

this act had not been made, until such appointments as aforesaid shall respectively take place: Provided nevertheless, That such appointments be made within two months from and after the passing of this act.

Passed April 4, 1785. Recorded L. B. No. 2, p. 512.

CHAPTER MCLIX.

AN ACT FOR ERECTING AND OPENING A LOAN OFFICE FOR THE SUM OF FIFTY THOUSAND POUNDS.

(Section I, P. L.) Whereas the inhabitants of this commonwealth have for a considerable time, labored, and yet do labor under great difficulties for want of a sufficient circulating medium of commerce, whereby agriculture, population and improvement are much obstructed, and many people [are] reduced to great distress:

(Section II, P. L.) And whereas by the happy termination of the late war the people of this state are in quiet possession of very extensive and valuable tracts of land, which require cultivation and improvement; and it is conceived that the institution of a loan office upon just and proper principles would greatly tend to promote and establish the interests of internal commerce, agriculture and mechanic arts, and the welfare of the people in general, within this state:

(Section III, P. L.) And whereas the sum of fifty thousand pounds of the bills of credit directed to be made and prepared by an act, entitled "An act for furnishing the quota of this state towards paying the annual interest of the debts of the United States, and for funding and paying the interest of the public debts of this state;"¹ are by the said act set apart, and appropriated for the purpose of erecting and establishing a loan office as the legislature should thereafter direct:

¹ Passed March 16, 1785, Chapter 1137.

Therefore,

[Section IV, P. L.] Be it enacted and it is hereby enacted by the Representatives of the Freeman of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That the said sum of fifty thousand pounds shall be paid into the hands of the commissioners of the loan-office here-in after mentioned, at such times and in such quantities as the president or vice-president by warrant under his hand in council shall from time to time direct, which warrants, respectively, shall be registered in the comptroller-general's office, and the said commissioners of the loan-office shall thereupon become chargeable with and answerable for the sums mentioned in the said warrants, respectively, to be appropriated and accounted for as herein after is directed.

[Section II.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That Joseph Dean, George Schlosser and Robert Smith, esquires, be and they are hereby appointed trustees of the general loan-office of the state of Pennsylvania, and that they, the said trustees, and their successors, and every of them, before they shall enter upon the execution of their trust or any part thereof shall give and duly execute a bond to the president of the supreme executive council of this state for the time being, and his successors, with three sufficient sureties such as he shall approve of, in the sum of three thousand pounds, conditioned for the faithful execution of the trust and performance of all and every the acts, matters and things, enjoined and required of them by this act, and shall also take an oath or affirmation before some justice of the peace to be indorsed on the said bond, in the words following, viz:

"I, A. B. will, to the best of my skill and knowledge, faithfully, impartially and truly, perform and discharge the trust required of me by an act of general assembly of this commonwealth, entitled "An act for erecting and opening a loan office for the sum of fifty thousand pounds," that none may be prejudiced by my consent, privity, or procurement, and that I will not lend out for, or apply or appropriate to my own private use or benefit, or the use or benefit of any other person or per-

sons whatsoever any of the moneys to me entrusted, otherwise than according to the directions, true intent, and meaning of the said act."

[Section III.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said oath or affirmation so to be taken by the said trustees shall be indorsed on their respective bonds, which bonds with the indorsements aforesaid, shall be delivered to the recorder of deeds for the county of Philadelphia, to be by him recorded, and in case the said bonds or any of them shall in anywise be forfeited, the same shall be sued and prosecuted and the penalties thereof recovered for the benefit, advantage and use of the state.

[Section IV.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall be one body politic and corporate in law, and by the name of "The trustees of the general loan office of the commonwealth of Pennsylvania," are hereby authorized and empowered to receive applications from borrowers, judge of and determine the value of the lands and tenements, rents and hereditaments, offered in mortgage, and the validity of their titles, to take and receive mortgages, give receipts for money received, take, hold and enjoy, to them and their successors in their said trust, all such lands, tenements, rents and hereditaments, as shall be granted them in mortgage; sell and dispose of estates forfeited, to sue, be sued, and defend any suit or suits brought against them, and generally, to do, perform and execute all and every act, matter and thing, necessary for the just and due performance and execution of the trust reposed in them by virtue of this act.

