

and shall, notwithstanding this act, bind the estates of the defendants therein named, their heirs, executors and assigns, as effectual and in like manner as the same would have done before the making of this act.

Provided always, That nothing herein contained shall be deemed, adjudged or taken to annul or invalidate any judgments, rendered or to be rendered, in any case whatsoever, or to discharge or avoid any bail given or bail-piece entered into or recognizance of bail acknowledged in any action or cause whatsoever. But that all and every of them shall remain in the same force and have the like effect as if this act had not been made.

Provided also, That notwithstanding this act, it shall and may be lawful for any of the defendants in the abovesaid judgments to render their bodies to prison in discharge of their bail, as is usual in such cases.

Provided always, That where judgment is obtained upon summons and no bail or other security has been given, the defendant in such action shall, on demand of the plaintiff or his attorney, be obliged to give special bail, or otherwise an execution may issue against the said defendant, anything in this act to the contrary notwithstanding.

Passed March 2, 1722-23. Allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix VI, Section I, and the Acts of Assembly passed March 12, 1783, Chapter 1008; December 23, 1784, Chapter 1123.

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## CHAPTER CCLXV.

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AN ACT FOR VESTING THE LANDS AND LOTS COMMONLY CALLED THE LANDS OF THE FREE SOCIETY OF TRADERS IN PENNSYLVANIA, IN TRUSTEES, TO BE SOLD FOR THE PAYMENT OF SUCH SUMS OF MONEY AS WERE PAID INTO THE PUBLIC STOCK OF THE SAID SOCIETY FOR PURCHASING THE SAID LANDS AND LOTS, AND CARRYING ON THE TRADE DESIGNED BY THE SAID SOCIETY.

Whereas it appears to the present House of Representatives of the freemen of this province in General Assembly met, that William Penn, Esquire, late Proprietor of the Province of Penn-

sylvania, did by his deeds of lease and release [bearing date the twenty-second and twenty-third days of March], in the year of our Lord one thousand six hundred and eighty-one, grant, bargain and sell unto Nicholas Moore, James Claypoole, Philip Ford, William Sharloe, Edward Pierce, John Simcock, Thomas Brasey, Thomas Barker and Edward Brookes, and to their heirs and assigns forever, twenty thousand acres of land, parcel of the said Province of Pennsylvania, with some lots of land in and near Philadelphia, in trust for the Free Society of Traders in Pennsylvania, and their successors:

And whereas a great number of people, as members of the said society, subscribed and paid in many large sums of money, into the public stock of the said society, towards the purchasing of the said lands, and carrying on a trade:

And whereas the said persons, subscribers, commonly called the Free Society of Traders in Pennsylvania, having met with sundry disappointments in their trade, the aforesaid trustees and their agents for upwards of twenty years last past declined acting any further on account or in behalf of the said subscribers. And those lands, part of the aforesaid twenty thousand acres of land and lots, which are already surveyed and located, are (for want of some persons legally qualified to take care of the same) entered upon, possessed and wasted by sundry idle and ill-disposed persons, who are not only unjust in their invading the property of other persons, but also create much trouble and uneasiness to the people who live near those parts of the province where those lands lie:

And that part of the aforesaid twenty thousand acres of land and lots which remains yet to be surveyed and located is become of small value, forasmuch as the most convenient and valuable lands are already appropriated to other persons, having right to lands in the said province, and only more remote lands remain unsurveyed:

And whereas a considerable number of the heirs or persons legally representing the original subscribers, who paid in their money to the stock, for the use of the said society, do live and reside in this province, are deprived of any benefit which might arise to them from their respective rights and

shares in and to the said lots and lands, whether surveyed or unlocated by reason of the death of the said trustees, who had no power or took no care in their lifetime, or at the time of their death, to appoint any person or persons to represent them in the capacity of trustees. And that the whole interest will be ruined and lost, and the aforesaid original subscribers, and the persons claiming in their right, who paid in their money to the said stock, will be defeated of their just demands, unless they have the aid of an act of the general assembly of this province, to vest the said lands and lots already surveyed and located, and the right to the lands and lots not yet surveyed nor located, in some persons in trust, with full power to sell and dispose of the same, and to divide the money arising by such sale equally among the persons having right thereunto:

May it therefore please the governor, at the humble suit of Francis Rawle, John Wood, Joseph Shippen, Job Goodson, Stephen Jackson, Joseph Pidgeon, Joseph Coleman, John Durburow, William Hearn and Charles Read, in behalf of themselves and the other persons interested in the said lots and lands belonging or that did belong to the said society, whether surveyed or unsurveyed, to vouchsafe that it may be enacted:

[Section I.] And be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., 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 all the lands, tenements and hereditaments, with their and every of their appurtenance whatsoever, which the said persons, commonly called the Free Society of Traders in Pennsylvania, or any of them, as members of the said society, or any person or persons for their use or in trust for them, were seized or possessed or in possession, reversion or remainder, on the twenty-fourth day of March, in the year of our Lord one thousand six hundred and eighty-one, or at any time since, and all rights which the said society had to any lands or lots not yet surveyed in the said province, either in law or equity, at the time aforesaid, or at any time since, be and are hereby actually vested, settled and adjudged to be in Charles Read, Job Goodson, Evan Owen, George Fitzwater [and Joseph Pidgeon], of the city of Philadelphia, merchants, and the survivors and survivor

of them and the heirs of the survivors of them, and that they and the survivors and survivor of them, and the heirs of the survivor of them, or so many of them as shall accept of the trust, shall and may have the benefit of all rights of entry into the said lots, lands, tenements and hereditaments, and every of them, which are already surveyed or located, and into all the remaining parts and parcels of the said land and lots not hitherto surveyed and located.

Provided always, That the trustees aforesaid, before they enter on the execution of their said office, shall take an oath or affirmation, before any two justices of the peace of this province, and also enter into bond, with good and sufficient security to the treasurer appointed by this act, in the sum of two hundred pounds each, for the true performance of the trust reposed in them, to the best of their skill and ability.

Nevertheless upon trust and confidence that they, the said Charles Read, Job Goodson, Evan Owen, George Fitzwater [and Joseph Pidgeon], or so many of them as shall accept of the trust aforesaid, and the survivors and survivor of them and the heirs of the survivor of them, shall have, hold and enjoy all and singular the premises and every of them, subject to such trust and uses as by this act is directed and appointed, and shall dispose of the same accordingly.

Saving to all and every person and persons, bodies politic and corporate, their heirs, successors, executors, administrators and assigns, and every of them (other than the said society and all persons claiming under them or in their right), all such estates, rights and interests which any such person or persons, bodies politic or corporate or any claiming under them, have or ought to have in or to the said lands, lots, tenements and hereditaments [or] any of them.

[Section II.] And be it further enacted, That the said Charles Read, Job Goodson, Evan Owen, George Fitzwater [and Joseph Pidgeon], or any three of them, and the survivors and survivor of them, and the heirs of the survivor of them, shall have full power and authority, and are hereby empowered and authorized to convey the premises, or any part thereof, whether located and surveyed or not surveyed, by bargain and sale or otherwise, by good and sufficient conveyance and assurance in the

law, to any person or persons whomsoever, in fee-simple or otherwise, for such sum or sums of money as shall be contracted for between the said trustees and the persons purchasing the same.

And that all bargains, sales, conveyances and assurances made of the said lands, lots, tenements and hereditaments, or any part thereof, by the said trustees in this act named, shall be good and effectual in law to the purchasers, according to their contract and agreement, to all intents and purposes.

And all and every purchaser or purchasers of the premises, or any part thereof, his or their heirs and assigns, shall have, hold and enjoy the premises that shall be by him or them so purchased, discharged of all claims and trust whatsoever, to be made by or in right of the said society or any of them by any person or persons whatsoever.

To be holden nevertheless of the proprietor of the province of Pennsylvania, his heirs and successors, under the proportionable part of the rents at first reserved on the same lands.

[Section III.] And be it further enacted by the authority aforesaid, That the aforesaid trustees and every of them, their heirs, executors and administrators, and the survivors and survivor of them, and their executors and administrators, shall pay unto Francis Rawle, of Philadelphia county, gentleman, the moneys arising by sale of the said lands, lots, tenements, hereditaments and premises, or any part of them, which said Francis Rawle is hereby constituted and appointed to be treasurer for the receiving, dividing and paying the moneys aforesaid, to such persons and in such manner as by this act is directed and ordered.

[Section IV.] And it is hereby further ordained, That the said Francis Rawle, before he enters upon his office of treasurer, and within two months after the end of this session of assembly, shall enter bond, with good and sufficient securities, to the register-general of this province for the time being, in the sum of three thousand pounds, with condition to execute the said office and trust of treasurer for the purposes and according to the uses and directions of this act, which bond shall be recorded in the rolls office at Philadelphia, and the original bond lodged with the clerk of the Orphans' court for the city and county of Philadelphia, and remain in full force against the

said treasurer and his heirs until the said treasurer shall make the final division and distribution of the money or other security received by virtue of this act, and also lay his accounts thereof before the justices of the Orphans' court; which accounts being approved and allowed of by the said court the said obligation shall become void and be delivered up and canceled.

