

## CHAPTER CCCCXCIX.

AN ACT FOR PREVENTING ABUSES IN THE INDIAN TRADE AND FOR SECURING AND STRENGTHENING THE PEACE AND FRIENDSHIP LATELY CONCLUDED WITH THE INDIANS INHABITING THE NORTHERN AND WESTERN FRONTIERS OF THIS PROVINCE.

Whereas the Indians living and hunting near the western and northern frontiers of this province have earnestly requested that this government would regulate the trade with them, prevent abuses therein and provide that they may be furnished with a sufficiency of the necessary goods by honest, prudent and sober men at reasonable rates, and that ministers of the gospel, school-masters and other sober and virtuous men may be sent among them to civilize and instruct them in the Christian religion; the granting of which requests may not only be productive of much good to these poor people, but tend to strengthen and secure the peace and friendship lately concluded between them and the English, and induce other and more distant nations to seek our alliance, effectually secure their affections to the British interest and open a trade with us, to the great advantage and better security of these colonies and increasing the demand for the manufactures of Great Britain.

And whereas by encouraging ministers of the gospel, school-masters and other prudent and virtuous men to reside among the Indians and learn their language and customs they may be civilized and instructed in the Christian religion and this government may from time to time be supplied with faithful interpreters and agents for the management of public affairs with those people from whence many advantages may arise, both to them and us; to answer which good purposes divers acts of assembly have lately been passed which are now near expiring, and it being judged necessary to continue the same remedies and prevent the abuses complained of that the Indian trade and the power and liberty of supplying the natives with goods, wares and merchandises should continue to be in the hands of the government in the manner hereinafter directed:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That John Reynell, William Fisher, Joseph Morris, [Joseph Richardson, merchant], Joseph Sims and John Gibson, gentlemen, shall be and [are] hereby nominated and appointed commissioners for Indian affairs; which said commissioners or a majority of them, or of the survivors of them, shall have full power and authority to do, execute and perform the several duties and things enjoined and required of them by virtue of this act during the continuance thereof, anything herein contained to the contrary notwithstanding; and shall, once in every year, adjust and settle their accounts with the assembly of this province for the time being, and shall be allowed for their trouble two and an half per centum on the purchase of the goods and two and an half per centum on the sale of the returns and no more, and that there shall be for each particular place appointed for carrying on the trade aforesaid, as often as there may be occasion during the continuance of this act, two suitable persons nominated and recommended for agents by the said commissioners for Indian affairs and returned in writing under the hands and seals of the said commissioners to the governor for the time being for his approbation and commission; and if the said governor will not, within five days next after such return, commissionate one of them so nominated and returned the person first named in the return shall be the agent and serve in that office without any further or other commission. And in case any agent or agents chosen and commissioned by virtue of this act should refuse to serve, die, be removed by the commissioners for misbehavior or surrender up their said trust and office the said commissioners shall in like manner proceed to choose two suitable persons to supply his place and return them in manner aforesaid to the governor for the time being for his approbation; and if the governor will not,

within five days next after such return, commissionate one of them so nominated and returned, the person first named in the return shall be the agent and serve in that office without any further or other commission, which agent or agents shall reside in such fort or forts, place or places, as he or they from time to time shall be directed and instructed by the said governor and commander in chief of this province, by and with the approbation of the said commissioners for Indian affairs, or a majority of them or the survivors of them; which said commissioners, or a majority of them or of the survivors of them, shall constantly furnish and supply them, the said agents, with an assortment of Indian goods, which they, the said agents, shall exchange and barter with the Indians for their peltry at such rates as shall be from time to time settled and directed by the said commissioners for Indian affairs. And the said agent or agents so chosen and appointed as aforesaid shall, in all his or their transactions and dealings with the Indians in the way of trade or barter, conduct him or themselves according to the directions of this act and such instructions consistent therewith as he or they shall receive from the commissioners aforesaid for Indian affairs; which commissioners shall, with such sums as shall be granted and appropriated for that purpose, purchase from the importers or import, as shall be most conducive to the benefit of the said trade, and send out to the said agent or agents the necessary assortment of goods and merchandises for carrying on the Indian trade, and shall receive the peltry that shall be sent in as returns for the same and sell or dispose thereof by themselves or such other persons as they shall appoint in lots, by way of public auction, in the city of Philadelphia or in such other place as they shall think proper within this province, to the highest bidders, any law, usage or custom to the contrary in any wise notwithstanding, giving at least ten days' notice in the public newspapers of such sale, together with the particular assortments and qualities thereof and the time and place where the said auction is to be held, in which purchases and sales they shall use their utmost care, circumspection and diligence for the public interest.

