

# A C T S

OF THE

## General Assembly of Pennsylvania.

Passed at a Session which commenced October 14th, 1766.  
and ended September 26th, 1767.

1767.

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JOHN PENN, LIEUTENANT GOVERNOR.

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### CHAPTER DXLIX.

*An ACT to enable the owners and possessors of the Moyamensing meadows, in the county of Philadelphia, to keep the banks, dams, sluices and flood-gates in repair, and to raise a fund to defray the expenses thereof.*

Passed 21st February, 1767.—Private act.—Recorded A. vol. V. page 173.

### CHAPTER DLV.

*An ACT to prevent the mischiefs arising from the increase of vagabonds, and other idle and disorderly persons, within this province.*

**WHEREAS** the number of rogues, vagabonds, and other idle and disorderly persons, daily increases in this province, to the great loss and annoyance of the inhabitants thereof: For remedy whereof, *Be it enacted*, That all persons, who shall unlawfully return to such city, township or place, from whence they have been legally removed, by order of two Justices of the Peace, without bringing a certificate from the city, township or place, to which they belong; and all persons, who, not having wherewith to maintain themselves and their families, live idly and without employment, and refuse to work, for the usual and common wages given to other labourers in the like work in the city, township or place, where they then are; and all persons going about from door to door, or placing themselves in streets, highways, or other roads, to beg, or gather alms in

What sort of persons to be deemed idle and disorderly, &c.

the city, township or place, where they dwell, and all other persons wandering abroad and begging; and all persons who shall come from the neighbouring colonies, or any of them, into any township or place within this province, and shall be found loitering or residing therein, and shall follow no labour trade, occupation or business, and have no visible means of subsistence, and can give no reasonable account of themselves, or their business in such township or place, shall be deemed, and are hereby declared to be, idle and disorderly persons, and liable to the penalties hereby imposed; and that it shall and may be lawful for any Justice of the Peace of the county, where such idle and disorderly persons shall be found, to commit such offenders (being thereof legally convicted before him, on his own view, or by the confession of such offenders, or by the oath or affirmation of one or more credible witness or witnesses) to the work-house of the said county, if such there be, otherwise to the common gaol of the county, there to be kept at hard labour, by the keeper of such work-house or gaol, for any time not exceeding one month.

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**II.** *And be it further enacted,* That if any persons shall be found offending in any township or place against this act, it shall and may be lawful for any constable of such township or place, and he is hereby enjoined and required, on notice thereof given him by any of the inhabitants thereof, to apprehend and convey, or cause to be conveyed, such person so offending to a Justice of the Peace of the county, who shall examine and try such offenders, and on such confession or proof, shall commit them to the work-house or gaol of the county, there to be kept at hard labour during the term aforesaid: And if any constable, after such notice given as aforesaid, shall refuse or neglect to use his best endeavours to apprehend and convey such offenders before the Justice of the Peace aforesaid, being thereof legally convicted before such Justice of the Peace, every such constable shall forfeit and pay to the Overseers of the poor of the township or place where such offence shall be committed, to the use of the poor thereof, the sum of ten shillings, to be levied by distress and sale of the offender's goods, by warrant from such Justice, and the overplus, if any, after the charge of prosecution and of such distress shall be satisfied, shall be returned to such offender.

Penalty on constables neglecting to apprehend offenders against this act, &c.

**III.** *And be it further enacted,* That any person or persons who shall conceive him, her or themselves aggrieved by any act, judgment or determination of any Justice or Justices of the Peace out of Sessions, in and concerning the execution of this act, may appeal to the next General Quarter Sessions of the city or county, giving reasonable notice thereof, whose order thereupon shall be final.

Persons aggrieved may appeal, &c.

**IV.** *And be it further enacted,* That upon the presentment of any Grand Jury, at any Court of General Quarter Sessions of the Peace in and for any county of this province, that there is no work-house, and that it will be for the benefit and common good of the same county to erect or provide such house, or that the work-house already provided is not sufficient, and requires repairs, or an alteration or enlargement, then, if the Justices of the Peace in their Sessions, shall approve of the same, the Commissioners and Assessors of the county aforesaid, if they unite in judgment with the said Justices and Grand Jury, shall have full power and authority to build, erect, add

Presentment being made to the General Quarter Sessions in any county of a work-house, &c. manner of proceeding thereon.

1767. to, or enlarge, one convenient work-house, and to purchase a lot or lots for the building such house on; and for defraying the expense, charge and costs thereof, shall lay, assess and levy, such further and other rate or rates, assessment or assessments, on all estates, real and personal, within their county, as shall or may be sufficient for the purposes aforesaid, in the same manner, and to be collected in the same manner, by the same persons, and under the same penalties, as is or are enjoined and directed in the laying, assessing, levying and recovering the county rates, by the act of General Assembly of this province, entitled *An act for raising county rates and levies*.

