

CHAPTER CXXXIX.

AN ACT FOR THE MORE EASY AND EFFECTUAL COLLECTING OF THE PROPRIETARY'S QUIT-RENTS.

Whereas since the first location of lands in this province, the quit-rents reserved upon the several grants, as well before the date of the royal charter to the proprietary as since, have been very irregularly and uncertainly collected; not only to the great loss of the proprietor himself, who has thereby been kept out of his just rights, but also to the great inconveniency of the freeholders, by having no certain and exact accounts of their quit-rents kept, and being suffered, upon their negligence, to run so far in arrears, that the payment of what would be easy yearly becomes more grievous and burdensome when to be paid in one sum; and further, that upon the transferring of lands encumbered with quit-rents, the whole arrears often become an entire loss to the purchaser: for remedy whereof:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be always in this province a receiver-general appointed by the proprietary, his heirs or assigns, or (upon failure thereof, or in case of death or removal) by those that represent the proprietor, his heirs or assigns in this province, in matters of property, who shall hold an office, which shall be called the receiver-general's office for Pennsylvania; and either by himself or sufficient deputies, or other persons appointed by the proprietary, his heirs or assigns, or such as do or shall represent him or them in matters of property as aforesaid, by commissions or deputations (which, with the present receiver-general's commission and his deputations to the several collectors of quit-rents, shall be recorded in the office of enrollment in each county of this province) shall sit on some certain day or

days in the First month called March, yearly, at such place or places in the respective counties as is by the proprietor's patents appointed; of which time and place ten days' notice shall be by the respective receiver given and published, by affixing notes or advertisements in writing upon the doors of the public meeting-houses for religious worship in each county; and then and there receive all quit-rents due for such lands in each county from all and every the freeholders and others that possess and claim the same, who shall pursuant to their tenures be hereby obliged, at such time and place, to appear in person, or by their friends, and pay their arrears of rent. And the said several payments shall be duly entered in a fair roll, made and kept for every county, with each township in every county, and all the lands therein according to the said patents, in distinct entries; which shall be subjected to the view of every person, as far as they relate to any particular tract that such person is or may be in anywise concerned [in], either in his own right, or for or in right of others.

And in case any person, who so holds and claims any lands or lots in this province, shall neglect to appear as aforesaid and pay their quit-rents (notice being given as aforesaid) the receiver or collector may levy the same by distress, according as the law of England empowers and directs to distrain for rents. And if no distress can be found, the proprietary, his heirs or assigns, may sue for the rent or arrearages thereof in an action of debt at the respective county court, and shall recover the same as any other debt may be recovered by the laws of this government.

Provided always, That no such action, if the defendant fail of fully answering the debt, shall afterwards be a bar to the proprietary, his heirs or assigns, against recovering the same arrears that were sued for, off the land or lots from whence they accrued, by all such lawful means as might be done if such action had not been commenced. But where any person holding lands of the proprietary is not by patent, deed or contract obliged to pay his rent at any certain place, and after such notice of time and place given by the receiver or collector as aforesaid, refuses to pay the same accordingly, it shall be

lawful for such receiver or collector to distrain for the rent due before such demand; or for want of distress, the same shall be sued for as aforesaid. Saving to all persons that shall be wrongfully distrained upon or sued by color of this act all their legal pleas and remedies prescribed or allowed in such cases by the laws of England.

[Section II.] Provided always and it is hereby enacted, That every renter who is by patent or contract to pay his rent in wheat, shall deliver the same in good merchantable wheat into some convenient mill within a mile of any navigable water, which may best suit the said renter; and the miller's receipt for the same being produced to the receiver or collector, shall be accounted and taken as sufficient payment for so much as shall be therein mentioned, and the renter shall be discharged thereupon accordingly.

Provided also, That no person shall be distrained upon or sued for any rent or arrears of rent heretofore due, until six months be expired after the first demand thereof shall be made, or notice given as aforesaid, to the end that every one may have time to provide his receipts and proofs of payments, if any be made; and for that purpose he shall have free recourse to all rent rolls, books and accounts of all the receivers or collectors of quit-rents that can be found, to make out the payments where receipts cannot be produced: which said receivers and collectors, their executors and administrators, shall and are hereby required before the twenty-fourth day of the month called June in the year of our Lord one thousand seven hundred and six, to bring into the receiver-general's office at Philadelphia all the accounts of rents gathered, received or had by the said respective receivers or collectors or by their order, or true copies of such accounts not already brought in; and if any rents be thereby discovered, or otherwise made appear to be paid, or secured by obligation, or other specialty for that purpose, the same shall be allowed by the receiver-general or his deputy for the time being, or by such other person as shall be appointed to collect the proprietary's rents as aforesaid.

