

CHAPTER CCCLVII.

AN ACT FOR VESTING THE PROVINCE ISLAND AND THE BUILDINGS THEREON ERECTED AND TO BE ERECTED IN TRUSTEES FOR PROVIDING AN HOSPITAL FOR SUCH SICK PASSENGERS AS SHALL BE IMPORTED INTO THIS PROVINCE, AND TO PREVENT THE SPREADING OF INFECTIOUS DISTEMPERS.

Whereas by an act of general assembly of this province made in the twelfth year of the reign of King William the Third, entitled "An act to prevent sickly vessels coming into this government,"¹ it is among other things enacted, That from and after the publication thereof no unhealthy or sickly vessels coming from any unhealthy or sickly place whatsoever shall come nearer than one mile to any of the towns or ports of this province or territories without bills of health, nor shall presume to bring to shore such vessels nor to land such passengers or their goods at any the said ports or places without first obtaining license for the same in such manner as by the said act is directed; but no place[un]til of late having been provided for the reception of sick and distempered passengers, they have been heretofore clandestinely landed and lodged within the city of Philadelphia and elsewhere, by means whereof infectious distempers have spread within the province and the good ends intended by the said act in great measure frustrated:

For remedying whereof and making provision for the reception of sick passengers imported into this province by directions from the representatives of the freemen of the province, a purchase was made of all that island situate on the southerly side of the mouth of Schuylkill River in the county of Philadelphia, adjoining on Delaware River, heretofore known by the name of Fisher's Island, but hereafter to be called Province Island, containing about three hundred and forty-two acres of land and meadow with certain buildings thereon erected, and a conveyance thereof taken from Jonathan Paschal and Mary his wife,

¹ Passed November 27, 1700, Chapter 62.

late Mary Fisher, John Paschal and Henry Hodge, executors of the testament and last will of John Fisher, late proprietor and owner of the said island (who were duly authorized to make sale thereof), unto Joseph Harvey, Thomas Tatnall, Joseph Trotter, James Morris and Oswald Peele, gentlemen; in trust nevertheless and subject to such uses as the representatives of the freemen of this province in assembly shall from time to time appoint; and under this further trust and confidence that they the said trustees and the survivors and survivor of them and the heirs of such survivor should convey the said island and appurtenances and transfer their said trust to such other person or persons and for such estate and estates as the representatives aforesaid in assembly should direct and appoint. Now to the intent that the said island may be effectually secured to the uses aforesaid, and that the inconveniencies which might happen from the importation of sick passengers within the province may for the future be prevented:

[Section I.] Be it enacted by the Honorable George Thomas, Esquire, Lieutenant-Governor with the royal approbation under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex on 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 the aforesaid Joseph Harvey, Thomas Tatnall, Joseph Trotter, James Morris and Oswald Peele and the survivors and survivor of them do stand seized and they are hereby declared and enacted to stand seized of the Province Island aforesaid and the edifices and buildings thereon erected and to be erected with their and every of their appurtenances, to hold the said island and all and singular the premises to them the said Joseph Harvey, Thomas Tatnall, Joseph Trotter, James Morris and Oswald Peele and the survivors and survivor of them and the heirs of such survivor forever; in trust nevertheless and for the uses, intents and purposes hereinafter specified and to and for no other use, intent or purpose whatsoever: (That is to say) that they the said trustees and the survivors and survivor of them do under-

take and continue their care and management of the said island with the appurtenances and receive the rents, issues and profits thereof, and duly to account for the same as hereinafter is directed until such time as the representatives of the freemen aforesaid in assembly shall appoint others to succeed them in the said trust; and on this further trust and confidence that they the said trustees and the survivors and survivor of them and the heirs of such survivor do and shall permit and suffer such person and persons so hereafter from time to time to be appointed to succeed them in the trust aforesaid to have the care and management of the said island and to receive and take the rents, issues and profits thereof, to be accounted for and applied as hereinafter is directed.

[Section II.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the aforesaid Joseph Harvey, Thomas Tatnall, Joseph Trotter, James Morris and Oswald Peele, or the greater number of them during the continuance of their trust, and to and for such other person and persons as the representatives of the freemen aforesaid shall from time to time appoint in the stead and place of the said trustees before named, to grant, bargain and lease the island aforesaid or any part thereof for such term and terms of years not exceeding seven as to them shall seem expedient; so always as such tenant or tenants to whom the same shall be so leased be obliged to keep the said buildings thereon erected, banks, dams, fences and other the demised premises in repair during the respective terms for which the same shall be demised, and reserving always full liberty to place and continue thereon in the manner hereinafter directed any such sickly persons imported into this province as occasion shall require in pursuance of this act; and also reserving and excepting six acres, part of the said island, adjoining to the river Delaware most commodious for erecting a new hospital or pest house.

Provided always, That nothing herein contained shall affect, vacate or make void the contract made by the trustees before named with Jacob Mellor, but that the said contract and lease of the said Province Island shall be and remain as firm, valid

and effectual to all intents, constructions and purposes as if this act had not been made.

[Section III.] And be it further enacted by the authority aforesaid, That the trustees of the said Province Island hereinbefore named and such others as shall at any time hereafter be appointed [in their or any of] their steads shall well and truly account with and pay to the treasurer of this province for the time being all such sum and sums of money as they or any of them already have received or at any time hereafter shall receive from the island aforesaid, to be disposed of in such manner and for such uses as the representatives of the freemen aforesaid in assembly shall from time to time direct and appoint. And if it shall at any time or times happen that the said trustees or any of them shall fail so to do, that then and so often and in every such case it shall and may be lawful for the treasurer aforesaid to commence, prosecute and maintain an action of debt against such delinquent or delinquents, and to recover the sum or sums so to become due in any court of record in the province with costs of suit.