[Section V.] (Section VIII, P. L.) Provided always nevertheless and be it enacted by the authority aforesaid, That it shall not be lawful to and for the said trustees or any of them, to emit on loan any of the said bills of credit on any land security, which shall lie in any of the counties (other than such counties where any of the said trustees shall reside) before a certificate, under the hands of the commissioners of the county, or any two of them, where such landed security is situate, certifying the value thereof, shall be produced to them, which said certificate the said commissioners, on application to them made, shall

make out and deliver to the person applying, but before the said commissioners shall grant such certificate, they, and each of them, shall, before some justice of the peace of their county, take an oath or affirmation, "That they will certify under their hands the value of all such lands and other hereditaments, particularly setting forth the persons names whose lands bounds the same, to the best of their knowledge, within the said county (having regard to the last assessment thereof) as they shall be requested, to certify by any person or persons intending to mortgage, as directed by this act," which certificates they shall deliver to the person applying, to be by him produced to the trustees of the general loan office, which said qualification shall be certified and deposited by the said justice, with the clerks of the county court of quarter sessions for the county for which such commissioners are chosen, to be by him filed and preserved, and that the said commissioners shall have and be paid, out of the interest arising on the loans made in pursuance of this act, the sum of three shillings and nine pence for each certificate, and no more, and that the said certificates shall be duly filed and preserved by the said trustees, for the inspection of the assembly and their committees.

[Section VI.] (Section IX, P. L.) Provided also and be it enacted by the authority aforesaid, That none of the trustees herein before appointed, or hereafter to be appointed, according to the direction of this act, or any of them, or any of their heirs, executors or administrators, or securities hereby directed to be given, be acquitted or discharged for anything done, or suffered, in or about the trust hereby committed to them, until they have accounted for, and paid and delivered up to the succeeding trustees, all bills of credit, moneys, securities, books of accounts, and other writings, relating or belonging to the said loan-office, and so from time to time during the continuance of this act, anything herein before contained to the contrary notwithstanding.

[Section VII.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That the trustees shall lend out of the aforesaid sum of fifty thousand pounds, in the proportions herein after mentioned, for and during the space, and up to the

full end and term of eight years, from the first day of August in the year of our Lord one thousand seven hundred and eighty-five, all which loans, made by virtue of this act, shall be in sums not exceeding one hundred pounds, nor less than twenty-five pounds, to any one person, upon mortgages of messuages, lands, tenements, rents and hereditaments, in this state, whereof the borrower stands seized in fee-simple, in his or her own right, free from incumbrances, rent-charges, becoming due thereon, and discovered to the said trustees, only excepted; and that the said trustees shall inform themselves, the best they can, of the validity of the titles, and of the clear value of all messuages, lands and ground rents, offered in security, so as to be satisfied that the lands and ground rents are held in fee-simple, and are at least of the value of the sums requested to be lent; and that as to the messuages erected upon ground subject to the payment of ground rent, offered in mortgage, care shall be taken by the said trustees that there be no rent in arrear at the time of receiving the same in mortgage, and that the ground shall be near equal in value, above the ground rent, to the sum lent, yet so that the house and ground be of three times the value thereof, for the better security of the mortgage money: And thereupon, the said trustees, in pursuance of the trust hereby committed to them, shall, in the name and style of "The trustees of the general loan office of the commonwealth of Pennsylvania," and not otherwise, take and receive deeds of mortgage in fee-simple, of such messuages, lands, tenements, rents and hereditaments, with the appurtenances, to secure the repayment of sums they lent, to be [made] yearly, on the first day of November, by equal payments with the whole interest accrued, at the rate of six per centum per annum.

[Section VIII.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the said sum of fifty thousand pounds shall be emitted on loan by the trustees aforesaid, in the manner herein before directed, to the inhabitants of the several and respective counties within this state, in the following proportions, viz:

Eight thousand pounds to the inhabitants of the city and county of Philadelphia.

Three thousand three hundred pounds to the inhabitants of the county of Bucks.

Five thousand eight hundred pounds to the inhabitants of the county of Chester.

Six thousand five hundred pounds to the inhabitants of the counties of Lancaster and Dauphin.

Four thousand eight hundred pounds to the inhabitants of the county of York.

Three thousand pounds to the inhabitants of the county of Cumberland.

Two thousand six hundred pounds to the inhabitants of the county of Northampton.

Three thousand six hundred pounds to the inhabitants of the county of Berks.

One thousand nine hundred pounds to the inhabitants of the county of Bedford.