[Section II.] And be it further enacted by the authority

aforesaid, That the said commissioners, or any or either of them, shall not, directly or indirectly, buy, sell, barter, exchange or trade with any Indian or Indians on his or their own account or on the account of any other person or persons whatsoever, nor suffer any person under his or their direction so to do during the continuance of this act, but for the account of the province only and in the manner directed by this act, under the penalty of one hundred pounds for every such offense, to be recovered in the same manner the other fines and penalties inflicted by virtue of this act are directed to be recovered, one-half thereof to the informer or the person that shall sue for the same and the other half part to be applied to the uses of the said Indian trade.

[Section III.] And be it further enacted by the authority aforesaid, That in settling the rates of exchanging and bartering with the Indians no greater advance shall be put on the goods to be furnished them than may be, in the judgment of the commissioners aforesaid, sufficient to bear and defray the necessary expenses of transporting, carrying on and managing the trade and for supporting such Protestant teachers of the Gospel to instruct the Indians in the principles of the Christian religion, school-masters and other persons to take care of and direct them in their temporal affairs as shall be most agreeable to them, which said teachers, school-masters and others so to be supported shall be appointed and commissioned by the governor and commander in chief of this province; and before they are commissioned by the governor and commander in chief of this province for the purposes aforesaid, they shall take the oaths appointed to be taken in and by an act passed in the first year of King George the First, entitled "An act for the further security of His Majesty's person and government and the succession of the Crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors," or, if conscientiously scrupulous of taking an oath, an affirmation instead thereof, and shall also make, repeat and subscribe the declaration in the said act mentioned. And if, upon final settlement of the accounts at the expiration of this act, it should

appear that there is a surplus of profit, the same shall be paid into the hands of the provincial treasurer for the time being and disposed of in such manner and to such purposes as shall be hereafter directed by act of general assembly of this province.

[Section IV.] And be it further enacted by the authority aforesaid, That every agent so appointed and employed as aforesaid, before [he] takes upon himself the office and trust appointed and required by this act shall take an oath or affirmation before some justice of the peace of this province for the faithful discharge of his duty and the trust reposed in him by virtue of this act, and shall also enter into and duly execute an obligation with such sufficient sureties to his Majesty and his successors and in such penal sum as the said commissioners for Indian affairs shall require, that he will well and truly discharge and execute his trust and likewise observe such orders, instructions and directions consistent with this act as shall be sent to him from time to time by the said commissioners for Indian affairs, and that he will neither, directly or indirectly, buy, sell, barter, exchange or trade with any Indian or Indians on his own account or on the account of any person or persons whatsoever nor suffer any person under his direction so to do, but for the account of the province only, and that he will not employ any person or persons as assistants in trading with the Indians but such as shall be well recommended as honest, sober and prudent persons and approved of by the said commissioners for Indian affairs. And the said agent or agents shall keep fair and just accounts of all his or their transactions and dealings in the premises and deliver fair transcripts thereof into the hands of the said commissioners for Indian affairs at least once a year, and shall also settle and adjust the same yearly, or oftener if required, with the said commissioners, and shall have for his or their care and trouble in negotiating and transacting the business hereby committed to him or them and such as shall or may be employed as is hereinbefore directed in carrying on the trade with the Indians and other services relating thereto, such rewards or commissions as the commissioners aforesaid for Indian affairs shall judge reasonable and allow.

[Section V.] And be it further enacted by the authority aforesaid, That if any such agent or assistant, or person employed by him, shall presume to demand higher or greater prices or rates of the Indians for any goods sold them or exchanged or bartered with them than they are fixed at, or allow the Indians less for their peltry than directed and instructed to do by the said commissioners for Indian affairs, such agent or assistant or person employed by him shall forfeit and pay the sum of fifty pounds for every such offense, one-half thereof to be paid to the said commissioners for Indian affairs, to be disposed of by them in purchasing goods and carrying on the said trade, and the other half thereof to such person or persons that shall sue or prosecute for the same, to be recovered in any of His Majesty's courts of record within this province where the prosecutor shall think proper to commence his suit, by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law shall be allowed to the defendant, nor any more than one imparlance, and the offender or delinquent shall thenceforth during the continuance of this act be altogether disabled from holding or exercising any office within this government.

