

by the authority aforesaid, That the supreme executive council be and they hereby are authorized and empowered to order sale to be made of all forfeited estates appropriated by the act, entitled "An act to settle and adjust the accounts of the troops of this state in the service of the United States, and for other purposes therein mentioned,"<sup>1</sup> on or before the tenth day of May next ensuing and apply the money arising therefrom to the uses and purposes in the said act mentioned, anything in the fourth section thereof to the contrary notwithstanding.

Passed April 10, 1781. Recorded L. B. No. 1, p. 433, etc. See the Act of Assembly passed October 1, 1781, Chapter 955.

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## CHAPTER CMXLII.

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AN ACT FOR THE BETTER SUPPORT OF THE PUBLIC CREDIT BY AN IMMEDIATE SALE OF THE LANDS THEREIN MENTIONED, AND FULLY SECURING THE PURCHASERS THEREOF IN THEIR TITLES, AND ALSO FOR PRESERVING THE COMMON LANDS APPURTENANT TO THE CITY OF PHILADELPHIA, AND OTHER TOWNS IN THIS STATE FROM UNWARRANTABLE ENCROACHMENT.

(Section I, P. L.) Whereas the speedy and honorable redemption of the bills of credit issued for the support of the just and necessary war in which we are now engaged, will have a happy tendency to re-establish public faith and induce well-affected individuals freely to advance their property for the purposes of government if they are secured of a true and real equivalent:

And whereas, the bills of credit of this state dated on the twenty-ninth day of April last, were funded upon the solid property of the state, consisting of the Province island and the unappropriated lots contained within the bounds of the city of Philadelphia, which said lands were, by a former act of assembly, subjected to sale, to be made by the president or vice-president in council, at any time within four years thereafter. And a speedy sale of the said island having become necessary,

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<sup>1</sup> Ante.

the same hath been advertised at public auction to redeem the said bills of credit so far as the price thereof shall extend:

And whereas, it is manifest that a part of the said bills of credit will remain unredeemed after the said island shall be sold as aforesaid, for the redemption of which the said city lots have been solely pledged, and it is necessary to dispose of the same in like manner so that the purchasers may be assured of a clear and indefeasible title, and thereby be induced to offer the full value thereof:

[Section I.] (Section II, P. L.) Be it therefore enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That it shall and may be lawful for the president or vice-president in council, and he is hereby authorized and required, with all convenient speed, to apportion and set off such and so many of the said city lots as shall, in his judgment and discretion, be sufficient to satisfy and redeem the residue of the said bills of credit, together with the interest which shall be due thereon, and also the charges of selling the said lands and cancelling the said bills of credit remaining unredeemed after the sale of the said island, and so apportioned and set off, sell the same at public auction to the highest bidder, pursuant to the said act, entitled "An act for striking the sum of one hundred thousand pounds in bills of credit, for the present support of the army, and for establishing a fund for the certain redemption of the same, and for other purposes therein mentioned,"<sup>1</sup> in all cases receiving in payment for the said island and the said lots the said bills of credit issued pursuant to the said act, or Spanish milled dollars, or an equal sum in gold or silver, and no other money whatsoever.

[Section II.] (Section III, P. L.) Be it also enacted by the authority aforesaid, That each and every purchaser of the said lands hereinbefore mentioned and every part thereof, having received his deed or grant from the president or vice-president in council shall from thenceforth become seized of a sure and indefeasible estate in fee simple against all claims or demands

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<sup>1</sup>Passed March 25, 1780, Chapter 907.

whatsoever and in case of any suits brought for such land or any part thereof, the grantee under this act, his or her heirs or assigns, may plead the general issue and give this act in evidence, which shall be final and conclusive to the court and jury against any claimant or demandant, in any suit to be brought at any time hereafter for the lands which shall be granted as aforesaid, or any part thereof.

(Section IV, P. L.) And whereas, it may happen that claims may be hereafter made upon some of the said lots by the descendants of the original purchasers under William Penn, esquire, or purchases under his successors, to grantees who have neglected to set out and appropriate the same in severalty, so as to be distinguished from the common lands, appurtenant to the said city:

For remedy whereof:

[Section III.] (Section V, P. L.) Be it enacted by the authority aforesaid, That in every such case the claimant, having ascertained the justice and right of his claim, agreeable to the laws of this state, as hereinafter set forth, shall be entitled to a full equivalent for the same, having due regard to situation in any other of the unappropriated lots appurtenant to the city and now vested in this commonwealth.