One thousand eight hundred pounds to the inhabitants of the county of Northumberland.

One thousand two hundred and seventy pounds to the inhabitants of the county of Westmoreland.

Two thousand one hundred pounds to the inhabitants of the county of Washington.

One thousand three hundred and thirty pounds to the inhabitants of the county of Fayette.

Two thousand pounds to the inhabitants of the county of Franklin.

Two thousand pounds to the inhabitants of the county of Montgomery.

(Section XII, P. L.) Provided always, That if there shall not within the space of six months next after the first opening of the loan office by virtue of this act be applications for the said respective proportions of money from the inhabitants of the counties respectively, then and in such cases it shall and may be lawful for the said trustees to lend out the surplus thereof to such person or persons as shall apply for the same in the manner and on the sureties aforesaid.

(Section XIII, P. L.) Provided also, That if any mortgagor of any messuages, lands or rents, mortgaged in pursuance of

this act, his heirs, executors, administrators or assigns, shall be inclined to pay off and discharge his mortgage and security, at any other time, than according to the time specified in his mortgage-deed, it shall be lawful for him or them so to do, by paying down the whole principal sums due, and to become due, together with the interest and charges then accrued, on the first day of November in any years, during the continuance of this Act.

[Section IX.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the principal sums, and all and singular the parts, parcels and quotas thereof, or any of them, payable to the Trustees of the said General Loan Office, by any mortgagor or person whatsoever, shall not be paid into the Treasury of this state at any other time than by this present Act is directed, limited and appointed, any law, custom or usage to the contrary notwithstanding, but the same principal sums hereafter to be recovered or received by the said Trustees on or before the first day of November in the year of our Lord One thousand seven hundred and eighty-nine shall be, from time to time again lent out on securities, as hereinbefore directed for the residue of the aforesaid term of eight years; and also so often as any mortgage moneys, directed to be again lent out as aforesaid shall be recovered or received before the aforesaid first day of November One thousand seven hundred and eighty-nine, the principal moneys thence arising shall in like manner from time to time be lent out again on the like securities as aforesaid; and the said Trustees, or some of them, shall weekly attend at their office in Philadelphia on Tuesdays and Wednesdays until the aforesaid sum of fifty thousand pounds of the said bills of credit, hereby directed to be appropriated as aforesaid shall be wholly lent out as this act directs, and afterwards on the second Tuesday in October, December, February, April, June and August, and every year during the continuance of this act and at such other times as their duty and trust shall require.

[Section X.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That all and every of the said deeds of mortgage shall be fairly entered in books of large paper, to be provided by the said trustees, attested copies of which deeds,

so entered and certified by the said trustees, or any of them, for the time being, shall be, and are hereby declared to be good evidence to prove the mortgages thereby mentioned to be made, and every of the aforesaid deeds of mortgage shall be indorsed or added an oath or affirmation, to be taken by the mortgageor or mortgagors, before some one of the said trustees, or some justice of the peace, who are hereby empowered and required to administer the same, "That he, she or they, is or are seized of the hereditaments and premises thereby granted, in his, her or their own right, and to his her or their own use, and that free from all arrearages of rent, and from any former gift, grant, sale, mortgage, judgment or any other encumbrance, to the knowledge of such mortgagor or mortgagors, except only such as are by him, her or them, particularly mentioned and discovered to the trustees:" And the aforesaid deeds, being so executed and acknowledged, shall transfer the possession, and vest the inheritance, of and in such mortgaged premises, to and in the said trustees, and their successors, as fully and effectually as deeds of feoffment, with livery and seizin, or deeds enrolled in any of the courts of this state, may or can do; in all which deeds, the words grant, bargain and sell, shall be adjudged, in all places and courts whatsoever within this state, to have the force and effect of a covenant, that the mortgageor, notwithstanding any act done by him, was, at the time of execution of such deed, seized of the hereditaments and premises thereby granted, of an indefeasible estate of inheritance free from encumbrances, the rents, so as aforesaid discovered or to be discovered to the said trustees, only excepted.

