the penalty.

A mere debtor cannot in any sense be considered as holding or Controlling his debt for the Alien, nor would his payment of the debt be exonerated by saying that he was, &c, charged of all responsibility for his debt & effects.





qu. the possession.

SEC. 4. It shall be the duty of the several Judges of this Confederacy to give this Act specially in charge to the Grand Juries of these Confederate States, and it shall be their duty at each sitting well and truly to enquire and report all lands, tenements and hereditaments, goods and chattels, rights and credits, and every interest therein, within the jurisdiction of said Grand Jury, held by or for any alien enemy, and it shall be the duty of the several Receivers, appointed under this Act, to take a copy of every such report, and to proceed in obtaining the possession and control of all such property and effects reported, and to institute proceedings for the sequestration thereof in the manner hereinafter provided.

SEC. 5. *Be it further enacted*, That each Judge of this Confederacy shall, as early as practicable, appoint a Receiver for each section of the State for which he holds a court, and shall require him, before entering upon the duties of his office, to give a bond in such penalty as may be prescribed by the Judge, with good and sufficient security, to be approved by the Judge, conditioned that he will diligently and faithfully discharge the duties imposed upon him by law. And said officer shall hold his office at the pleasure of the Judge of the district or section for which he is appointed, and shall be removed for incompetency, or inefficiency, or infidelity in the discharge of his trust. And should the duties of any such Receiver, at any time, appear to the Judge to be greater than can be efficiently performed by him, then it shall be the duty of the Judge to divide the district or section into one or more other receivers' districts, according to the necessities of the case, and to appoint a Receiver for each of said newly created districts. And every such Receiver shall also, before entering upon the duties of his office, make oath in writing before the Judge of the district or section for which he is appointed, diligently, well and truly to execute the duties of his office.

SEC. 6. *Be it further enacted*, That it shall be the duty of the several Receivers aforesaid to take the possession, control and management of all lands, tenements and hereditaments, goods and chattels, rights and credits of each and every alien enemy within the section for which he acts. And to this end he is empowered and required, whenever necessary for accomplishing the purposes of this Act, to sue for and recover the same in the name of said Confederate States, allowing, in the recovery of credits, such delays as

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may have been, or may be, prescribed in any State as to the collection of debts therein during the war. And the form and mode of action, whether the matter be of jurisdiction in law or equity, shall be by petition to the court setting forth, as best he can, the estate, property, right or thing sought to be recovered, with the name of the person holding, exercising supervision over, in possession of or controlling the same, as the case may be, and praying a sequestration thereof. Notice shall thereupon be forthwith issued by the clerk of the court, or by the Receiver, to such person, with a copy of the petition, and the same shall be served by the Marshall or his deputy and returned to the court as other mesne process in law cases; whereupon, the cause shall be docketed and stand for trial in the court according to the usual course of its business, and the court or Judge shall, at any time, make all orders of seizure that may seem necessary to secure the subject matter of the suit from danger of loss, injury, destruction or waste, and may, pending the cause, make orders of sale in cases that may seem to such Judge or court necessary to preserve any property sued for from perishing or waste: *Provided*, That in any case when the Confederate Judge shall find it to be consistent with the safe-keeping of the property so sequestered; to leave the same in the hands and under the control of any debtor, or person in whose hands the real estate and slaves were seized; who may be in possession of the said property, or credits; he shall order the same to remain in the hands and under the control of said debtor, or person in whose hands the real estate and slaves were seized; requiring in every such case such security for the safe-keeping of the property, and credits; as he may deem sufficient for the purpose aforesaid; and to abide by such further orders as the court may make in the premises. But this proviso shall not apply to bank or other corporation stock, or dividends due or which may be due thereon, or to rents on real estate in cities. And no debtor or other person shall be entitled to the benefit of this proviso unless he has first paid into the hands of the Receiver all interests or net profits which may have accrued since the twenty-first May, eighteen hundred and sixty-one; and, in all cases coming under this proviso, such debtor shall be bound to pay over annually to the Receiver all interest which may accrue as the same falls due; and the person in whose hands any other property may be left shall be bound to account for, and pay over annually to the Receiver,



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1 It is clear that the proceeding by which the sequestration is to be accomplished is by Petition: but does the same proceeding apply to the mode by which the right or credit, when sequestered is reduced into money.

Praying a Sequestration: see the form of an order or decree to sequester.

— This clause would seem to make it the duty of the Court in cases of credit as well as property to require security.

— Does the security wh. the debtor is to give do more than protect the safe-keeping of the credit? Does it involve security for the debt?