And the said treasurer for the time being is hereby fully empowered and authorized to call the said trustees and every of them, their heirs, executors and administrators, to account for all such sum and sums of money and other securities, which they or any of them shall at any time take or receive for or on account of the sale of the aforesaid premises or any part thereof, and for the non-payment of any sum or sums of money, or not delivering of any bond or other security by the aforesaid trustees or any of them, who shall receive or take the same for the sale of any of the said lots or lands, the said treasurer is hereby enabled and required to sue for the same in his own name, by action of account or otherwise for so much money received for the use of the persons interested in the said society. And on payment of the said moneys or any part thereof to the treasurer aforesaid, his receipt for the same shall be a sufficient discharge for so much to the said trustees, their heirs, executors and administrators, against all person or persons whatsoever, claiming or to claim any right, share or interest in the aforesaid lands and premises, or any part thereof.

[Section V.] And it is hereby further ordained, That in case of the death or misbehavior of the said treasurer, before the said lands and [premises] be sold, or the money divided and disposed of according to the directions of this act, that then the said trustees, and the survivors and survivor of them, and the heirs of the survivor of them shall, together with the justices of the Orphans' court for the city and county of Philadelphia, nominate and appoint some other discreet, honest person to execute the said office and trust of treasurer, who shall give the like security, and in the same manner, and so *toties quoties* as any treasurer appointed by this act shall die, or be removed as aforesaid, before such division and distribution as in this act is directed. Which said treasurer, when so elected, and se-

curity given for the discharge of his office and trust as aforesaid, shall and is hereby vested with the same powers and shall be subject to the same rules and directions as is in this act limited and expressed, touching or concerning the execution of the office and trust of treasurer.

And that such actions of account may be brought and maintained by such succeeding treasurer against the heirs, executors or administrators of any former treasurer, for all such sum and sums of money or other securities as such former treasurer had received or taken for or on account of the sale of any of the lots or lands aforesaid, and shall not have disposed of according to the directions of this act.

And that a due improvement may be made of the moneys arising or that may arise by sale of the aforesaid lots, lands and premises for the interests of all the persons having right to the same:

[Section VI.] Be it enacted, That the said trustees, or any three of them, and the survivors and survivor of them, and the heirs of the survivor of them, shall forthwith proceed to the sale of the said lots, lands and premises, with the appurtenances, and every part thereof, in such quantities as will best and most readily sell, and for the best prices as the same can be sold for. And that all bonds, bills and other securities taken by the said trustees, or any of them, for the payment, or securing of any sum or sums of money, for which any of the premises shall be sold, shall be taken in the name of the treasurer for the time being, for the use of the persons having right to the same as members of or persons interested in the said society, or those claiming lawfully under them.

And to the intent that an equal, just division and distribution may be made of the moneys that shall or may arise by the sale of the said lands, lots and premises, among all the persons having right to the same:

[Section VII.] Be it enacted, That no division or distribution of the said moneys or any part thereof, shall be made among the persons claiming right to the same, before the twenty-fifth day of March, which will be in the year of our Lord one thousand seven hundred and twenty-five.

And that in the meantime the aforesaid trustees, or some of them, shall cause the time, place and manner of the several dividends or distributions directed to be made by this act to be advertised in the *London Gazette*, and in the *American Mercury*, published at Philadelphia, or some other public print here and in Great Britain, as soon as with conveniency it can be done, once every month for the space of at least twelve months successively, thereby giving notice to all persons who have or do legally represent any persons who paid any part of their subscriptions into the stock of the said society, and have not received such money or other consideration for the same, to appear by themselves or their agents, with proper credentials, proving their rights, at or before the time and place in this act appointed for making the several distributions or dividends in this act ordered to be made.

And to the end that all persons concerned may be the better enabled to make out their just claims to their respective shares of the moneys arising by sale of the said lands and lots:

[Section VIII.] Be it enacted, That the books of accounts and papers, formerly belonging to the said Society of Free Traders, so far as the same shall appear to be genuine, shall be admitted as evidence in any court of law or equity within this province, to prove the sum or sums of money paid into the stock of the said society, or to any person for the use of the said society. And that the said books and papers, belonging to the said society shall remain in the hands and custody of the clerk of the Orphans' court, at Philadelphia, for the time being, liable at all times to the inspection of the treasurer appointed by this act. And that all persons may have recourse to the same, to prove or make out their several claims to their rights in the said lands and lots, and the moneys arising by the sale of the same. And the said clerk of the Orphans' court shall take for each search the sum of twelve pence, and no more.

