

## Frame of Government of Pennsylvania - 1696

### *The Frame of Government of the Province of Pennsylvania, and the territories thereunto belonging; passed by Governor Markham, November 1, 1696*

WHEREAS, the late king Charles the Second, in the three and thirtieth year of his reign, by letters patent under the great seal of *England*, did, for the considerations therein mentioned, grant unto *William Penn*, his heirs and assigns, for ever, this colony, or tract of land, thereby erecting the same into a province, called Pennsylvania, and constituting him, the said *William Penn*, absolute Proprietary thereof, vesting him, his Deputies and Lieutenants, with divers great powers, pre-eminences, royalties, jurisdictions and authorities, necessary for the well-being and good government of the said province. And whereas the late Duke of *York* and *Albany*, &c., for valuable considerations, did grant unto the said *William Penn*, his heirs and assigns, all that tract of land which hath been cast, or divided into three counties, now called *Newcastle*, *Kent*, and *Sussex*, together with all royalties, franchises, duties, jurisdictions, liberties and privileges thereunto belonging; which last mentioned tract being intended as a beneficial and requisite addition to the territory of the said Proprietary, he. the said Proprietary and Governor, at the request of the freemen of the said three counties, by their deputies, in Assembly met, with the representatives of the freemen of the said province at *Chester*, alias *Upland*, on the sixth day of the tenth month, 1682, did (with the advice and consent of the Members of the said Assembly) enact, that the said three counties should be annexed to the province of Pennsylvania, as the proper territories thereof: and whereas king *William* and the late queen *Mary*, over *England*, &c., by their letters patent and commission, under the great seal of *England*, dated the twenty-first day of October, in the fourth year of their reign, having, (for the reasons therein mentioned) taken the government of this said province and territories into their hands, and under their care and protection, did think fit to constitute *Benjamin Fletcher*, Governor of New York, to be their Captain General, and Governor in Chief, over this province and country. And whereas, also the said king and queen afterwards, by their letters patent, under the great

seal of *England*, dated the twentieth day of August, in the sixth year of their reign, have thought fit, upon the humble application of the said *William Penn*, to restore him to the administration of the government of the said province and territories; and that so much of their said commission as did constitute the said *Benjamin Fletcher*, their Captain General and Governor in Chief of the said province of *Pennsylvania*, country of *Newcastle*, and the territories and tracts of land depending thereupon, in America, together with all the powers and authorities thereby granted for the ruling and governing their said province and country, should, from the publication of the said last recited letters patent, cease, determine and become void; and accordingly the same are hereby declared void; whereupon the said *William Penn* did commissionate his kinsman, *William Markham*, Governor under him, with directions to act according to the known law and usages of this government.

Now, forasmuch as the former frame of government, modelled by act of settlement, and charter of liberties, is not deemed, in all respects, suitably accommodated to our present circumstances, therefore it is unanimously desired that it may be enacted, And be it enacted by the Governor aforesaid, with the advice and consent of the representatives of the freemen of the said province and territories, in Assembly met, and by the authority of the same, that this government shall, from time to time, consist of the Governor, or his Deputy, or Deputies, and the freemen of the said province, and territories thereof, in form of a Council and Assembly; which Council and Assembly shall be men of most note for virtue, wisdom and ability; and shall, from and after the tenth day of the first month next, consist of two persons out of each of the counties of this government, to serve as the people's representatives in Council; and of four persons out of each of the said counties, to serve as their representatives in Assembly; for the electing of which representatives, it shall and may be lawful to and for all the freemen of this province and territory aforesaid, to meet together on the tenth day of the first month yearly hereafter, in the most convenient and usual place for election, within the respective counties, then and there to chuse their said representatives as aforesaid, who shall meet on the tenth day of the third month yearly, in the capital town of the said province, unless the Governor and Council shall think fit to appoint another place.

And, to the end it may be known who those are, in this province and territories, who ought to have right of, or to be deemed freemen to chuse, or be chosen, to serve in Council and Assembly, as aforesaid, Be it enacted by the authority aforesaid, That no inhabitant of this province or territories, shall have right of electing, or being elected as aforesaid, unless they be free denizens of this government, and are of the age of twenty-one years, or upwards, and have fifty acres of land, ten acres whereof being seated and cleared, or be otherwise worth *fifty pounds*, lawful money of this government, clear estate, and have been resident within this government for the space of two years next before such election.