Section XI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That together with every of the aforesaid mortgage deeds, the respective mortgagor shall execute a bond of double the mortgage money to the trustees aforesaid, conditioned for the payment of the money borrowed, with interest, according to the proviso or condition contained in each such mortgage deed, and also a warrant of attorney, empowering such person or persons as the said trustees shall appoint to confess or suffer judgment, which the said trustees are hereby required to cause their attorney to enter, in any of the courts of

common pleas of this state, against such mortgagor as shall make default in payment of the mortgage moneys, or any part thereof, on the said bonds or mortgages, for non-performance of the conditions thereof, or in such actions of debt as the said trustees are required to bring for the value of the said bills of credit or moneys received by the mortgagors, whose titles shall happen to prove defective, together with the interest and costs of suits, in every which warrant of attorney, shall be inserted a release of errors by the mortgagor.

(Section XVII, P. L.) Provided [always] nevertheless, That until some default be made in payment of some part of the mortgage moneys, by the mortgagors respectively, it shall and may be lawful to and for them, and their heirs, to hold and enjoy the mortgaged premises, anything in this act, or in the mortgage deeds, to the contrary notwithstanding, but if default shall be made or suffered in payment of any part of the mortgage moneys aforesaid, whether of the principal or interest, which the mortgagors, their heirs, executors, administrators or assigns should or ought to pay according to the days of payment aforesaid, in their respective deeds of mortgage specified, the said trustees, after six months next following such default made as aforesaid, shall issue their precept to the sheriff of the county where the mortgaged premises shall lie, commanding him to enter upon the messuages, lands, rents and hereditaments, respectively, in the deeds of mortgage specified, and the same, or such part thereof as shall be sufficient to discharge and satisfy the mortgage moneys, with the interest thereof, and costs accruing on the sale, to sell on the premises, by public auction or vendue, and convey to the highest bidder, after at least thirty days' public notice given of such sale, by advertising them in the newspapers, and by affixing advertisements in some of the most public places in the county; and out of the moneys arising by such sale, to raise the principal sums due and to become due, with the interests, costs and charges accrued, returning the overplus, if any, to the owners of such lands and hereditaments, and also to pay and deliver the said principal sums and interest, to the said trustees, for the use of the state, which said precept the said sheriff is hereby enjoined and required fully and im-

partially to execute, for which he shall have the same fees for advertising and sale, as are allowed by law for like services where lands are sold by [a writ of] venditioni exponas, and no more.

[Section XII.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the mortgagor and mortgagors of all such lands, as shall be sold by virtue of this act, shall stand and be foreclosed of and from all right of redemption of the same.

[Section XIII.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall indorse upon each mortgage deed, their receipts of all their yearly quotas, paid by the respective mortgagors, distinguishing the principal sum from the interest, which they shall also note on the counter parts to them produced, when required; and upon the last payment thereof, the said trustees shall enter in the margin of the enrolment of the mortgage deed, the time of the discharge thereof, for which they shall receive of the mortgagor one shilling, and no more: And the said trustees shall keep distinct, fair and true accounts of all the sums they receive by virtue of this act, and of what they lend, emit or pay, by virtue hereof, or by the orders of the assembly, in regular day-books, journals and ledgers, to be fairly kept for those purposes, and shall exhibit the same, together with their other vouchers, to the committees of assembly appointed for settling the public accounts, who shall settle and adjust the said accounts, and report the same to the house.

[Section XIV.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall have and receive, for the services enjoined and required of them by this act, the sum of four hundred and fifty pounds per annum, during the continuance of their re-emitting on mortgage as aforesaid, and the sum of one hundred and fifty pounds per annum, during the further continuance of this act, and no more, out of the interest money which shall come to their hands by virtue of this act.

[Section XV.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That if it shall appear on the set-

tlement of the accounts of the said trustees by the said committees, and a confirmation thereof by the house of assembly, that any deficiency hath happened by any borrower or mortgagor not having right to the lands or tenements mortgaged, or in the value thereof, or by any other ways or means whatsoever, to pay the moneys and the interest accrued thereon, with the cost of such suits as shall be prosecuted for the same, then, and in every such case, the said trustees, having an order from the assembly for that purpose, shall draw an order on the treasurer of the county in which such deficiencies shall happen, for the payment of such deficiencies, if so much money shall be then in the treasury, and if not, the said trustees shall and they are hereby authorized and empowered to issue their precept to the commissioners and assessors of the said county, enjoining them to cause the said deficiencies so happening, with such costs and charges as shall accrue and be paid by the said trustees in endeavoring to recover the same, forthwith to be assessed, raised and levied, of and upon the county, in the same manner, by the same persons, and under the same pains, penalties and forfeitures, as other county rates are by law directed to be assessed, raised and levied, which the said commissioners and assessors are hereby enjoined and required to do, and the said deficiencies, when so levied, shall be paid to the said trustees, in order to replace the moneys so deficient.