[Section VI.] And be it further enacted by the authority aforesaid, That no person or persons whatsoever other than the said commissioners, their agents and their assistants, and such as are employed by them for account of the province, from and after the publication of this act shall presume to sell, exchange or barter with any Indian or Indians any cider, whiskey, wine, rum, brandy or any other strong liquor whatsoever within this province; nor shall any person or persons other than the commissioners, their said agents and their assistants, sell, exchange or barter with any Indian or Indians any goods, wares or merchandises whatsoever (provisions only excepted) beyond the Kittocktenny Hills on any pretense whatsoever.

Provided, That nothing herein contained shall be construed or extended to debar any inhabitant within the Kittocktenny Hills from selling, bartering or exchanging any goods, wares or merchandises other than spirituous liquors as aforesaid with such Indian or Indians as shall or may come to their own dwelling-houses for those purposes; and that every person and persons

offending in the premises being legally convicted thereof in any court of record within this province, shall forfeit and pay the sum of fifty pounds, to be recovered and disposed of in manner last aforesaid, and be committed to the public gaol during the space of six months, without bail or mainprise, any law or laws of this province to the contrary notwithstanding; and the said offense committed out of the inhabited parts of this province as aforesaid, shall be heard, tried and determined in any of the courts of this province where the person offending shall or may be arrested and apprehended.

[Section VII.] And be it further enacted by the authority aforesaid, That the said agents to be appointed as aforesaid and every of them, as often as they shall be informed or have reason to believe that any quantity of strong liquors, goods, wares and merchandises are carried out and transported beyond the Kittocktenny Hills with design to sell, barter and exchange the same with the Indians shall and they and every of them are hereby empowered and required, with their assistants and servants, to visit all suspected places and search for such strong liquors, goods, wares and merchandises, and being found beyond the limits aforesaid, to seize the same as forfeited, one-half thereof for the use of the person who shall prosecute for the same and the other half thereof to the commissioners for Indian affairs aforesaid, to be recovered in manner aforesaid in any court of record of this province in which the prosecutor shall think proper to file his bill, plaint or information and to be disposed of by them in manner last aforesaid.

[Section VIII.] And be it further enacted by the authority aforesaid, That where any agent so as aforesaid appointed shall be removed by the said commissioners for Indian affairs from his office of agent or surrender up his said office, he shall deliver up to the said commissioners for Indian affairs all the books, public accounts and papers belonging to or concerning the trade and trust committed to his care, whole and entire and undefaced, under the penalty of five hundred pounds, to be recovered in the manner and for the uses aforesaid, and where any agent shall be removed by death from his said office and trust the executors or administrators of such decedent shall deliver in like manner

all the books and papers that shall come to their hands relating to the accounts and transactions of the said trade to the succeeding agent or agents under the like penalty, to be recovered and applied in manner aforesaid.

Provided always, That nothing in this act contained shall repeal the clause or clauses in the said acts for preventing abuses in the Indian trade, &c., or either of them, which provides for the assuring and securing the loans to the respective lenders of any sum or sums of money to the late commissioners for the Indian trade, nor shall be construed to deprive such person or persons who have lent their money to the late commissioners upon the faith and credit of the said acts and of the securities and provisions for that purpose therein made, until the principal sums and the interest thereon due shall be paid to the said former lenders by the commissioners by this act appointed in the manner hereinafter directed.

[Section IX.] And be it further enacted by the authority aforesaid, That this act shall be in force for seven years from and after the publication thereof and no longer.

And whereas the commissioners for Indian affairs appointed in and by an act of general assembly of this province passed in the thirty-first year of King George the Second, entitled "An act for preventing abuses in the Indian trade," &c.,<sup>1</sup> by virtue and in pursuance of the said act and of one other act passed in the thirty-second year of the same reign, entitled "A supplement to the act, entitled 'An act for preventing abuses in the Indian trade,' " &c.,<sup>2</sup> have borrowed considerable sums of money and have given notes and certificates for the same whereby to raise a stock to carry on the Indian trade, and have therewith purchased goods and merchandise and sent them to their agents to supply the Indians as in and by the said act is directed:

[Section X.] Be it enacted by the authority aforesaid, That the said commissioners for Indian affairs so as aforesaid nominated and appointed shall and they are hereby required and enjoined to deliver up to the commissioners for Indian affairs nominated and appointed by this act all and singular the books,

<sup>1</sup> Passed April 8, 1758, Chapter 423.

<sup>2</sup> Passed April 17, 1759, Chapter 438.



papers, goods, wares and merchandises that have or shall come to their hands, custody or power or which shall remain unsold at the time of passing this act, together with the profits thereof, if any; whereupon the commissioners for Indian affairs appointed by virtue of this act shall become liable for the payment of all such notes and certificates as have been heretofore given for moneys borrowed by virtue of former acts for carrying on the Indian trade.