And whereas divers persons within this government, cannot, for conscience sake, take an oath, upon any account whatsoever, Be it therefore enacted by the authority aforesaid, That all and every such person and persons, being, at any time hereafter, required, upon any lawful occasion, to give evidence, or take an oath, in any case whatsoever, shall, instead of swearing, be permitted to make his, or their solemn affirmation, attest, or declarations which shall be adjudged, and is hereby enacted and declared to be of the same force and effect, to all intents and purposes whatsoever, as if they had taken an oath, and in case any such person or persons shall be lawfully convicted of having wilfully and corruptly affirmed, or declared any matter or thing, upon such solemn affirmation or attest, shall incur the same penalties and forfeitures as by the laws and statutes of *England* are provided against persons convicted of wilful and corrupt perjury.

And be it further enacted by the authority aforesaid, That all persons who shall be hereafter either elected to serve in Council and Assembly, or commissioned or appointed to be Judges, Justices, Masters of the Rolls, Sheriffs, Coroners, and all other offices of State and trust, within this government, who shall conscientiously scruple to take an oath, but when lawfully required, will make and subscribe the declaration and profession of their Christian belief, according to the late act of parliament, made in the first year of king *William*, and the late queen *Mary*, entitled, An act for exempting their majesties' Protestant subjects, dissenting from the Church of *England*, from the penalty of certain laws, shall be adjudged, and are hereby declared to

be qualified to act in their said respective offices and places, and thereupon the several officers herein mentioned, shall, instead of an oath make their solemn affirmation or declaration in manner and form following; that is to say,

The form of Judges' and Justices' attest shall be in these words, viz:

Thou shalt solemnly promise that as Judge, or Justice, according to the Governor's commission to thee directed, thou shalt do equal 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; thee, but shalt well and truly do thy office in every respect, according to the best of thy understanding.

The form of the attests to be taken by the Masters of the Rolls, Secretaries, Clerks, and such like officers, shall be thus, viz:

Thou Shalt well and faithfully execute the office of, &c., according to the best of thy skill and knowledge; taking such fees only as thou oughtest to receive by the laws of this government.

The form of the Sheriffs' and Coroners' attest, shall be in these words, viz:

Thou shalt solemnly promise, that thou wilt well and truly serve the King and Governor In the office of the Sheriff (or Coroner) of the county of, &c., and preserve the King and Governor's rights, as far forth as thou canst, or mayest; thou shalt truly serve, and return, all the writs and precepts to thee directed; thou shalt take no bailiff, nor deputy, but such as thou wilt Hanover for; thou shalt receive no writs, except from such judges and justices who, by the laws of this government, have authority to issue and direct writs unto thee; and thou shalt diligently and truly do and accomplish all things appertaining to thy office, after the best of thy wit and power, both for the King and Governor's profit, and good of the inhabitants within the said county, taking such fees only as thou oughtest to take by the laws of this government, and not otherwise.

The form of a Constable's attest shall be this, viz:

Thou shalt solemnly promise, well and duly, according to the best of thy understanding, to execute the office of a Constable for the town (or county) of P. for this ensuing year, or until another be attested in thy room, or thou shalt be legally discharged thereof.

The form of the Grand Inquest's attests shall be in these words, viz:

Thou shalt diligently enquire, and true presentment make, of all such matters and things as shall be given thee in charge, or come to thy knowledge, touching this present service; the King's counsel, thy fellows, and thy own, thou shalt keep secret, and in all things thou shalt present the 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 thus, by three at a time, viz:

The same attestation that your Foreman hath taken on his part, you will well and truly keep on your parts.

The form of the attest to be given to the Traverse Jury, by four at a time, shall be thus, viz:

You solemnly promise that you will well and truly try the issue of traverse between the lord the King, and A. B. whom you have in charge? according to your evidence.

In civil causes, thus, viz:

You solemnly promise that you will well and truly try the issue between A. B. plaintiff, and C. D., defendant, according to your evidence.

Provided always, and it is hereby intended, that no person shall be, by this act, excused from swearing, who, by the acts of parliament, for trade and navigation, are, or shall be required to take an oath.

