

“that if any person or persons shall presume or take upon him, her or themselves, from and after the publication of the said act, upon any pretense whatsoever, privately or publicly to set up, exercise or keep any lottery or lotteries within the province of Pennsylvania, and be thereof legally convicted, he, she or they shall forfeit one hundred pounds, one moiety thereof to the governor, and the other moiety to any person that will sue for the same,” is hereby repealed and declared to be null, void and of none effect.

Passed June 20, 1759. Repealed by the King in Council, September 2, 1760. See Appendix XXIII, Section I.

CHAPTER CCCCLVII.

AN ACT FOR RECORDING OF WARRANTS AND SURVEYS, AND FOR RENDERING THE REAL ESTATES AND PROPERTY WITHIN THIS PROVINCE MORE SECURE.

Whereas many inconveniencies and losses have arisen and happened to the inhabitants of this province for want of a proper office for the recording of warrants and surveys, and of an officer appointed under the necessary qualifications and security well and faithfully to execute and discharge the duties of the said office, whereby the real property and estates within this government have been rendered and still are very insecure and precarious:

For remedying whereof and for preserving authentic duplicates of all such warrants and surveys, whereon the estates and properties of the freeholders of this province so much depend:

[Section I.] Be it enacted by the Honorable William Denny, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, and counties of Newcastle, Kent and Sussex upon 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 there shall be an office of record called and styled "the office for recording of warrants and surveys," which shall be kept in some convenient place in the city of Philadelphia, and the recorder in and by virtue of this act hereafter to be appointed shall duly and faithfully attend the service of the same, provide at his own proper costs and charges parchment or good, large books of royal or other large, durable paper, well bound and covered, wherein he shall record in a fair and legible handwriting all minutes of property, warrants granted or made by the proprietaries or their commissioners of property, surveys, books of surveys, general and particular maps, charts or draughts made by any public surveyor or surveyors, his or their deputy or deputies, for lands within this province which shall be brought to him for that purpose in the said books so to be provided by him, according to the true intent and meaning of this act, under the penalty of twenty pounds for every warrant or survey or other paper aforesaid he shall refuse or neglect to record in manner aforesaid, the same being first proved by the oath or affirmation of one or more witnesses or acknowledged by the surveyor-general or his deputy, who shall make the same before any justice of the peace of this province; which acknowledgement and oath or affirmation the said justices are hereby authorized and required to take and administer and to certify the same under their hands and seals, for which certificate and seal they shall have and receive one shilling and no more. And that the record or entry of all warrants and surveys, minutes of property and other papers directed to be recorded by this act or exemplifications or copies thereof, being examined by the recorder and certified under his hand and the seal of his office (which he is hereby required to affix thereto), shall be allowed, deemed and taken and is hereby declared to be as good evidence and as valid and effectual in law as the originals themselves, and the same may be sued, pleaded and made use of accordingly.

[Section II.] And be it further enacted by the authority aforesaid, That the said officer or recorder shall and he is hereby enjoined, required, authorized and empowered to collect, demand, receive, sue for and recover of and from all and every

person and persons whatsoever all minutes of property, warrants and surveys, books of surveys, general and particular charts, maps or draughts of lands within this province heretofore granted by the proprietaries or made and signed by any public surveyor or surveyors, his or their deputy or deputies, which ought to have been returned and lodged in either of the said offices and may be of use to any person or persons having or claiming any right to lands in this province in proving such their rights or claims to any tract or parcel of land heretofore surveyed, located, purchased or agreed for with the proprietor or proprietaries of this province, and when recovered shall enter and record the same in manner aforesaid. And in case the warrant, survey book, chart, map or draught or other paper aforesaid so prosecuted or sued for cannot be re-delivered by the defendant, and if it shall be proved to the satisfaction of the jury that the same was burned, destroyed or otherwise made away with at any time after the passing of this act by and with the consent or procurement of such defendant, then the said officer shall recover double the value of the land in damages to and for the use of such person or persons to whom the same shall of right appertain and belong, the costs and charges of which said suits (if commenced and prosecuted at the request of any private persons to whom the thing sued for shall belong) in case no recovery is had thereon or the defendant shall prove insolvent shall be paid and defrayed by the person or persons requesting the same; if brought for the benefit and advantage of the public, then to be paid out of the public treasury out of such moneys as shall be raised from time to time by act of general assembly for the support of government.