Provided also, That where receipts cannot be produced, nor any apparent credit in or by any of the said receiver's rolls,

books or accounts, or no other proof can be made of the payment of the rents or arrears of rents heretofore due, to the satisfaction of such receiver or collector, and yet the party declares the same is paid or secured as aforesaid in part or in all; then and in such cases, the receiver or officer shall not make distress for such rents or arrears, but may sue for the same; and the tenant or debtor shall be allowed to give his own affirmation, backed with probable circumstances or proof of others, in evidence to the jury for his discharge; and if such evidence be not to the satisfaction of the jury, they shall find for the plaintiff.

Provided also, That every obligation or specialty which hath been or shall be given for arrears of quit-rent, shall discharge the obligors of so much thereof, and be a bar to any action or avowry for the same.

[Section III.] And be it further enacted by the authority aforesaid, That none of the said quit-rents shall be multiplied, but the rent or sum first reserved shall be apportioned; and no person after he has given the receiver or collector a due account of what land he has alienated, and the same is entered in the roll as is hereinafter directed, shall be charged, distrained or sued for any more the said quit-rents than what shall be really due, or ought of right to be required and had, for the quantity of ground or number of acres which he or she respectively holds. And no person shall be charged or obliged to pay any quit-rents for such parts of his or her lands or lots as he or she shall have alienated or conveyed to another who resides upon any lands adjoining, upon the account of which he or she was before entered in the rent roll, after such time as the said alienation is entered into the said roll; which the receiver or officer, upon due notice had thereof, is hereby required to do.

Provided always, That no proportions or parts of quit-rents for lots or lands sold or alienated after the twenty-fifth day of the month called March in the year one thousand seven hundred and six, shall be less than twelve pence sterling for new renters, and one bushel of wheat for old renters; and upon alienations before the said twenty-fifth day of March, the receiver or his deputies shall not be obliged to receive for any part or parcel of lots or lands, less than three pence sterling

yearly, or one peck of wheat. And the receiver or his deputies are hereby required to enter into the respective rolls every such alienation as aforesaid; for which the under-purchaser who shall be so entered, shall pay one shilling.

And whereas divers persons who are not resident in this province have procured their lands to be located; where the same by the settlement of the neighboring inhabitants, are greatly improved in value, and yet have not paid quit-rents nor public charges, for want of some person on the place to answer for them:

[Section IV.] Be it therefore enacted by the authority aforesaid, That from and after the twenty-fifth day of the month called March which shall be in the year one thousand seven hundred and eight, where any tracts of lands or lots shall be in arrears for the quit-rents yearly arising thereupon, or for the provincial or county rates assessed or to be assessed or made payable for the same, it shall be lawful for the clerk of the county where such lands lie, in the name of the proprietor to sue such non-resident in the respective county court, as well for the arrears of quit-rent as taxes unpaid for the space of three years or more next before such suit; and if the defendant doth not, by himself or any other, appear to defend such suit and pay the said arrears of quit-rents and taxes, judgment shall be given against the defendant and execution shall be awarded, to be levied on so much of the said lands as shall satisfy the judgment, in the same manner as other lands, by the laws of this province, are to be taken and sold upon execution for the payment of debts; and so much of the money raised by such sale as shall be due for quit-rents, shall be by the sheriff paid to the proprietor or his receiver; and what shall be due for taxes shall be paid to the provincial or county treasurer respectively.

[Section V.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the justices of each county of this province to grant writs of replevin in all cases whatsoever where replevins may be granted by the laws of

England, taking security as the said law directs, and make them returnable to the respective courts of common pleas in the proper county, there to be determined according to law.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed May 19, 1739, Chapter 348. Repealed, except Section V, by the Act of Assembly passed November 28, 1779, Chapter 874. As to Section V, see the Acts of Assembly passed March 21, 1772, Chapter 645; April 3, 1779, Chapter 837; March 22, 1814, P. L. 190; March 22, 1817, P. L. 122; March 31, 1860, P. L. 399; May 15, 1871, P. L. 268.

CHAPTER CXL.

AN ACT ABOUT DEPARTERS OUT OF THIS PROVINCE.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That every person intending to depart or leave this province shall publish his or her intentions in writing, under one justice's hand, affixed on the door of the county court-house where he or she inhabits, thirty days before his or her departure; and shall have a pass under the province or county seal. And if any master of ship or vessel shall presume to convey or transport any person inhabiting in this province out of this government without such pass, such master or other person shall pay all damages that shall happen thereby.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III.'