(Section VI, P. L.) And to the end that speedy and ample justice may be done to every such claimant, prosecuting his claim within the time hereafter limited:

[Section IV.] Be it enacted by the authority aforesaid, That in case any suit be brought, every such claimant or other claimant of any part of the lands whereof this commonwealth is possessed (lands in the counties of Bedford, Northumberland, Westmoreland and Washington only excepted), before he or she takes possession of any part of the said lots or lands so claimed, shall proceed in manner following and no other, viz.: He shall present a petition to the president or vice-president in council, setting forth, in a summary manner, the nature of his claim, and whence derived, and if, in such petition, he or she shall request a trial by a jury, the said president or vice-president in council shall, ex-officio, grant the same, by directing the attorney-general to receive a declaration in ejectment, against himself, as

representing the commonwealth in such cases, wherein the premises claimed shall be particularly described and appear thereto in the supreme court only, and proceed to trial thereupon, according to the laws and practice of this state in possessory actions. And if it shall happen that judgment be obtained against the said attorney-general, on verdict or demurrer and the court award costs thereupon, the said president or vice-president in council is hereby authorized and required to cause the same to be paid, the bill being first duly taxed, together with necessary and reasonable expenses, attending the defense, out of any moneys which shall be in the hands of the treasurer of the state not otherwise specially appropriated.

[Section V.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That upon such claim being ascertained as aforesaid, or if the claimant shall not, in his or her said petition, request a trial by jury (which omission shall be deemed a full and final consent to abide the determination of the president or vice-president in council on the merits of his or her claim); and if such determination shall be in his or her favor, he or she shall then be entitled, at his own expense, to a writ, to be framed by the prothonotary of the supreme court in which the premises recovered, shall be also particularly described, directed to the sheriff of the county, commanding him to summon a jury of twelve good and lawful men, who, being duly sworn or affirmed, shall proceed to assign to [the] said claimant so much of the said unappropriated lots within this city as shall, in their judgment (having due regard to quantity and quality) be equal in value to the lots so claimed by him or her; and such writ, being duly returned to the said supreme court, such return approved by the court, and judgment thereon entered shall be conclusive in favor of the party, and a writ of possession issue thereupon.

(Section VIII, P. L.) And whereas a century hath now elapsed since the granting of the original charter of Pennsylvania, and upwards of eighty years since its actual settlement, and it being reasonable that there should be a limitation of suits and dormant claims upon the estate of the public, as well as that of individuals:

[Section VI.] (Section IX, P. L.) Be it therefore enacted by the authority aforesaid, That no person shall have or maintain any action, real, personal or mixed, against the commonwealth, represented as aforesaid or otherwise, for any lands, tenements or hereditaments, within Pennsylvania, by virtue of any grant or conveyance of the original proprietor to his or her ancestor or predecessor; or to the ancestor or predecessor of his or her grantor, unless he or she shall commence and prosecute the same within seven years after the publication of this act; or by virtue of any grant or conveyance of the subsequent proprietaries of this state (lands in the counties of Bedford, Northumberland, Westmoreland and Washington only excepted), but within ten years from the publication hereof and in default thereof all and every such claimants or claimant shall be utterly barred and excluded from any entry, right of entry, title, property and demand in or upon such lands or any suit whatsoever in law or equity for the same.

(Section X, P. L.) Provided always, That if any person or persons who is or are entitled to have, or maintain any such action, be at the time of the publication of this act, within the age of twenty-one years, feme covert, non compos mentis, imprisoned or beyond sea, other than those who have voluntarily gone to the dominions of the King of Great Britain from this or any of the United States since the fourth day of July, one thousand seven hundred and seventy-six, that then such person or persons shall be at liberty (except as before excepted), to bring the said actions, so as he or they commence the same within such times as are hereinbefore limited after his, her or their coming to or being of full age, discoverture, sound memory, at large, or returning to this state, as in the case of other persons.

(Section XI, P. L.) And whereas, divers persons pretending title or leases or permissions from the late proprietaries, or without any pretence whatsoever, have taken into possession divers lots appurtenant to the city, and to the other towns within this state, which lots were held by the said proprietaries as such, and not in their private several right and capacities:

And whereas, such possession is not only injurious to the

other citizens who are entitled to the use of said lands, as common for their cattle, but will embarrass the future sale and appropriation of the said lots for the general benefit of the state:

For remedy whereof:

[Section VII.] (Section XII, P. L.) Be it enacted by the authority aforesaid, That the care and custody of the city lots in Philadelphia shall be and is hereby vested in the wardens of the city; and the care and custody of the lots appurtenant to the town of Reading shall be and hereby is vested in Samuel Mifflin, Henry Christ and Henry Haller; and the care and custody of the lots appurtenant to the town of York, in the county of York, shall be and hereby is vested in Archibald McClean, Michael Swoope and William Scott; and the care and custody of the lots appurtenant to the town of Carlisle, in the county of Cumberland, shall be and hereby is vested in John Montgomery, Samuel Laird and James Pollock; and the care and custody of the lots appurtenant to the several towns of Easton, in the county of Northampton, Bedford, in the county of Bedford, Sunbury, in the county of Northumberland, and Hannah's town, in the county of Westmoreland, shall be and is hereby vested in the justices of the peace residing in and within two miles of the said towns, respectively, to the end that the said lots may be preserved from encroachment and private use, and for the benefit of common to the inhabitants of the said city and towns, until the same be appropriated under the authority of the legislature of the state, for building, improvement or other use. And that all such encroachments and unwarrantable enclosures within the said city and towns may be discovered and removed without delay:

[Section VIII.] (Section XIII, P. L.) Be it enacted by the authority aforesaid, That the said wardens of the city of Philadelphia, the said Samuel Mifflin, Henry Haller, Henry Christ, Archibald McClean, Michael Swoope, William Scott, John Montgomery, Samuel Laird and James Pollock, of Reading, York and Carlisle; and the said justices of [Northampton], Bedford, Northumberland and Westmoreland, respectively, or any two of them, are hereby authorized and required, on their

own knowledge, or on the complaint of any two reputable freeholders made to them in writing, and in the said writing declaiming any right or pretence in themselves to said lots, or any part thereof, to summon any person possessing any of the said lots before any justice of the supreme court in the vacation, or on the circuit, to show by what warrant or authority he or she holds or possesses the said lots, or any part of them; and if the said party shall not plead title to the premises under a patent, or judgment of court or a possessory right, by virtue of an unexpired lease from the said proprietaries, or their agent duly authorized, at the same time producing such patent, judgment or lease, or an authentic record thereof, it shall and may be lawful for the said justice, at the expiration of fifteen days from the service of said summons, and he is hereby required to award the possession of said lot to the commonwealth, and issue his warrant to the sheriff of the county to abate and remove the enclosures of said lot or buildings erected thereon, as in the case of common nuisance, and open the premises as a free common of pasture to the inhabitants; upon which proceedings no writ of certiorari or other writ of removal to any superior court shall be allowed or received, so as to stay the delivery of the possession agreeable to the award of the said justice and the tenor and direction of said writ. But if the [said] judgment shall be reversed for any cause whatsoever the party shall be restored to his possession.

(Section XIV, P. L.) Provided always, That nothing herein contained shall defeat or prejudice, or be construed to the defeasance or prejudice of, any title which the party so dispossessed may have and which he may prosecute as hereinbefore directed.

[Section IX.] (Section XV, P. L.) Be it also enacted by the authority aforesaid, That if any suit or suits shall be brought against any person or persons for anything done pursuant to this act, the action shall be laid in the county where the cause of action shall arise, and not elsewhere, nor after twelve months. And the defendant or defendants in such action to be brought may plead the general issue and give this act and the special matter in evidence; and if the jury shall find for the

defendant or defendants in such action or actions, or the plaintiff become non-suit, or discontinue his, her or their action or actions, after the defendant or defendants shall have appeared, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall recover treble costs, and have the like remedy for the same as any defendant or defendants had or have in other cases to recover costs by law.

[Section X.] (Section XVI, P. L.) Be it also enacted by the authority aforesaid, That if the said wardens of the city of Philadelphia, or Samuel Mifflin, Henry Christ, Henry Haller, Archibald McClean, Michael Swoope, William Scott, John Montgomery, Samuel Laird and James Pollock, of the towns of Reading, York and Carlisle, or the said justices dwelling in or near the towns of Easton, Bedford, Sunbury and Hannah's town, refuse or neglect to perform the duties herein and hereby directed, and the same shall be presented in the court of oyer and terminer or the court of general quarter sessions of the peace of the proper county, and bills of indictment in either of the said courts be found against them or any of them for such refusal or neglect, whereon they, or any of them, shall be prosecuted to conviction, they shall pay a fine of twenty pounds each for every such offense, to the use of the poor of the said city and towns, respectively, to be paid to the overseers thereof.

Passed April 10, 1781. Recorded L. B. No. 1, p. 434, etc. See the Acts of Assembly passed April 8, 1786, Chapter 1225; April 8, 1791, Chapter 1555.