And, that elections may not be corruptly managed, on which the good of the government so much depends, Be it further enacted by the authority aforesaid'

that all elections of the said representatives shall be free and voluntary, and that the electors, who shall receive any reward, or gift, for giving his vote, shall forfeit his right to elect for that year; and such person or persons, as shall give, or promise, any such reward to be elected, or that shall offer to serve for nothing, or for less wages than the law prescribes, shall be thereby rendered incapable to serve in Council, or Assembly, for that year; and the representatives so chosen, either for Council or Assembly, shall yield their attendance accordingly, and be the sole judges of the regularity, or irregularity of the elections of their respective Members; and if any person, or persons, chosen to serve in Council, or Assembly, shall be wilfully absent from the service, he or they are so chosen to attend, or be deceased, or rendered incapable, then, and in all such cases, it shall be lawful for the Governor, within ten days after knowledge of the same, to issue forth a writ to the Sheriff of the county, for which the said person, or persons, were chosen, immediately to summons the freemen of the same to elect another member in the room of such absent, deceased, or incapable person or persons; and in case any Sheriff shall misbehave himself, in the management of any of the said elections, he shall be punished accordingly, at the discretion of the Governor and Council, for the time being.

Be it further enacted by the authority aforesaid, That every member now chosen, or hereafter to be chosen, by the freemen as aforesaid, to serve in Council, and the Speaker of the Assembly, shall be allowed five shillings by the day, during his and their attendance; and every Member of Assembly shall be allowed four shillings by the day, during his attendance on the service of the Assembly; and that every Member of Council and Assembly shall be allowed towards their traveling charges after the rate of two pence each mile, both going to, and coming from, the place, where the Council and Assembly is, or shall be, held; all which sums shall be paid yearly out of the county levies, by the county receivers respectively.

And be it further enacted by the authority aforesaid,. That the Governor, or his Deputy, shall always preside in the Council, and that he shall, at no time, perform any public act of state whatsoever, that shall, may relate unto the justice, treasury or trade of the province and territories, but by and with the

advice and consent of the Council thereof, or major part of them that shall be present.

And be it further enacted by the authority aforesaid, That all the Sheriffs and Clerks of the respective counties of the said province, and territories, who are, or shall be, commissioned, shall Give good and sufficient security to the Governor, for answering the king and. his people, in matters relating to the said offices respectively.

And be it further enacted by the authority aforesaid, That the Council, in all cases and matters of moment, as about erecting courts of justice, sitting in judgment upon persons impeached, and upon bills and other matters, that may be, from time to time, presented by the Assembly, not less than two-thirds shall make a quorum; and that the consent and approbation of the majority of that quorum shall be had in all such cases and matters of moment; and that in cases of less moment, not less than one-third of the whole shall make a quorum; the majority of which shall, and may, always determine in all such matters of lesser moment, as are not above specified: and in case the Governor's power shall hereafter happen to be in the Council, a President shall then be chosen out of themselves by two-thirds, or the major part of them; which President shall therein preside.

Be it further enacted by the authority aforesaid, That the Governor and Council shall take care that all the laws, statutes and ordinances, which shall at any time be made within the said province and territories, be duly and diligently executed.

Be in further enacted by the authority aforesaid, That the Governor and Council shall, at all times, have the care of the peace of this province and territories thereof, and that nothing be, by any persons, attempted to the subversion of this *frame of government*.

And be it further enacted by the authority aforesaid, That the Governor and Council for the time being, shall, at all times, settle and order the situation of all cities and market towns, modeling therein all public buildings, streets and market places; and shall appoint all public landing places of the towns of this

province and territories: and if any man's property shall be judged by the Governor and Council to be commodious for such landing place in the said towns, and that the same be by them appointed as such, that the owner shall have such reasonable satisfaction given him for the same as the Governor and Council shall see meet, to be paid by the said respective towns

Be it further enacted by the authority aforesaid, That the Governor and Council shall, at all times, have power to inspect the management of the public treasury, and punish those who shall convert any part thereof to any other use, than what hath been agreed upon by the Governor, Council and Assembly.

Be it further enacted by the authority aforesaid, That the Governor and Council shall erect and order all public houses, and encourage and reward the authors of useful sciences and laudable inventions in the said province, and territories thereof.

