

And that the intention of the said grant or any part of it may not upon any account hereafter be eluded:

[Section IV.] Be it enacted, That no length or slip of time, nor any accident arising from thence, shall in any case invalidate or weaken the grant aforesaid or the execution of any clause or paragraph thereof, but that the same shall be in force and so continue until such time as the respective sums due from each county shall be fully paid. And the governor and council shall from time to time give directions and appoint officers to complete the said collection, who shall be subject to the same penalties as the other collectors hereinbefore mentioned, and shall give all such full and positive orders to the county courts as shall be found necessary for collecting and paying in the arrears of the respective sums laid by the act aforesaid.

Provided always, That the county courts shall at each ensuing court make an inquiry into the several payments that have been or hereafter shall be made to the proprietary's receiver, and shall receive of him acquittances which, when in full or amounting to the sum respectively assessed upon the county, shall be a full discharge to that county from every or anything contained in this or the above-recited act for granting the sums aforesaid.

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. Expired.

CHAPTER CLX.

AN ACT DIRECTING THE QUALIFICATIONS OF ALL MAGISTRATES AND OFFICERS, AS ALSO THE MANNER OF GIVING EVIDENCE.

Whereas our gracious sovereign the Queen, by her order bearing date the one-and-twentieth day of January in the year one thousand seven hundred and two, did amongst other things declare her royal pleasure to be that all persons in judicial or any other office or offices in this province, before their entering

upon any such office or offices, do take the oath directed by the law of England or the affirmation allowed by the said law to Quakers; and that no judge be allowed to sit upon the bench who shall not first take the oath of a judge, or in lieu thereof the afore-mentioned affirmation as directed by the law of England; as also that all persons who in England are obliged and are willing to take an oath in any public or judicial proceedings be admitted so to do by the proper officers and judges in Pennsylvania, as by the said order may more at large appear: now forasmuch as the major part of the freeholders and inhabitants of this province being such who cannot for conscience's sake take or order oaths to be administered, that in some of the counties, unless an affirmation be allowed instead of an oath where a magistrate cannot for conscience' sake administer an oath, or where a judge or proper officer who scruples not to administer an oath to such as are willing to take the same is not present nor near at hand, there will inevitably be a failure of justice in cases that often may happen within this province, for prevention 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 from and after the twentieth day of September in the year one thousand seven hundred and six, all persons to serve in council or assemblies within this province, as also all persons whatsoever who from time to time shall be commissioned by the governor or his lieutenant for the time being to be commissioners, judges or justices of the respective courts within this government; as also all clerks, sheriffs, coroners and all other officers and persons whatsoever within this province, who for conscience' sake cannot take oaths, but will, before they enter upon their respective offices or trusts, subscribe the declarations and professions of faith according to the act of parliament made in the first year of the reign of the late King William the Third, entitled "An act for exempting their majesties' subjects dissenting

from the Church of England from the penalties of certain laws," changing what is to be changed, and make their solemn affirmation and engagements for the due execution of their offices or places, in manner hereafter prescribed by this act, shall be, and are hereby declared and allowed to be effectually qualified to act in their several offices, stations and places, and to exercise all the powers, authorities and jurisdictions belonging to them respectively, as fully and amply as if they had been qualified by oath, and that all and every person and persons who shall be duly appointed, elected or commissioned to any office or place, who (having first subscribed the said declaration and profession of their Christian faith, and taken the said solemn affirmation instead of an oath) shall be allowed to hold and exercise their respective offices and places, as also all other persons taking the said affirmation, shall be qualified and allowed to serve as jurymen or upon inquests, and to give evidences in any matter, cause or thing whatsoever. And all such solemn affirmations or declarations shall be adjudged and taken, and are hereby declared and enacted to be of full force and effect in all cases and to all intents and purposes whatsoever, as if the same had been by oaths. And for the better settling the method or manner of administering the said affirmation:

[Section II.] Be it further enacted, That the magistrate or person who administers the same shall say to the affirmant, viz., Dost thou declare, or thou shalt declare, in the presence of Almighty God, the witness of the truth of what thou sayest; and the affirmant shall answer (yea or yes).

And the respective qualifications to be administered to and taken by the several magistrates and officers hereinafter mentioned are to be in the words of the aforesaid affirmation, together with the following words respectively, viz.,

The judges' and justices' attests, thus:

That as judge or justice according to the governor's commission to thee directed, thou shalt do equal right to the poor and rich to the best of thy knowledge and power, according to law and after the usages and constitutions of this government; thou shalt not be of counsel of any matter or cause depending before thee, but shalt well and truly do thy office in every respect according to the best of thy understanding.

To the master of the rolls, secretaries, clerks and such like officers, thus:

That thou wilt well and faithfully execute thy office according to thy commission, to the best of thy skill and knowledge, taking the fees only that thou ought to receive by the laws of this government.

To the sheriffs and coroners, thus:

Thou wilt well and truly serve the Queen and governor in this office of sheriff (or coroner) and preserve the Queen's or governor's rights as far as thou can or may; thou shalt serve and return all the writs and precepts to thee directed; thou shalt take no bailiff or deputy but such as thou wilt answer for; thou shalt receive no writs except from judges and justices who by the laws of this government are authorized to issue and direct writs unto thee; and thou shalt diligently and justly do and accomplish all things appertaining to thy office after the best of thy wit and power, both for the Queen's and governor's profit, and good of the inhabitants within the said county, taking such fees only as thou ought to take by the laws of this government, and not otherwise.