[Section IV.] And be it further enacted by the authority aforesaid, That when any lease or leases shall at any time hereafter be made of the Province Island aforesaid or any part or parcel thereof, and the rent reserved for the same or any part thereof shall be in arrear and unpaid, that then and so often and in every such case and in all other cases wherein it shall be thought necessary that they the before-named trustees and the survivors and survivor of them and the heirs, executors and administrators of such survivor, shall permit and suffer all such suit and suits, action or actions, to be commenced and prosecuted in his, her or their name or names as the representatives aforesaid in assembly shall at any time or times hereafter direct or appoint; so always that they the said trustees and every of them and their heirs, executors and administrators and every of them be well and truly indemnified, saved and kept harmless of and from any costs, charges, troubles or molestations whatsoever which may arise or happen for or by reason of such suit or suits so to be commenced and prosecuted.

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

aforesaid, That when and so often as occasion shall require it shall and may be lawful for the lieutenant-governor or commander-in-chief for the time being or to and for any two justices of the peace of any of the counties within this province respectively to order and direct all sick and infectious persons at any time hereafter imported into this province to be transported to the Province Island aforesaid, there to remain in such places as shall be provided for them by the trustees aforesaid until it shall be judged by the physician attending them that they are free from any infectious distemper, their nursing, physic, maintenance and necessaries to be paid for by the importer, master or owner of the vessel in which such sick and distempered persons shall be imported, to be repaid to them out of the effects of the said passengers respectively if any they have.

And for the better securing the payment of the several sums of money which [it] shall become necessary to disburse in or about such sick and distempered persons as shall be imported as aforesaid:

[Section VI.] Be it further enacted by the authority aforesaid, That it shall and may be lawful for any one of the justices of the peace aforesaid on the application of any one of the said trustees, and they are hereby enjoined, as occasion shall require to send for the masters or owners of the vessels in which such sick and distempered persons shall at any time hereafter be imported or the importer of such sick person or persons, and oblige him, them or some or one of them to give bond in a competent sum of money, together with one or more sufficient sureties, to them the said trustees, with condition to be underwritten, to find and provide proper food, nursing, physic and other necessaries for the sick people aforesaid or to pay for the same.

And in case any master or importer shall refuse so to become bound, that then and in every such case it shall and may be lawful for the said justices respectively to commit the offender to prison, there to remain in close custody without bail or mainprize until he or they shall conform to the directions of this act.

[Section VII.] And be it enacted by the authority aforesaid,

That the trustees aforesaid shall keep or cause to be kept in a book to be provided for that purpose a fair entry of the names of every sick person that shall be transported to the said hospital or pest house, and also the names of the vessel, master or merchant who shall import them into this province.

[Section VIII.] And be it enacted by the authority aforesaid, That after any such distempered person hath recovered his or her health as aforesaid they or any of them shall not be discharged from the hospital or pest house but by a certificate under the hands of two or more of the said trustees certifying that the bearer (mentioning his name) having remained in the hospital for his health until they the said trustees judged him clear of any infectious distemper, they had discharged him from the said hospital or pest house.

And whereas the entertaining sick and distempered persons brought into this province has been attended with fatal consequences:

[Section IX.] Be it enacted by the authority aforesaid, That no housekeeper or other inhabitant of this province shall receive into his or their houses or outhouses or entertain any person or persons whatsoever knowingly that have been ordered by the governor for the time being or by any two justices of the peace of any of the counties within this province respectively to be transported to the hospital or pest house, pursuant to the directions of this act, unless such person hath been discharged from the said hospital or pest house and hath received from the trustees or any two of them as aforesaid a certificate certifying that the said person or persons is or are discharged from the said hospital as aforesaid on penalty of paying the sum of ten pounds for every offense, and also of maintaining and providing for the said sick [and] distempered person during his, her or their sickness, and in case of death burying them at their own expense; which said sum of ten pounds is hereby ordered to be paid to the overseers of the poor of the township where such delinquent may reside for the relief of the poor of such township, and to be recovered by the said overseers of the person so offending by a warrant from any magistrate in the same manner as debts under forty shillings are recovered; and in

case the person harboring or entertaining such sick and distempered person shall be poor or allege he or she is not of ability to pay the said fine of ten pounds, such indigent person shall be confined to the workhouse or prison for any time not exceeding one month, as the magistrate or magistrates of the respective county may direct.

Passed February 3, 1742-43. See Appendix XV, Section I, and the Acts of Assembly passed January 22, 1774, Chapter 691; February 28, 1780, Chapter 878. Repealed by the Act of Assembly passed April 22, 1794, Chapter 1759.

CHAPTER CCCLVIII.

AN ACT FOR THE MORE EASY RECOVERY OF LEGACIES WITHIN THIS PROVINCE.

Forasmuch as the laws of this province relating to the recovery of legacies are defective:

Therefore for remedying thereof:

[Section I.] Be it enacted by the Honorable George Thomas, Esquire, with the King's royal approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on 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 from and after the publication of this act it shall and may be lawful for any person or persons to whom any legacy or bequest of any sum or sums of money or other goods or chattels have been or may be made by the last will and testament of any other person or persons legally made to commence, sue and prosecute an action for debt, detinue or account render as the case may require for such legacy after it becomes due in any of the county courts for holding of pleas in any of the counties within this province. And if it shall appear that the legacy or legacies is or are due and there be sufficient assets in the hands of