— In what manner shall the stock be disposed of? If charged on the books of the Corporation in whose name shall it stand?

## Analysis of Section 6.

Paragraph 1. Duty of Receiver to take possession of property of Alien Enemy.

" 2. When necessary for the purposes of this Act to sue for & recover "the same".

" 3. The form & mode of action prescribed.

Proviso. May be kept in the hands of debtor or person in whose hands real estate & slaves were seized.

Security to be taken for safe-keeping & to abide such further order as the Court may make.

Act to apply to Stocks, dividends, & Bonds.

1. In all cases, under this proviso, debtor annually to pay interest as it falls due.
2. If other property, person in whose hands it may be, to pay over annually net income or profits.

Failure to pay over interest, net income or profits, entitles the Receiver to demand the debt or profits.

If security is deficient, & not made good after 10 day notice, judgment may be rendered upon the bond for the recovery of the debt or profits.

When in the opinion of the Judge the public exigency requires it money due may be ordered to be demanded of the Receiver, after a ten days notice, payment shall be upon the decree, at the next term of the Court.

The Sureties, then under this Act are liable to be made to pay in either of ~~three~~ <sup>three</sup> circumstances. 1. If upon the decree given for safe-keeping it should prove deficient & be not made good when required, after ten days notice. 2. If in the opinion of the Judge the public exigency shall require the payment of the debt. 3. Failure to pay the interest not incurred a Justice annually.

But in all cases the interest or not profits which have accrued since the 25th day 1861, must be paid in before the benefit of the Proviso can be had.

By whom is the public exigency to be decided?

= This might convert a security for safe-keeping into a security for the debt itself.

would not this require that such a condition should be inserted in the instrument by which the security is taken.

the net income or profits of said property, and on failure of such debtor or other person to pay over such interest, net income or profits, as the same falls due, the Receiver may demand and recover the debt or property. And, wherever, after ten days' notice to any debtor or person in whose hands property or debts may be left, of an application for farther security, it shall be made to appear to the satisfaction of the court that the securities of such debtor or person are not ample, the court may, on the failure of the party to give sufficient additional security, render judgment against all the parties on the bond for the recovery of the debt or property: *Provided, further,* That said court may, whenever in the opinion of the Judge thereof the public exigencies may require it, order the money due as aforesaid to be demanded by the Receiver, and if upon demand of the Receiver, made in conformity to a decretal order of the court requiring said Receiver to collect any debts for the payment of which security may have been given under the provisions of this Act, the debtor or his security shall fail to pay the same, then upon ten days' notice to said debtor and his security, given by said Receiver, of a motion to be made in said court for judgment for the amount so secured, said court, at the next term thereof, may proceed to render judgment against said principal and security, or against the party served with such notice, for the sum so secured with interest thereon, in the name of said Receiver, and to issue execution therefor.

SEC. 7. Any person in the possession and control of the subject matter of any such suit, or claiming any interest therein, may, by order of the court, be admitted as a defendant and be allowed to defend to the extent of the interest propounded by him; but no person shall be heard in defence until he shall file a plea, verified by affidavit and signed by him, setting forth that no alien enemy has any interest in the right which he asserts, or for which he litigates, either directly or indirectly, by trust, open or secret, and that he litigates solely for himself, or for some citizen of the Confederate States whom he legally represents; and when the defence is conducted for or on account of another, in whole or part, the plea shall set forth the name and residence of such other person, and the relation that the defendant bears to him in the litigation. If the cause involves matter which should be tried by a jury according to the course of the common law, the defendant shall be entitled to a jury trial. If it involves matters of equity jurisdiction, the court shall

proceed according to its usual mode of procedure in such cases, and the several courts of this Confederacy may, from time to time, establish rules of procedure under this act, not inconsistent with the act or other laws of these Confederate States.

