

anything in the said recited act to the contrary notwithstanding.

And to the end the boundaries of the said counties of Cumberland and Bedford may be the better ascertained and known:

[Section II.] Be it further enacted by the authority aforesaid, That it shall and may be lawful to and for George Woods, William Elliott, Robert Moore and Robert McCrea, or a majority of them, and they are hereby required and enjoined, within the space of six months next after publication of this act, to assemble themselves together and run, mark out and distinguish the boundary lines of the said county of Bedford and Cumberland, and the charges to arise for the doing thereof shall be defrayed by the said county of Bedford, and to that end levied and raised by the inhabitants thereof in such manner as other public money for the use of the said county by law ought to be raised and levied.

Provided, That nothing herein contained shall be deemed or taken to disannul or make void the said recited act or any clause, article, matter or thing therein contained, except what is hereby altered or supplied, but that the same articles, clauses, matters and things not hereby altered or supplied shall be and remain in full force and virtue.

Passed March 21, 1772. Referred for consideration by the King in Council, January 15, 1773, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXX, and the note to the Act of Assembly passed March 9, 1771, Chapter 629.

CHAPTER DCLIX.

AN ACT FOR VESTING A CERTAIN TRACT OF FOUR HUNDRED AND FIFTY ACRES OF LAND SITUATE IN FREDERICK TOWNSHIP IN THE COUNTY OF PHILADELPHIA, COMMONLY CALLED THE PERKIOMING COPPER MINE TRACT, IN TRUSTEES TO BE SOLD AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas by virtue of a writ of fieri facias issued out of the county court of common pleas for the county of Philadelphia

aforesaid, tested the ninth day of December, in the tenth year of the reign of His late Majesty George I, Owen Roberts, then sheriff of the said county, did seize and take in execution the aforesaid four hundred and fifty acres of land, late the estate of Nathaniel Puckle, then deceased, in the hands of Roger Edmonds and Deborah, his wife, executors of the said Nathaniel, to satisfy Hannah Penn, the plaintiff in the said execution, her certain debt and damages in the said writ specified, as by the said writ and the sheriff's return thereon indorsed remaining among the records of the said court appears:

And whereas in pursuance of the said writ and agreeable to the laws of this province then in force he the said sheriff did on the twenty-fourth day of February, one thousand seven hundred and twenty-three-four, for the consideration of sixty pounds sell and deliver the said four hundred and fifty acres of land and premises unto Andrew Hamilton, late of the city of Philadelphia, Esquire, who paid the said consideration money to the said sheriff, who soon afterwards died without making any deed or conveyance of the premises to the said Andrew Hamilton:

And whereas at the time of the said purchase it was intended that the said tract of four hundred and fifty acres of land, supposed to contain a valuable copper mine, with all its mines, minerals and ore, should be held in sixteen equal parts or shares by the said Andrew Hamilton and other partners and their heirs, as appears by several deeds or grants of such sixteenth parts under the hand and seal of the said Andrew Hamilton, deceased, by which deeds or grants it was provided and declared that each of the grantees, their heirs and assigns, should pay their proportion of the purchase money and of all expenses of digging, searching for and getting of copper ore, if any could be found within the said tract; or otherwise that any owner or owners who should refuse or neglect to pay his or their part or parts of the purchase or expenses of working the said mine should from thenceforth forfeit all his or their right or shares in the said land and mine to the rest of the said owners or to so many of them as should advance or pay down the sum or sums of money due on account of any such share to be forfeited as aforesaid:

And whereas the aforesaid Andrew Hamilton being seized of one or more share or shares of and in the said tract, by his last will and testament, bearing date the second day of August, one thousand seven hundred and forty-one, did among other things give and devise all the residue of his estate to his eldest son, James Hamilton, Esquire, in fee:

And whereas by virtue of an act of general assembly of this province made in the tenth year of His present Majesty's reign, entitled "A supplement to the act, entitled 'An act for taking lands in execution for the payment of debts and for confirming partitions in several instances heretofore made,'" ¹ and in pursuance of the order and direction of the justices of the court of common pleas for that purpose obtained under the same act, Joseph Redman, Esquire, late sheriff of the said county, by deed poll under his hand and seal bearing date the thirtieth day of March last past, to vest the legal title in the premises in the said James Hamilton, devisee as aforesaid of the said Andrew Hamilton, by and with the consent of divers of the said other owners, did grant, bargain and sell unto the said James Hamilton the aforesaid tract of four hundred and fifty acres of land by metes and bounds in the same deed poll described, together with the appurtenances, to hold to him the said James Hamilton, his heirs and assigns, forever; and the said James Hamilton is willing and desirous that all and every the person and persons who have taken conveyances from his said father or paid a proportionable part of the purchase-money and has likewise paid their full share or proportion of the expenses aforesaid should have their full share and dividend of and in the said lands and premises according to their agreements entered into with his said father, or their share or dividends of all moneys to arise from the sale thereof:

And whereas it appears by the books and vouchers of the said mine company that the said Andrew Hamilton and after his decease the said James Hamilton and sundry other persons, owners of several of the original sixteenth parts of the said tract of land, their heirs or assigns, have since the year one thousand seven hundred and twenty-three, besides paying their respective

¹ Passed February 24, 1770, Chapter 604.

parts of the said purchase-money and of the expenses of working the said mine, from time to time when and as often as any of the other owners or partners refused or neglected to pay his or their proportion, have paid such deficiencies as occasion did require:

And whereas it has been represented to the general assembly of this province by petition of several of the present owners or claimants of the said four hundred and fifty acres of land and premises, that after so great a length of time and by reason of the death, absence or removal of some of the original proprietors of the said tract of land or of some parts thereof it has become uncertain to whom the right of and to several of the said shares doth belong, and that divers of the delinquent owners having for many years past neglected to make any claim thereto, whereby the said petitioners are disabled from selling or making partition of the said tract of land and premises and have requested that the legislature would provide a suitable remedy in their behalf:

And whereas it is just and reasonable that it should be ascertained in an easy and summary way who are entitled to the aforesaid sixteen shares or any part thereof in the said four hundred and fifty acres tract and effects of the partnership where such right to any such share or to any part or proportion of such share shall be either doubtful or controverted:

[Section I.] Be it therefore enacted by the Honorable Richard Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and John Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, 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 partnership begun by the said Andrew Hamilton and others, owners of the said tract of land and premises, shall from henceforth be and is hereby dissolved, and that the utensils and other effects to the said partners formerly belonging and the legal estate of and in the said four hundred and fifty acres of land with the appurtenances now vested in the said James Hamilton and the reversions and remainders thereof, and all the estate, right, title, interest, claim and demand what-

soever of the said James Hamilton and other the partners of and in the said land and mine company, shall from and after the passing of this act be and is hereby vested in John Gibson, Esquire, Jacob Lewis, Jacob Shoemaker the younger and Henry Drinker, gentlemen, and such other persons in case of their disability as may be hereafter appointed by virtue of this act; in trust nevertheless, that they the said John Gibson, Jacob Lewis, Jacob Shoemaker the younger and Henry Drinker and the survivors of them, and such other person and persons as in pursuance of this act may hereafter be appointed trustee or trustees, shall as soon as conveniently can be after the passing of this act by public auction expose and sell the premises, and every part thereof, either in parcels or the whole, unto the highest and best bidder or bidders, upon such conditions of sale and reservations as by the said trustees or the survivors or survivor of them shall [be] thought fit or requisite, and on payment of the purchase-money to the said trustees or the survivors or survivor of them they the said trustees or the survivors or survivor of them shall at the cost of every such purchaser or purchasers, respectively, convey in such manner and by such conveyances as shall be reasonably required the premises, or such part thereof as shall be [so] purchased by him, her or them, respectively, unto and to the use of such purchaser and purchasers, his, her and their respective heirs and assigns, forever.

[Section II.] And be it further enacted by the authority aforesaid, That the receipt of the said trustees or the survivors or survivor of them under their hands for any sum of money which shall be paid to them or either of them by such purchaser or purchasers shall be a sufficient discharge for the same.