[Section IX.] And be it further enacted, That for the more easy and speedy proof of the several claims and demands of the persons having right to any part or share of the said moneys for which the said lands and lots shall be sold, it shall and may be lawful for the party or parties so claiming, either in their own right, or in the right of another, to exhibit their demand or



claim before the justices of the Orphans' court or any five of them, in court at Philadelphia, having first given notice to the treasurer for the time being of the time and place of his or their appearing, to prove such claim, together with the sum demanded, and in whose right the same is claimed.

And if the said justices shall then and there allow of the claims or demands made by such claimant, he, she or they shall have a certificate of the time and place of the proof and allowance of such claim, under the hand and seal of the clerk of the said court, for which the clerk shall receive one shilling, and no more. Which certificate shall be good proof to enable the person to whom such certificate shall be given, his executors, administrators or assigns, to receive the sum or sums of money so proved and allowed by the justices aforesaid, or such part thereof as shall of right belong to such person upon the making of the several dividends ordered to be made by this act, which dividends shall be made in the following manner: (That is to say) the said treasurer shall on the twenty-fifth day of March, which will be in the year of our Lord one thousand seven hundred and twenty-five, at the court house or city hall in Philadelphia, lay his account of the moneys and interest, with other securities by him received for and on the account of the sale of the said lands and lots, before the justices of the Orphans' court, or any five of them in court. As also an account of his disbursements and expenses laid out in the execution and discharge of his trust. And shall likewise exhibit the account of claims made [or] that shall appear to be due by the said society's books and papers, and allowed of by the said justices, or other sufficient proof allowed of by the Orphans' court aforesaid. And after allowance made to the said treasurer of the sums of money by him and the trustees aforesaid disbursed and expended in the execution of the trust aforesaid, and the salary of five per cent in the whole, for receiving and paying, allowed him by this act, the said justices, together with the treasurer and trustees, if they will be present, shall proceed and make an equal dividend of all the moneys then remaining in the treasurer's hands, both principal and interest, to and amongst the persons having right to the same, in pro-

portion to their respective shares, paid into the original stock. And after such dividend made as aforesaid, the said treasurer for the time being, his heirs, executors and administrators, shall proceed and forthwith make payment to the several claimants who shall appear to receive the sums allowed them in the dividend aforesaid. And the parts, shares or sums that shall appear to be due to any person or persons who are not present or do not appear in their own persons, or by their lawful representatives, at the time of making the dividend aforesaid, shall remain in the treasurer's hands, to be paid to the several claimants having right thereunto when they shall appear to receive the same, at any time before the twenty-fifth day of March, which will be in the year of our Lord one thousand seven hundred and thirty.

[Section X.] And be it further enacted by the authority aforesaid, That all the moneys arising by sale of the said lands and lots, both principal and interest, and remaining in the said treasurer's hands on the said twenty-fifth day of March, in the year last mentioned (after allowance and deduction made of all necessary charges and commissions allowed to be paid by this act) shall then be equally divided to and amongst all the persons appearing by themselves or lawful representatives, in proportion to their respective shares paid into the original stock by the persons appearing or those under whom they claim, at the same place and in the same manner as the first dividend is before ordered to be made.

[Section XI.] And be it further enacted, That if the treasurer appointed or to be appointed by virtue and according to the directions of this act shall refuse and neglect to render his account of moneys or other securities which he shall receive for or on account of the sale of the said lands and lots or any part thereof, at the times and places and in the manner directed by this act, and make the dividends and distributions in manner hereinbefore directed, to the several persons having right to the same, that in such case it shall and may be lawful to and for the said claimants and every of them, severally, to bring their actions of debt upon *insimul computasset* against such treasurer, his heirs, executors and administrators, in any court

of record within this province for the sums allowed them in their certificates.

And if upon hearing of the cause it appears to the justices of the court where the trial is had that the treasurer refused to pay unto the said claimant his proportionable part of the moneys falling to his share on the said dividend, the plaintiff shall recover his debt of the moneys in the said treasurer's hands, and shall have judgment to recover the costs of the proper goods of the said treasurer.