And whereas for the most part the warrants and surveys and other writings made in pursuance of the *bona fide* purchases and contracts entered into with the proprietaries of this province by original purchasers, first adventurers and others the inhabitants of this province under which they hold and claim their lands and real estates, have been from time to time returned to and deposited in the surveyor-general's office of this province in loose pieces of paper, but not duly and regularly recorded, nor is the secretary of this province or the said sur-

veyor-general bound or obliged to record either the minutes of property or the said papers, or under any legal qualification to take care of or preserve the same for the use of the people to whom of right they belong, by reason whereof many warrants, surveys and other papers have been mislaid or lost, to the grievous injury and damage of the owners thereof and great insecurity of the rights and properties of the people of this province:

For remedying whereof:

[Section III.] Be it enacted by the authority aforesaid, That the officer appointed by virtue of this act, with his deputies and clerks, shall have free access to all minutes of property, warrants, surveys, books of surveys, general and particular charts, maps and draughts of land and other papers relating or referring to them or any of them (in which any of the said purchasers or inhabitants are interested in any manner whatsoever) which have been returned or deposited in the offices of the secretary or surveyor-general; and having first numbered the same in words at length, and taken a list or inventory of every such warrant, survey, book of surveys, charts, maps and draughts of lands and other papers aforesaid, shall take the same in small and convenient parcels, such as may be recorded by the said officer and his clerks in one month, into his custody, possession and power, which he shall record with all convenient speed in the like manner as is hereinbefore-directed for the recording of the warrants and surveys and other writings hereinbefore-directed to be entered and recorded, according to the true intent and meaning of this act, either by taking the books in which the said minutes of property, warrants, surveys and other papers are intended to be recorded to the said offices of the secretary and surveyor-general respectively, and there transcribing, recording and examining the same without removing them or by removing them to the office of the officer appointed by virtue of this act and recording them there as the said officer shall think most convenient and safe for recording them; in which latter case the same officer shall from time to time as he shall take [and receive] the said papers give a receipt for such minutes of property and every warrant, survey book, draught

or other paper he shall so remove according to the numbers in the list or inventory aforesaid, and as soon as he shall have recorded, examined and compared the same with the record shall return them and every of them in like order into the said offices of the secretary and surveyor-general respectively under the penalty of one thousand pounds.

[Section IV.] And be it further enacted by the authority aforesaid, That the secretary and surveyor-general or keepers of the said writings by this act directed to be recorded shall and they and each of them are hereby enjoined and required, on a demand made by the officer for recording of warrants and surveys aforesaid, to discover, show and deliver to him all and every the before-mentioned papers, books and writings in his or their custody, possession or power, that the same may be recorded pursuant to the directions herebefore-mentioned, under the penalty of five hundred pounds for every such minute of property, warrant, survey, book of surveys, charts, maps or draughts or other papers aforesaid they or either of them shall conceal, refuse or neglect to deliver as aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That from and after the passing of this act every warrant that shall be granted and issued by the proprietaries or their commissioners of property shall be sent and transmitted by the secretary to the office for recording of warrants and surveys aforesaid in order that the same may be recorded before the lands are surveyed and located under the penalty of ten pounds, and that the surveyor-general or his deputy to whom any such warrant shall be directed shall within forty days after the receipt thereof and request made by the party to whom granted survey or cause to be surveyed, agreeable to the directions, true intent and meaning of the said warrant, the lands therein particularly mentioned and specified if the same be thereby particularly located; if not, such lands as the party shall discover and show or offer so to do for that purpose, provided the same be vacant and not located by any prior warrant, under the penalty of fifty pounds for every neglect or refusal in the premises; and that the surveyor-general of this province, his or their deputies, from time to time hereafter as soon as he, they or any

of them shall have surveyed a tract or piece of land for the use of any person or persons whatsoever in pursuance of a warrant granted for that purpose, upon the reasonable request and tender of his fees by such person or persons, with all convenient speed afterwards shall deliver a true copy of such survey to the person or persons requesting the same and make a return of the true courses, distances and bounds thereof, together with a map, chart or draught of the same, into the surveyor-general's office under the penalty of fifty pounds, and the said surveyor-general shall and he is hereby enjoined and required to examine and correct the same, and within twenty days after he shall make or receive such return shall under the penalty of fifty pounds transmit and deliver over the same survey so corrected to the officer appointed by virtue of this act, that the same may be recorded in manner aforesaid.