V. *And be it further enacted*, That the said Justices in their General Quarter Sessions shall, as often as there may be occasion, nominate and appoint some capable, discreet and prudent person, to be the keeper of such work-house, who shall, at the expense of the county, provide, furnish and supply such sufficient implements, materials and furniture, for keeping, setting to work, employing and correcting all idle and disorderly persons, rogues and vagabonds, who shall be legally committed to the said house, as the said Justices and Commissioners shall direct; which said expense, together with such sum of money as shall be allowed the said keeper, for his labour and trouble in his said office, by the Justices and Commissioners aforesaid, shall be paid out of the county stock, and shall be laid, raised, levied, and recovered, in the same manner, as, by the said recited act, other county rates and levies are enjoined and directed to be laid, levied and recovered: and that all materials so found and provided, and worked up in the said house, shall be the property of the county, and shall be sold by such keeper, in such manner as the said Justices and Commissioners shall direct and appoint; and all the proceeds thereof, after deducting the sum or sums expended in the support and victualling such persons so committed, agreeable to the order and directions of the said Justices and Commissioners, if any, shall be paid by such keeper unto the County Treasurer, there to remain liable to the draughts of the County Commissioners aforesaid, for the payment of the county debts: and that two of the said Justices, or any such two of them as shall be appointed at the General Quarter Sessions of the Peace, with one or more of the said Commissioners, shall, four times or oftener, if need be, in every year, visit the said work-house, and examine into the state and management thereof, and report the same to the next General Quarter Sessions aforesaid, to the intent that if any thing be amiss, or not properly conducted, the same may, by order of the said Sessions, and the County Commissioners aforesaid, be reformed and amended.

VI. *Provided always nevertheless*, That nothing in this act contained shall be deemed, taken or construed, to extend to the apprehending, trial and commitment of any rogues, vagabonds, or other idle, dissolute and disorderly persons found loitering or residing in the city of Philadelphia, district of Southwark, or townships of Moyamensing and Passyunk, and the Northern Liberties, mentioned in the act, entitled *An act for the better employment, relief and support of the poor, within the city of Philadelphia, the district of Southwark, the townships of Moyamensing and Passyunk, and the North-*

Justices in Quarter Sessions to appoint a keeper of the work-house, &c.

Nothing in this act to extend to the commitment of rogues, &c. in the city of Philadelphia, &c.

*ern Liberties,\** any thing in this act contained to the contrary 1767. thereof in any wise notwithstanding.

Passed 21st February, 1767.—Recorded A. vol. V. page 162. (m)

(m) See the index to titles *Vagrant, Work-house*, and the different acts respecting the poor.

\*Chap. 534, now repealed and supplied by an act passed March 29th, 1803, (chap. 2357.)

## CHAPTER DLVI.

An ACT to prevent inconveniences arising from delays of causes, after issue joined.

WHEREAS many great inconveniences have arisen to the inhabitants of this province, by means of delaying the trials of causes between party and party, after issue joined: For remedy whereof, *Be it enacted*, That where any issue is or shall be joined in any action or suit at law, in any of the Courts of this province, and the plaintiff or plaintiffs in any such action or suit hath or have neglected, or shall neglect, to bring such issue on to be tried, according to the course and practice of the said Courts respectively, it shall and may be lawful for the Judges or Justices of the said Courts respectively, at any time after such neglect, upon motion made in open Court, due notice having been given thereof, in open Court, the preceding term, to give the like judgment for the defendant or defendants, in every such action or suit, as in cases of non-suit, unless the said Judges shall, upon just cause, and reasonable terms, allow any further time or times for the trial of such issue; and if the plaintiff or plaintiffs shall neglect to try such issue within the time or times so allowed, then, and in every such case, the said Judges or Justices shall proceed to give such judgment as aforesaid.

When issue is joined, and plaintiffs neglect to bring the same on to be tried, Judges may give judgment. &c.

II. *Provided always, and be it enacted*, That all judgments, given by virtue of this act, shall be of the like force and effect as judgments upon non-suit, and of no other force or effect.

III. *Provided also*, That the defendant or defendants shall, upon such judgment, be awarded his, her or their costs, in any action or suit, where he, she or they, would, upon non-suit, be entitled to the same, and in no other action or suit whatsoever.

Defendants awarded.

Passed 21st February, 1767.—Recorded A. vol. V. pa. 157. (n)

(n) For a general reference to all the acts respecting the Judiciary Department, see ante. chap. 255; and respecting the penal laws, see ante. chap. 236.

The proviso rule cannot be granted in a suit brought by the commonwealth; but the court will in such case grant a peremptory rule for trial at the next term; and under that direct the jury to be qualified. *Respublica v. Coates*. Supreme Court, July term 1790. 2 Dallas, 109.

A rule to try a cause at the next term, or *non pros*, is not like a rule to

plead or declare; for a trial is a thing that must be in the face of the country. A *non pros* of that kind ought, therefore, to be moved for in court, when the plaintiff may assign reasons for the delay of trial. 1 Dallas, 347.

A rule for trial, or *non pros*, was obtained at the last term; it was continued till this term, a plea added, and particular facts referred, upon which there was a report a few days before the day appointed for trial of the cause. *By the Court*:—The subsequent plea and reference virtually vacate the previous rule for trial, or *non pros*. The cause