And be it further enacted by the authority aforesaid, That the Governor and Council shall, from time to time have the care of the management of all public affairs, relating to the peace, safety, justice, treasury, trade, and improvement of the province and territories, and to the good education of youth, and sobriety of the manners of the inhabitants therein, as aforesaid.

And be it further enacted by the authority aforesaid, That the representatives of the freemen, when met in Assembly, shall have power to prepare and propose to the Governor and Council all such bills as they or the major part of them, shall, at any time, see needful to be passed into laws, within the said province and territories.

Provided always, That nothing herein contained shall debar the Governor and Council from recommending to the Assembly all such bills as they shall think fit to be passed into laws; and that the Council and Assembly may, upon occasion, confer together in committees, when desired; all which proposed and prepared bills, or such of them, as the Governor, with the advice of the Council, shall, in open Assembly, declare his assent unto, shall be the laws of this province and territories thereof, and published accordingly, with this stile, *By the Governor, with the assent and, approbatory of the freemen in General*

*Assembly met*; a true transcript, or duplicate whereof, shall be transmitted to the king's privy council, for the time being, according to the said late king's letters patent.

And be it further enacted by the authority aforesaid, That the Assembly, shall sit upon their own adjournments, and committees, and continue, in order to prepare and propose bills, redress grievances, and impeach criminals, or such persons as they shall think fit to be there impeached, until the Governor and Council, for the time being, shall dismiss them; which Assembly shall, notwithstanding such dismiss, be capable of Assembling together upon summons of the Governor and Council, at any time during that year; two-thirds of which Assembly, in all cases, shall make a quorum.

And be it enacted by the authority aforesaid, That all elections of representatives for Council and Assembly, and all questions to be determined by them, shall be by major part of votes.

Be it further enacted by the authority aforesaid, That as oft as any days of the month, mentioned in any article of this act, shall fall upon the first day of the week, commonly called the Lord's day, the business appointed for that day, shall be deferred till the next day, unless in cases of emergency.

Be it further enacted by the authority aforesaid, That if any alien, who is, or shall be a purchaser of lands, or who doth, or shall inhabit in this province, or territories thereof, shall decease at any time before he can well be denizised, his right and interest therein shall notwithstanding descend to his wife and children, or other, his relations, be he testate, or intestate, according to the laws of this province and territories thereof, in such cases provided, in as free and ample manner, to all intents and purposes, as if said alien had been denizised.

And that the people may be accommodated with such food and sustenance as God, in his providence, hath freely afforded, Be it enacted by the authority aforesaid, That the inhabitants of this province and territories thereof, shall have liberty to fish and hunt, upon the lands they hold, or all other lands therein, not inclosed, and to fish in all waters in the said lands, and in all rivers and rivulets, in and belonging to this province and territories thereof, with

liberty to draw his, or their fish upon any man's land, so as it be not to the detriment or annoyance of the owner thereof, except such lands as do lie upon inland rivulets, that are not boatable, or which hereafter may be erected into manors.

Be it further enacted by the authority aforesaid, That all inhabitants of this province and territories, whether purchasers, or others, and every one of them, shall have full and quiet enjoyment of their respective lands and tenements, to which they have any lawful or equitable claim, saving only such rents and services for the same, as are, or customarily ought to be, reserved to the lord, or lords of the fee thereof, respectively.

Be it further enacted by the authority aforesaid, That no act, law, or ordinance whatsoever, shall, at any time hereafter, be made or done, by the Governor of this province, and territories thereunto belonging, or by the freemen, in Council, or Assembly, to alter, change or diminish the form and effect of this act, or any part, or clause thereof, contrary to the true intent and meaning thereof. without the consent of the Governor, for the time being, and six parts of seven of the said freemen, in Council, and Assembly met. This act to continue, and be in force, until the said Proprietary shall signify his pleasure to the contrary, by some instrument, under his hand and seal, in that behalf.

Provided always, and it is hereby enacted, That neither this act, nor any other act, or acts whatsoever, shall preclude, or debar the inhabitants of this province and territories, from claiming, having and enjoying any of the rights, privileges and immunities, which the said Proprietary, for himself, his heirs, and assigns, did formerly grant, or which of right belong unto them, the said inhabitants, by virtue of any law, charter or grants whatsoever, any thing herein contained to the contrary notwithstanding.