[Section XVI.] (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That if the said commissioners and assessors shall, upon receipt of such precept, refuse or neglect, with all convenient speed, to cause to be assessed, raised and levied, all such deficiencies as are mentioned in the said precept in the manner herein before directed, every such commissioner and assessor so refusing or neglecting being thereof legally convicted, shall forfeit the sum of one hundred pounds for every such refusal or neglect.

[Section XVII.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall once in every year, or oftener exhibit their accounts aforesaid and produce their said books and other vouchers, together with all moneys remaining in their hands, unto the committees of

assembly of this state appointed for that purpose, who shall count the said money and settle and adjust the said accounts, and make report thereof to the assembly; and all the interest money by the said trustees from time to time received, being accounted for and the salary and charges allowed by this act deducted, the residue thereof shall be paid by the said trustees to the state treasurer, to be disposed of as the general assembly of this commonwealth shall direct, and the said treasurer shall have and receive, for his trouble in receiving and paying the same, ten shillings for every hundred pounds, and no more.

(Section XXIV, P. L.) And the better to prevent inconveniences arising from indulging the mortgagors to be behind in their payments hereby directed to be made:

[Section XVIII.] Be it further enacted by the authority aforesaid, That the trustees for the time being, shall, and they are hereby required to keep the mortgagors aforesaid up to their annual payments as by this act is directed and appointed, and the committees of assembly to be annually appointed to audit the said trustees' accounts, are hereby directed not to allow of any quotas in arrear and unpaid, which have been due twelve months at the time of settlement, but to consider and report the same as moneys in the hands of the said trustees for which the said trustees shall be accountable, excepting only such sums, for which the trustees have commenced suits, or otherwise have proceeded, according to the direction of this act, for the recovery of the money due.

[Section XIX.] (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That if any of the said trustees herein before appointed, or hereafter to be appointed by virtue of this act, shall neglect or refuse to act as trustee, or shall happen to die, or be removed for misfeasance in his office, some other fit person shall be appointed by the general assembly of this state in the place or places of such trustee or trustees unless such neglect, refusal, death or removal shall happen during the recess of assembly, in which case and not otherwise, some other fit person or persons shall be appointed by the supreme executive council of this state, and the said trustee or trustees, so to be appointed, shall have, hold and exercise the

same powers and authorities to all intents and purposes as if he or they were appointed by this act.

(Section XXVI, P. L.) Provided always, That none of the said trustees, appointed in and by virtue of this act shall continue in the exercise of their said offices longer than the space of three years from the time of the commencement of their said trust, and from thence until a new nomination and appointment of the same or other trustees shall be made by the general assembly, anything in this act to the contrary notwithstanding.

[Section XX.] (Section XXVII, P. L.) And be it further enacted by the authority aforesaid, That the said trustee shall, for the better regulating of their said office, choose and employ a fit and able person for their clerk, during their pleasure, for whom they shall be answerable, who shall prepare the deeds of mortgage, with the mortgageors' affidavits, bonds, warrants of attorney, and releases of errors, and shall have and receive the following fees, and no more, viz: For every mortgage deed, recording the same, the counterpart or copy thereof, the mortgagor's oath or affirmation indorsed on the mortgage deed, and the bond warrant of attorney and release of errors, the sum of twenty shillings, and no more, to be paid by the said mortgagor, and the said clerk shall keep true accounts of the names of all persons applying to borrow on securities, as this act directs, and shall record their deeds of mortgage, in the same order of time as they were executed, and shall once in each year, make out a list of the names of all mortgagors, with the sums they borrow, and date of their mortgage deeds, and the same lists shall transmit or deliver to the committees of assembly to be appointed to settle the said trustees accounts, but before any person so chosen to be clerk, shall enter upon the execution of his office, he shall take an oath or affirmation before some justice of the peace, "That he will truly and faithfully perform the office and duty directed and required of him by this act, [wherein he will give] no undue preference or unnecessary delays, or be guilty of any fraudulent practice."

Passed April 4, 1785. Recorded L. B. No. 2, p. 503. See the Acts of Assembly passed September 10, 1755, Chapter 1174; November 27, 1787, Chapter 1328; April 1, 1790, Chapter 1506; April 7, 1791, Chapter 1554.