To the constables, thus:

Thou wilt well and duly according to the best of thy understanding execute the office of a constable for the town or county of ——— for this ensuing year, or until another be attested in thy room or thou shalt be legally discharged thereof.

To the grand inquest; to the foreman, thus:

Thou wilt diligently inquire and true presentment make of such matters and things as shall be given thee in charge or come to thy knowledge touching this present service; the Queen's counsel, thy fellows and thy own thou shalt keep secret, and in all things thou shalt present the truth, the whole truth and nothing but the truth, to the best of thy knowledge.

This being given to the foreman, the rest of the inquest shall be attested by one, two or three at a time, as the court shall see occasion, thus:

The same solemn affirmation thy (or your) foreman hath taken on his part thou (or you) will well and truly perform on thy (or your) parts.

To the traverse jury by one, two or three at a time, thus:

Thou (or you) will well and truly try the issue of traverse between our Lady the Queen and A. B., which you have in charge, according to your evidence.

In civil cases by one, two or three at a time, thus:

Thou (or you) will well and truly try the issue between A. B. plaintiff and C. D. defendant, according to your evidence.

The solicitors or attorneys at law, their attests:

Thou shalt do no falsehood nor deceit nor consent to any to be done in this or any other court within this province; and if thou knowest of any to be done thou shalt give knowledge thereof to the judges or justices respectively, that it may be reformed; thou shalt delay no man for lucre or malice; thou shalt increase no fees, but be contented with such fees which are or shall be allowed by the laws of this province; thou shalt plead no foreign plea nor sue any foreign suits unlawfully to hurt any man, but such as shall stand with the order of the law and thy conscience; thou shalt not wittingly nor willingly sue or procure to be sued any false suit, nor give aid or consent to the same, on pain of being expelled from the court forever. And further thou shalt use and demean thyself in the office of an attorney within the court according to thy learning and discretion.

And for preventing the failure of justice that may often happen as aforesaid:

[Section III.] Be it further enacted by the authority aforesaid, That when a magistrate or other proper officer is not present who can administer an oath to such who do not scruple to take the same, it shall and may be lawful for the magistrate or officer then present to administer the affirmation in lieu thereof.

Provided nevertheless, That no proper officer or person whatsoever who scruples not the taking or administering an oath pursuant to the Queen's order, is by this act denied to take or administer the same accordingly. And although it is the usual practice of courts, where magistrates make no conscientious scruple of administering an oath, to administer the same by order of the bench, yet inasmuch as in the courts of this province the bench generally consists mostly of Quakers, who for

conscience' sake cannot administer an oath nor require an oath to be administered as aforesaid:

[Section IV.] Be it therefore enacted by the authority aforesaid, That when any oath pursuant to the Queen's said order is administered by such magistrate as aforesaid, although it be done in the presence of the court, yet it shall be and is hereby declared to be (not the act of the bench but) the act of that magistrate only who shall administer or order the same to be administered which nevertheless shall be as valid a qualification as if it had been done in the name and by the command of the court.

[Section V.] And be it further enacted by the authority aforesaid, That from and after the said twentieth day of September, all commissions granted by the governor for the time being to any person or persons to hold courts or any judicial authority in this province, shall be made (with respect to the aforesaid qualifications) conformable to this act, any law, usage or custom to the contrary hereof in anywise notwithstanding. And if any person or persons taking such solemn affirmations or declarations shall be lawfully convicted willfully, falsely and corruptly to have affirmed or declared any matter or thing which, if the same had been upon oath, would have amounted to willful and corrupt perjury, every such person so offending shall incur the same penalties and forfeitures as by the laws and statutes of England are provided against persons convicted of willful and corrupt perjury. And all persons that shall be convicted of willful and corrupt perjury shall suffer in manner aforesaid.

[Section VI.] And be it further enacted by the authority aforesaid, That any person who being a witness in any matter or cause whatsoever, shall have occasion to go out of this province before trial, or be hindered by extreme sickness to appear personally at the trial of such cause, the deposition or affirmation of such person may be taken in writing before any judge or justice of the peace within this province; and in such case the adverse party or his attorney shall have notice by summons from the magistrate where the said evidence is to be taken. But if the party summoned refuse or neglect to come and be present in person or by attorney, then the deposition or evidence may be

taken without them or in their absence; and such written deposition or affirmation shall be good and sufficient evidence to the court and jury.

Passed January 12, 1705-6. Repealed by the Queen in Council, January 8, 1707-8 and October 24, 1709. See Appendix II, Sections II, III, VIII, IX, &c. See the Act of Assembly passed February 28, 1710-11, Chapter 171.

CHAPTER CLXI.

AN ACT FOR REGULATING ELECTING OF SHERIFFS AND CORONERS.

[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 the freemen and inhabitants of the city and county of Philadelphia, as also of the other counties of this province, at the time and place of meeting for electing their representatives to serve in assembly, shall or may yearly choose a double number of persons to present to the governor for sheriffs and coroners, in manner following: (That is to say) the coroner of every county of this province, or, in his absence, the persons appointed by the electors of the said representatives as judges of their said elections, without any other warrant or precept, as soon as the election of the members of the assembly is ended, shall, by the consent of the said freemen and electors or the greatest part of them, cause a double number of persons to be chosen for sheriff by majority of votes; who shall be returned by indentures between the coroners or some other of the said persons so officiating as judges of the said other elections, and six or more of the electors: which persons so elected for sheriffs shall present themselves to the governor within two days next after such elections; and if the governor will not, on or before the third [day] after such presentment, commissionate one of them so