

## CHAPTER DCCCCLI.

1782.

*An ACT to amend an act, entitled "An Act for the better employment of the poor of the city of Philadelphia, the district of Southwark, the townships of Moyamensing, Passyunk, and the Northern Liberties," and to revive and perpetuate an act, entitled "An Act for the relief of the poor," and for repealing two other acts herein mentioned.*

SECT. IX. AND whereas the act, entitled "An Act for the relief of the poor," passed the ninth day of March, in the year one thousand seven hundred and seventy-one, hath been found by experience to be of great public utility :

SECT. X. *Be it further enacted by the authority aforesaid, That* the said act, and every article, clause, matter and thing, therein contained, is hereby revived, re-enacted, and made perpetual, except the clause limiting the continuance thereof, and such other parts thereof as are hereby altered, amended and supplied, or relate to the Mayor, Recorder and Aldermen of the city of Philadelphia, whose authority, jurisdiction and power, granted by the said act, shall be exercised by the Justices of the peace of the said city, or any three of them, agreeable to the directions of the act, passed the fourteenth day of March, in the year one thousand seven hundred and seventy-seven.

An act, passed in 1771, made perpetual, chap. 635,

SECT. XII. *And be it further enacted by the authority aforesaid, That* so much of the act, entitled "An Act for the better employment of the poor of the city of Philadelphia, the district of Southwark, the townships of Moyamensing, Passyunk and Northern Liberties," passed the eighth day of February, in the year one thousand seven hundred and sixty-six, as incorporates the township of Passyunk with the city of Philadelphia, the district of Southwark, and the townships of Moyamensing and Northern Liberties, is hereby repealed and made void.

The incorporation of Passyunk with Philadelphia, &c. annulled.

Passed 25th March, 1782.—Recorded in Law Book No I. pa. 486. (r)

(r) The whole of this act, except 1803, (chap. 2357,) see ante. vol. 1. pa. the three sections here retained, is repealed by an act passed March 29th, 346.

## CHAPTER DCCCCLIII.

*An ACT to vest certain powers in the President of this State, together with the other officers therein named, and for other purposes therein mentioned.*

SECT. I. WHEREAS many delays have been occasioned in transacting the business of the Land-Office of this state, by reason of doubts which remained with the different officers, touching their power of determining many controversies on caveats, which stand undetermined on the books of said office, as well as a great variety of other cases touching escheats, warrants granted to agree, rights of pre-emption, promises, and other imperfect titles :

1782.

Board of  
property in-  
stituted, &c.  
[See ante,  
chap. 929.]

SECT. II. For remedy whereof, *Be it enacted by the Representatives of the Freemen of the commonwealth of Pennsylvania, in General Assembly met, and by the authority of the same,* That the President or Vice-President, and a member of the Supreme Executive Council, appointed by Council for that purpose, together with the Secretary of the Land-Office, the Receiver-General, and the Surveyor-General, for the time being, shall be a Board of Property, to hear and determine in all cases of controversy on caveats, in all matters of difficulty or irregularity, touching escheats, warrants on escheats, warrants to agree, rights of pre-emption, promises, imperfect titles, or otherwise, which heretofore have, or hereafter may arise, in transacting the business of the said Land-Office. And the Secretary of the Land-Office is hereby empowered and directed to receive and enter caveats in his said office, copies whereof to be transmitted to and entered in the Surveyor-General's office; and the said Secretary of the Land-Office shall, with the approbation and consent of the President or Vice-President, appoint days of hearing, and shall grant citations, at the reasonable request of any party or person applying for the same, or otherwise, as the case may require; for which said services they, the said officers of the Land-Office, shall take and receive such fees only as were customary at the former Board of Property.

Proviso.

SECT. III. *Provided always nevertheless,* That no determination of this Board of Property shall be deemed, taken or construed to extend, in any measure whatever, to the preventing either of the parties from bringing their action at the common law, either for the recovery of possession, or determining damages for waste or trespass, but the courts of law shall remain open to the said parties, in as full and ample manner, as if no determination had ever been given.

Further  
time given  
for payment  
of purchase  
money.  
[See an act  
passed Feb.  
21st, 1810.]