[Section VI.] And be it further enacted by the authority aforesaid, That John Hughes, of Philadelphia, shall be the recorder and officer to put this act and the several matters and things herein required in execution; and in case the said officer shall by any accident be rendered incapable or neglect to execute the said office or shall misbehave himself therein or happen to die, then and so often and from time to time it shall and may be lawful to and for a majority of the judges of the supreme court for the time being to supply his place by appointing some other fit and capable person in his room, who shall be the officer for putting this act in execution until the assembly of this province for the time being shall appoint another. But before any such officer hereby or hereafter to be appointed shall enter upon the duties of his said office he shall take an oath or affirmation before one of the justices of the peace faithfully to perform his duty and trust to the best of his skill, capacity and judgment according to the directions of this act. And the said officer shall likewise give bond and security in the sum of one thousand pounds conditioned for the true and faithful execution of his said office and for his delivering and surrendering up whole, safe and undefaced to his successor in his said office all the records and books of records, maps, draughts, warrants, surveys and other writings belonging to the said

office which have come to his hands, custody, possession and power by virtue and in pursuance of this act during the execution of his office, which said bond shall be taken in the King's name and filed in the master of the roll's office and there safely kept, in order to be made use of for making satisfaction to the parties injured and aggrieved in the same manner as the bonds or obligations given by the sheriffs of the several counties are by law directed to be made use of, sued, prosecuted and applied.

[Section VII.] And be it enacted by the authority aforesaid, That the said officer shall have and receive for recording and for copying and exemplifying all minutes of property, warrants, surveys and other writings which he shall receive from the secretary or surveyor-general as aforesaid an half-penny for every line containing not less than twelve words; and for every warrant and survey together with the draught which shall be hereafter returned into his office as aforesaid, the sum of two shillings and six pence; and for every search one shilling; and shall have and receive for affixing the seal of said office and endorsement of certificate and signing the same eighteen pence and no more, to be paid by the person for whose use the same shall be made.

Provided nevertheless, That the expense of such warrants, surveys and other writings as shall be delivered over to him in manner aforesaid by the secretary or surveyor-general shall be paid for and defrayed by the public out of such money as shall be hereafter raised by act, of general assembly for the support of government. And the secretary shall have and receive for transmitting every warrant hereafter granted to the office hereby established the sum of six pence, to be paid by the person to whom granted. And the said surveyor-general and the said officer hereby appointed shall have for themselves respectively and each of their clerks five shillings *per diem* for every day they shall be employed in taking the list and inventory aforesaid, to be paid out of such money as shall be hereafter raised by act of general assembly for the support of government. And if they the said officers or any of them shall exact or take more or greater fees, he or they so offending shall for every such offense forfeit and pay the sum of ten pounds, one-half whereof

and also of all other the fines, penalties and forfeitures hereby inflicted shall be and is hereby declared to be given to the governor for the support of government, and the other half to him who will sue for the same, and shall be recovered by bill, plaint or information in any of His Majesty's courts of record within this province.

And to prevent any loss or damage which the present secretary, Richard Peters, Esquire, and surveyor-general, Nicholas Scull, shall or may sustain in their respective offices by reason of the passing of this act:

[Section VIII.] Be it therefore provided and enacted, That for and during the continuance of the said Richard Peters and Nicholas Scull in their said respective offices, all searches, exemplifications and copies of the minutes of property, warrants, surveys, charts, maps, draughts and other papers aforesaid remaining in their said offices respectively shall be first had, taken out and paid for at their said respective offices by the party applying for the same as has [been] heretofore used and accustomed; which exemplifications and copies shall be produced to the officer appointed by virtue of this act before he shall give out any exemplifications or copies of the record thereof in his office:

Provided always, That such copies or exemplifications so to be had from the said offices of secretary and surveyor-general respectively be made and delivered to the party applying within three days after such application, which exemplifications and copies from the said secretary and surveyor-general's offices respectively shall be as good evidence to all intents and purposes as the exemplifications and copies from the office appointed by this act.

Passed July 7, 1759. Repealed by the King in Council, September 2, 1760. See Appendix XXIII, Section I.