SEC. 8. *Be it further enacted*, That the clerk of the court shall, at the request of the receiver, from time to time, issue writs of garnishment, directed to one or more persons, commanding them to appear at the then sitting, or at any future term of the court, and to answer under oath what property or effects of any alien enemy he had at the service of the process, or since has had under his possession or control belonging to or held for an alien enemy, or in what sum, if any, he is or was at the time of service of the garnishment, or since has been indebted to any alien enemy, and the court shall have power to condemn the property or effects, or debts, according to the answer, and to make such rules and orders for the bringing in of third persons claiming or disclosed by the answer to have an interest in the litigation as to it shall seem proper; but in no case shall any one be heard in respect thereto until he shall, by sworn plea, set forth substantially the matters before required of parties pleading. And the decree or judgment of the court, rendered in conformity to this act, shall forever protect the garnishee in respect to the matter involved. And in all cases of garnishment under this act, the Receiver may test the truth of the garnishee's answer by filing a statement, under oath, that he believes the answer to be untrue, specifying the particulars in which he believes the garnishee has, by omission or commission, not answered truly; whereupon the court shall cause an issue to be made between the Receiver and garnishee, and judgment rendered as upon the trial of other issues. And in all cases of litigation under this act the Receiver may propound interrogatories to the adverse party touching any matter involved in the litigation, a copy of which shall be served on the opposite party or his attorney, and which shall be answered under oath within thirty days of such service, and upon failure so to answer, the court shall make such disposition of the cause as shall to it seem most promotive of justice, or should it deem answers to the interrogatories necessary in order to secure a discovery, the court shall imprison the party in default until full answers shall be made.

SEC. 9. It shall be the duty of the District Attorney of the Confederate States, diligently to prosecute all causes

By whom is

= This might  
be made for

would not  
be inserted  
to know.

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Ogden v Folliott 3: T. R-729

H. Bl. 123.

" 149.

If a seizure necessary to direct  
the papers? see 3 T. R 734. Co  
Cur. 427. 460.

Ogden v Folliott 3 T.R. 729

H. Bl. 123.

" 149.

Is a seizure necessary to direct  
the papers? see 3 T.R. 734. Co  
Cur. 427. 460.



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Sec. 8. In this writ of Attachment, who is to be the Plff, & who the Defendant? Shall the Deft, if an alien enemy be allowed the privilege which by the Law of the State belongs to a Deft in Attachment? Can you make a party tho' an alien enemy, a defendant, & not permit for him to plead or answer? What are to be the subsequent proceedings? Is the declaration to be filed, & the Deft to plead for three year & day? If the garnishee makes default in his return what then?







instituted under this act, and he shall receive as a compensation therefor two per cent. upon and from the fruits of all litigation instituted under this act: *Provided*, That no matter shall be called 'litigated' except a defendant be admitted by the court, and a proper plea be filed.

SEC. 10. *Be it further enacted*, That each Receiver appointed under this act shall, at least every six months, and as much oftener as he may be required, by the court, render a true and perfect account of all matters in his hands or under his control under the law, and shall make and state just and perfect accounts and settlements under oath of his collections of monies and disbursements under this law, stating accounts and making settlements of all matters separately, in the same way as if he were administrator of several estates of deceased persons by separate appointments. And the settlements and decrees shall be for each case or estate separately, so that the transaction in respect to each alien enemy's property may be kept recorded and preserved separately. No settlement as above provided shall, however, be made until judgment or decree of sequestration shall have passed, but the court may at any time pending litigation, require an account of matters in litigation and in the possession of the Receiver, and may make such orders touching the same as shall protect the interest of the parties concerned.

SEC. 11. When the accounts of any receiver shall be filed respecting any matter which has passed sequestration, the Court shall appoint a day for settlement and notice thereof shall be published consecutively for four weeks in some newspaper near the place of holding the Court, and the clerk of the Court shall send a copy of such newspaper to the District Attorney of the Confederate States, for the Court, where the matter is to be heard, and it shall be the duty of said District Attorney to attend the settlement and represent the Government and to see that a full, true and just settlement is made. The several settlements preceding the final one shall be interlocutory only, and may be impeached at the final settlements, which latter shall be conclusive, unless reversed or impeached within two years, for fraud.

SEC. 12. *Be it further enacted*, That the Court having jurisdiction of the matter shall, whenever sufficient cause is shown therefor, direct the sale of any personal property, other than slaves, sequestered under this act, on such terms

as to it shall seem best, and such sale shall pass the title of the person as whose property the same has been sequestered.

SEC. 13. All settlements of accounts of receivers for sequestered property shall be recorded and a copy thereof shall be forwarded by the clerk of the Court to the Treasurer of the Confederate States within ten days after the decree, interlocutory or final, has been passed; and all balances found against the Receiver shall by him be paid over into the Court, subject to the order of the Treasurer of the Confederate States, and upon the failure of the Receiver for five days to pay over the same, execution shall issue therefor, and he shall be liable to attachment by the Court and to suit upon his bond. And any one embezzling any money under this Act shall be liable to indictment, and on conviction shall be confined at hard labor for not less than six months nor more than five years, in the discretion of the Court, and fined in double the amount embezzled.