[Section XII.] And be it further enacted, That the said treasurer for the time being, and the said trustees and the survivors and survivor of them, and the heirs of the survivor of them, shall have power and authority and are hereby authorized to take into their assistance such learned counsel as the said treasurer and trustees shall think fit for the advising and assisting them in the discharge of the trust reposed in them by this act, and to give such reasonable fees and make such allowance to the said counsel as they shall think necessary. Which said sums so laid out and expended, shall and are hereby ordered to be allowed to the said treasurer and trustees, their executors and administrators respectively. And that there shall be paid and allowed by the said treasurer to the said trustees, or to such of them as shall accept of and execute the trust reposed in them by this act, the sum of five per cent amongst them out of the moneys received for the sale of the said lands and premises before any division or distribution be made of such moneys, together with their necessary and reasonable charges by them laid out and expended in executing the trust aforesaid, to be allowed of by the justices of the Orphans' court aforesaid. And that the moneys already due for counsel and other incident charges accrued in obtaining this act, shall be allowed by the trustees, and forthwith paid by the treasurer out of the first moneys arising by sale of the said lands, to such person or persons to whom the same is or shall be due.

And to the end that no person may be injured by means of this act:

[Section XIII.] Be it enacted by the authority aforesaid, That if any person or persons, who are settled upon and have im-

proved any part of the lots or lands, commonly called the society's lands, and who at the time of such person or persons seating upon or settling the same had a good and legal right and interest in the lands belonging to the said society, the truth of which right or claim being at the request of the person claiming proved before and allowed of by the justices of the Orphans' court aforesaid, or any five of them, within the space of four months next after the publication of this act, in the same manner as is before directed for the proving of claims, then and in such case and not otherwise, the said lots or lands shall be valued by the justices of the Orphans' court aforesaid, or any three of them, exclusive of the improvements made thereon, by the persons having such interest as aforesaid. And after such valuation so as aforesaid made, the said trustees or some of them shall give notice of the price or value of such lots or lands so made and set by the justices aforesaid, to the person seated upon the same, and who had an interest in the lots and lands of the said society at the time of his or her first seating and settling thereon. And shall require such possessor to pay to the said trustees the moneys at which the lots and said lands shall be valued or otherwise give sufficient security for the payment of the same to the [said] trustees, in the name of the treasurer by this act appointed or to be appointed. And upon such payment made or security given as aforesaid, the said trustees, as in other sales enjoined to be made by this act, shall execute to the said purchaser at his or her proper costs and charges in the law such deed or conveyance as may be sufficient to vest the purchaser with an estate in fee in the said lots and lands, with all buildings and improvements thereupon erected and made. But in case of neglect to prove such claim or right within the space of four months after the publication of this act, or in case of neglect or refusal to pay or give good security for the value or price so set by the justices as aforesaid within the space of one month after notice thereof given as aforesaid, such possessor or claimer shall be utterly debarred and excluded from any future claim or interest to the said lots, lands and improvements. And the said trustees may and hereby are empowered to proceed to sale of the same for the

best price they will yield, any proviso or other thing in this act to the contrary notwithstanding.

[Section XIV.] Provided always, and be it further enacted, That the said Charles Read, Job Goodson, Evan Owen, George Fitzwater [and Joseph Pidgeon], before they proceed by themselves or their assigns to take up any lands in right of the aforesaid purchase made of the late proprietor, by the said society, shall settle and adjust in the surveyor-general's office in this province a true and exact account of such lands as have already been surveyed and laid out to the said society, and shall pay or give sufficient security to the receiver of the proprietor's quit-rents for all such arrears as are or shall be at the time of such settlement due upon the same. And the surveyor-general of lands for the time being shall, in pursuance of the warrants issued by the late proprietor and directed to the surveyor-general then being, proceed to survey or cause to be surveyed, to the said Charles Read, Job Goodson, Evan Owen, George Fitzwater [and Joseph Pidgeon] or their assigns the full remainder of the said twenty thousand acres which shall appear to be due to the said society upon such settlement, according to the established and usual methods heretofore practiced for taking up of lands in this province and not otherwise.

Passed March 2, 1722-23. Apparently never submitted to the Crown for consideration.

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## CHAPTER CCLXVI.

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### AN ACT DIRECTING THE PROCESS OF SUMMONS AGAINST FREEHOLDERS.

Whereas the manner of proceeding in civil actions lately used against freeholders inhabiting this province has been [found] inconvenient and discouraging to the said freeholders: for remedy whereof:

[Section I.] Be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with the advice and consent of the freemen of the said Province [in