And whereas, it hath been found by experience that the profits arising on the Indian Trade were insufficient to bear the burthen of interest on the sums borrowed in pursuance of former acts of assembly of this province, together with the losses to which the said trade has hitherto been subject, it is therefore thought necessary for the public interest to take up the sum of fourteen thousand pounds out of the sum of money granted by Parliament to this province for the year one thousand seven hundred and sixty, [for] nearly the whole whereof bills of exchange have been already drawn by the trustees of the general loan office, and the moneys arising from the sale of the said bills now remain in their hands:

[Section XI.] Be it therefore further enacted by the authority aforesaid, That it shall and may be lawful to and for the said trustees of the general loan office aforesaid and they are hereby enjoined and required to pay into the hands of the commissioners in this act named or to their order the said sum of fourteen thousand pounds, money of this province, out of the moneys arising by the Parliamentary grant aforesaid within ten days after the publication of this act for the several uses, intents and purposes hereinafter mentioned and declared, That is to say, for the use, intent and purpose of carrying on and prosecuting the said Indian trade and discharging the notes and certificates heretofore given for money borrowed by the former commissioners for Indian affairs.

[Section XII.] And be it further enacted by the authority aforesaid, That the commissioners aforesaid, upon the receipt of the moneys so by them to be received, shall forthwith pay off, satisfy and discharge all and every of the notes and certificates passed and signed by the former commissioners for Indian

affairs with the interest thereon due, and with the residue of the said moneys, together with the stock now in the hands of the former commissioners, their agents or factors, continue to carry on and prosecute the said Indian trade according to the true intent and meaning of this act, for receiving of which moneys from the trustees aforesaid and discharging the several debts and interest due upon the notes and certificates of the former commissioners the commissioners in this act named shall have and receive five shillings for every hundred pounds so received and paid, and no more.

[Section XIII.] And be it further enacted by the authority aforesaid, That the receipts of the said commissioners, or a majority of them, for the said sum of fourteen thousand pounds which they shall receive and take up from [the said] trustees of the said general loan office shall be produced to the committee of assembly for the time being and by them be allowed in discharge of so much of the moneys in the said trustees' hands arising from the sale of the said bills drawn for the moneys granted by Parliament as aforesaid.

[Section XIV.] And be it further enacted by the authority aforesaid, That the goods and stock in the hands of the said commissioners, their agents and factors, at the expiration of this act, shall be sold and converted into money, which money, with all other moneys then in the hands of the said commissioners belonging to the Indian trade aforesaid, not exceeding the said sum of fourteen thousand pounds, shall, on or before the tenth day of March, in the year of our Lord one thousand seven hundred and seventy, be paid into the hand [of] the provincial treasurer, to be sunk and destroyed in abatement of the taxes as if this act had never passed, anything herein contained to the contrary notwithstanding.

[Section XV.] And be it further enacted by the authority aforesaid, That the act of general assembly of this province, entitled "An act for preventing abuses in the Indian trade, for supplying the Indians, friends and allies of Great Britain, with goods at more easy rates, and for securing and strengthening the peace and friendship lately concluded with the Indians inhabiting the northern and western frontiers of this province,"<sup>1</sup>

and one other act, entitled "A supplement to the act for preventing abuses in the Indian trade, for supplying the Indians, friends and allies of Great Britain, with goods at more easy rates, and for securing and strengthening the peace and friendship lately concluded with the Indians inhabiting the northern and western frontiers of this province,"<sup>2</sup> shall be and they are hereby repealed and made null and void.

Passed April 2, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the notes to the Acts of Assembly passed April 8, 1756, Chapter 428; April 17, 1759, Chapter 438; and the Acts of Assembly passed October 22, 1763, Chapter 505; February 17, 1768, Chapter 571; February 24, 1770, Chapter 608.

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#### CHAPTER D.

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##### AN ACT FOR REGULATING THE HIRE OF CARRIAGES TO BE EMPLOYED IN HIS MAJESTY'S SERVICE.

To prevent exorbitant demands for the hire of horses and wagons to be employed in His Majesty's service and for the better supplying the same:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That for the better and more regular provision of carriages and horses for His Majesty's forces in their marches, or for their arms, clothes or accoutrements, through the inhabited parts of this province, all justices of the peace within their several counties being duly required thereunto by an order from the governor or commander in chief of this province for the time

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<sup>1</sup> Passed April 8, 1758, Chapter 428.

<sup>2</sup> Passed April 17, 1759, Chapter 438.