[SECT. IV. And whereas it was enacted by the sixth and seventh sections of a law of this state, passed the ninth day of April last, entitled "An act for establishing a Land-Office, and for other purposes therein mentioned," that in cases where any office right, issued before the tenth day of December, one thousand seven hundred and seventy-six, had not been executed, that the owner or owners should make application within one year, and pay a third part of the purchase money to the Receiver-General, before any survey shall be made; and that all payments for lands taken up on any office right whatever shall be made, one fourth part in one year, another fourth part in two years, another fourth part in three years, and the residue in four years, from the passing of the said act; which respective times or periods are found, on experience and reflection, much too short for the purposes aforesaid: *Be it therefore enacted by the authority aforesaid,* That the said respective times and periods are enlarged, over and above the dates and times mentioned in said act, for the space of two years.]

SECT. V. And whereas it was enacted by the ninth section of the law aforesaid, that all lands within this state, heretofore surveyed under any grant, warrant, location, or other office right, shall be returned into the Surveyor-General's office (if not already returned) in the space of nine months after passing the said act, which

time is already expired, and it is found that very few have called on the late Deputy Surveyors for their draughts, or to discharge the fees due on the same, and a literal observance of the said act would involve not only the late Deputy Surveyors, but the owners of lands, in manifest loss and inconvenience: *Be it therefore enacted by the authority aforesaid*, That it shall and may be lawful for the Surveyor-General of this state to receive returns of such surveys, as shall appear to him to have been faithfully and regularly made, from the said late Deputy Surveyors, their heirs, or legal representatives, for such further period as to him shall seem just and reasonable. And that there shall no action, loss or damage, accrue to any person or persons, by reason of neglect in complying with the aforesaid clause or section before the passing of this act.

SECT. VII. And the aforesaid sixth, seventh and ninth sections of the law aforesaid, so far as respects the periods and times in the same respectively mentioned, and no further, are hereby altered and repealed.

Passed 5th April, 1782.—Recorded in Law Book No. 1, page 482. (s)

(s) By an act passed January 8th, 1791, (chap. 1511,) the Secretary of the Land-Office, the Receiver General, the Surveyor-General, and the Master of the Rolls, for the time being, or any three of them, were constituted a Board of Property; and the Secretary of the Land-Office is authorized to appoint days of hearing and grant citations, at the reasonable request of any person or persons applying for the same, or otherwise, as the case may require. This act was limited to the end of the next session of the legislature,—continued by chap. 1695, 2075.—Further continued for seven years, by an act passed February 6th, 1804; and the Board of Property, or any member thereof, authorized to administer oaths or affirmations to witnesses, and others, in all cases that may be necessary to the discharge of the duties of the Board, (chap. 2409.) An appeal from their decision, by suit within a limited period, in cases arising under the act of April 3d, 1792, (chap. 1613, sect. 11.)

By an act passed March 29th, 1809, the offices of Receiver-General and Master of the Rolls were abolished, and the Board of Property at present consists of the Secretary of the commonwealth, the Secretary of the Land-Office, and the Surveyor General, or any two of them, who possess by this act all the powers of the former Board.

For the duties enjoined on the Board of Property, from time to time, by various acts, see the title "Board of Property," in the General Index to this edition.

The fees on issuing warrants and patents are regulated by the abovementioned

act of March 29th, 1809, amended by a supplement, passed Dec'r 25th, 1809.

Further time allowed for paying the purchase money, and patenting lands, by act of Feb'y 21st, 1810.

The judgment of the Board of Property cannot alter the nature of the title. The parties interested have a legal right to contest their decision by the express words of the act in the text. *Nisi Prius*, Allegheny county, May, 1793. Before M'Kean, C. J. and Yeates, J. *Blaine's Lessee v. Crawford and Fore*, MSS. Reports.—It may be questioned at law in as full and ample manner as if no determination had ever been given. *Bell's Lessee v. Levers*, Northampton, June, 1800, Circuit Court, before Shippen, C. J. and Yeates, J. MSS. Rep.