SEC. 14. *Be it further enacted*, That the President of the Confederate States, shall, by and with the advice and consent of Congress, or of the Senate, if the appointment be made under the permanent Government, appoint three discreet Commissioners, learned in the law, who shall hold at the seat of Government two terms each year, upon notice given, who shall sit so long as the business before them shall require; whose duty it shall be, under such rules as they may adopt, to hear and adjudge such claims as may be brought before them by any one aiding this Confederacy in the present war against the United States, who shall allege that he has been put to loss under the act of the United States, in retaliation of which this act is passed, or under any other act of the United States, or of any State thereof, authorizing the seizure, condemnation or confiscation of the property of any citizen or resident of the Confederate States, or other person aiding said Confederate States in the present war against the United States, and the finding of such Commissioners in favor of any such claim shall be *prima facie* evidence of the correctness of the demand, and whenever Congress shall pass the claim, the same shall be paid from any money in the Treasury derived from sequestration under this act: *Provided*, That said Board of Commissioners shall not continue beyond the organization of the Court of Claims, provided for by the Constitution; to which Court of

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Claims the duties herein provided to be discharged by Commissioners shall belong upon the organization of said Court. The salaries of said Commissioners shall be at the rate of two thousand five hundred dollars per annum, and shall be paid from the Treasury of the Confederacy. And it shall be the duty of the Attorney General or his assistant to represent the interests of this Government in all cases arising under this act before said Board of Commissioners.

SEC. 15. *Be it further enacted*, That all expenses incurred in proceedings under this Act shall be paid from the sequestered fund, and the Judges, in settling accounts with Receivers, shall make to them proper allowances of compensation, taking two and a half per cent. on receipts, and the same amount on expenditures, as reasonable compensation, in all cases. The fees of the officers of court shall be such as are allowed by law for similar services in other cases, to be paid, however, only from the sequestered fund: *Provided*, That all sums realized by any Receiver in one year for his services, exceeding five thousand dollars, shall be paid into the Confederate Treasury, for the use of the Confederacy.

SEC. 16. *Be it further enacted*, That the Attorney-General shall prescribe such uniform rules of proceeding under this law, not herein otherwise provided for, as shall meet the necessities of the case.

SEC. 17. *Be it further enacted*, That appeals may lie from any final decision of the court under this law, in the same manner and within the same time as is now, or hereafter may be by law prescribed for appeals in other civil cases.

SEC. 18. *Be it further enacted*, That the word "person" in this law includes all private corporations; and in all cases, when corporations become parties, and this law requires an oath to be made, it shall be made by some officer of such corporation.

SEC. 19. *Be it further enacted*, That the courts are vested with jurisdiction, and required by this Act, to settle all partnerships heretofore existing between a citizen and one who is an alien enemy; to separate the interest of the alien enemy, and to sequester it. And shall, also, sever all joint rights when an alien enemy is concerned, and sequester the interest of such alien enemy.

SEC. 20. *Be it further enacted*, That in all cases of administration of any matter or thing, under this act, the court having jurisdiction, may make such orders touching the

preservation of the property or effects under the direction or control of the Receiver, not inconsistent with the foregoing provisions, as to it shall seem proper. And the Receiver may, at any time, ask and have the instructions of the court, or Judge, respecting his conduct in the disposition or management of any property, or effects under his control.

SEC. 21. That the Treasury Notes of this Confederacy, shall be receivable in payment of all purchases of property or effects sold under this Act.

SEC. 22. *Be it further enacted*, That nothing in this Act shall be construed to destroy or impair the lien or other rights of any creditor, a citizen or resident of either of the Confederate States, or of any other person, a citizen or resident, of any country, State, or Territory, with which this Confederacy is in friendship, and which person is not in actual hostility to this Confederacy. And any lien or debt claimed against any alien enemy, within the meaning of this Act, shall be propounded and filed in the court, in which the proceedings of sequestration are had, within twelve months from the institution of such proceedings for sequestration; and the court shall cause all proper parties to be made and notices to be given, and shall hear and determine the respective rights of all parties concerned: *Provided, however*, that no sales or payments over of money shall be delayed for, or by reason of, such rights or proceedings; but any money realized by the Receiver, whether paid into the court, or Treasury, or still in the Receiver's hands, shall stand in lieu of that which produced said money, and be held to answer the demands of the creditors aforesaid, in the same manner as that which produced such money was. And all claims not propounded and filed as aforesaid, within twelve months as aforesaid, shall cease to exist against the estate, property, or effects sequestered, or the proceeds thereof.

APPROVED August 30, 1861.