In the case of *Hubley's Lessee v. Chew*, Northumberland, *Nisi Prius*, October, 1796, before Yeates and Smith, Justices. After the plaintiff had closed his evidence (which is not material to be noted upon the present subject) the defendant produced a special order of the Governor, dated August 10th, 1769, No. 3731, for 5000 acres of land, to be laid out and surveyed for Benjamin Chew, Esq. upon the head branches of Fishing creek, which runs into the north-east branch of Susquehanna, in one or more tracts, any where above the first forks, or upon the lake or lakes at the heads of the branches; and a survey thereon by Charles Stewart and Jesse Lukens, Deputy Surveyors, of 2254 acres and allowance, on 27th and 28th of October, 1773, and another survey, by the same deputies, in the same month, of 3753 acres, on Little Fishing creek

1782.  
Surveyor General may allow further time for returns from deputies.

Repeal of part of a former act.

1782.

and Green creek, which included the lands in question, and which also interfered with surveys made for other persons under prior rights, to the extent of 1001 acres and 33 perches, or thereabouts. It was also shewn in evidence, that on the 8th of July, 1773, *Benjamin Chew* filed a *Caveat* in the office of the Surveyor-General, against the acceptance of any survey on the head branches or lakes of Fishing creek, above the first forks, by virtue of any location since the 10th of August, 1769.

It was further stated, that on the memorial of *B. Chew*, to the board of property, on the 30th September, 1791, they ordered the Surveyor-General to re-survey the first tract of 2254 acres, and denote the claims of any persons thereto. Whereupon William Montgomery, D. S. of the district made a re-survey thereof, leaving 401 acres and 97 perches free from dispute, (exclusive of some small pieces of land, of little value, amounting to about 400 acres, but of no value whatever, unless accompanied with the possession of the lands adjacent,) on the 15th of November following.

The testimony was excepted to by the plaintiff's counsel, who urged that the board of property had no jurisdiction in the premises. By the act of April 9th, 1781, (vol. 1, chap. 929,) the board was first instituted after the revolution, and consisted of the Secretary of the Land-Office, the Receiver-General and Surveyor-General. In the last section of that act it is declared, that nothing therein shall be construed to give validity to any warrant, grant or location for a greater quantity of land than 500 acres in one tract. A location was afterwards defined by the act of 25th of June, 1781, (ante. pa. 7, chap. 936,) to be "an application made for land in the office of the late Secretary of the Land-Office, entered in his books, numbered, and sent to the Surveyor-General's office." By the former act, therefore, the locations of this description were only validated, where they did not exceed 500 acres, and the jurisdiction of the board of property could not possibly reach to applications or grants of greater extent.

For the defendant it was insisted,

that the validity of locations whereon surveys had been duly made, did not rest on the act of April 9th, 1781, but on the great principles of substantial justice, and the act of 27th of November, 1779, (vol. 1, chap. 863.) By the defendant's construction thereof, which has met the approbation of the court, the rights of individuals to lands, as they stood on the 4th of July, 1776, are thereby firmly secured to them. By the law of April 5th, 1782, (act in the text) another board of property was constituted "to hear and determine in all cases of controversy on *Caveats*, in all matters of difficulty or irregularity, touching escheats, warrants on escheats, warrants to agree, rights of pre-emption, promises, imperfect titles, or otherwise." The formation of this board was again changed by the law of the 8th of January, 1791, (chap. 1511,) but their powers were continued as under the act of April 5th, 1782. The terms of that law are sufficiently comprehensive to reach the present case, and shew clearly the board's jurisdiction.

The court declared, that if there had not been such large and extensive words in the act of the 5th of April, 1782, "in all matters of difficulty or irregularity touching warrants to agree, rights of pre-emption, promises, imperfect titles, or otherwise," which unquestionably include the grant to *Mr. Chew*, the board of property must, of necessity, in order to prevent confusion and litigation, have possessed the powers contended for. The last section of the act of 9th of April, 1791, most probably arose from the jealousy had of the Proprietary's special grants to particular persons; but it can only refer to warrants, grants or locations *unexecuted*, where the parties have been guilty of laches and negligence in obtaining appropriations of vacant lands by actual surveys. Any other construction would effect manifest injustice. MSS. Reports.

The minutes of the board of property have uniformly been read to shew what passed before them. *Dougherty's Lessee v. Piper*. Circuit Court, Bedford, November, 1801, before *Teates and Smith*, J. MSS. Reports.