And for the better effecting the purposes of this act:

[Section III.] Be it further enacted by the authority aforesaid, That the said trustees, or any three of them, as soon as conveniently may be after the passing of this act, shall direct advertisements to be inserted in the Pennsylvania Gazette and such other public newspapers in England and the West Indies as they think proper, giving notice that all persons who have or claim any of the said sixteen shares or any part or proportion of such shares are to claim and to make out their respective

rights thereto and produce the deeds, assignments, probate of wills, receipts or other evidences under which they respectively claim any such right before the said trustees, at such times and place as in such Gazette or notices shall be specified before the first day of May which will be in the year of our Lord one thousand seven hundred and seventy-four, or otherwise, that they will be precluded from having or receiving any dividend of the money which shall arise by or from the sale of the said four hundred and fifty acres of land and other the effects of the said partnership to be divided as by this act it is directed.

[Section IV.] And be it further enacted by the authority aforesaid, That the said John Gibson, Jacob Lewis, Jacob Shoemaker the younger and Henry Drinker, or any three of them, be and they are hereby empowered and required by the examination of the parties claiming or the testimony of witnesses upon oath or solemn affirmation (which oath and solemn affirmation they are hereby empowered to administer), or by the inspection and examination of the books, deeds, writings and accounts of the said partnership or otherwise, according to their discretion, to examine into all such claims, and upon the whole evidence to adjust, settle and ascertain the title, interest, right and demand of all and every such claimant or claimants in a summary way in manner as hereinafter is directed, and that the authorities and powers hereby granted to the said trustees shall continue for the space of three years, to be computed from the first day of May next.

[Section V.] And be it further enacted by the authority aforesaid, That the said trustees and the survivors and survivor of them shall out of the moneys to be raised by the sale of the said company's effects and four hundred and fifty acres of land first pay all the shares or sixteenth parts and any other smaller parts and proportions of original sixteenth parts to such claimants as shall show unto them their respective titles derived from a devise or deed of the said Andrew Hamilton, or from his certain grantee or grantees, and shall prove to the satisfaction of the said trustees that they the said claimants and the person and persons under whom, either by descent or purchase, they claim, have from the commencement of the said partnership paid or

contributed for one whole share at least one-sixteenth part of the expenses of working the said mine, and so in proportion for less than one whole share, or shall declare their willingness to make up, allow or have deducted out of their distributive share whatever they shall be in arrears for or concerning the same.

[Section VI.] And be it further enacted by the authority aforesaid, That so many of the said sixteenth parts or shares as shall be claimed otherwise than under deed or conveyance from the said Andrew Hamilton (save the share or shares of the said James Hamilton to him devised by his said father's last will and testament) and such other shares or sixteenth parts as by his the said Andrew Hamilton's deed or deeds have been conveyed, but the grantees thereof have neglected or refused to pay their proportionable part of the expenses of working the said mine, contrary to the conditions or provisos in the said Andrew Hamilton's grants contained, shall be deemed contested shares. And the said trustees are hereby empowered and required to let out at interest the amount of such contested shares until they shall have considered and determined upon the claims that shall be made before them concerning such contested shares or until the first day of May, one thousand seven hundred and seventy-five, when the powers and authorities of the said trustees hereby granted to them shall determine. And if any such delinquent owner, or owners, his, her or their heirs, executors, administrators or assigns, shall within the said limited time of two years before the said trustees or the survivors of them claim such contested share, then the said trustees and the survivors of them shall from the books and accounts of the said partnership or mine company and otherwise from the best evidence that can be had inform themselves what sum or sums of money such claimant or claimants or the person or persons under whom they claim have contributed towards the purchase of the said four hundred and fifty acres of land, utensils and other effects, and carrying on the business of the said mine company, and how much he or they remain in arrear for such share, which being deducted out of the whole amount of the distributive share of such claimant or claimants, the residue if any be shall be paid him, her or them, notwithstanding the condition or proviso under

which such share is held by the grant of the said Andrew Hamilton, deceased.

[Section VII.] And be it further enacted by the authority aforesaid, That all such shares as shall not be claimed or demanded within the said time limited and all the moneys deducted out of the shares of such delinquent owners as aforesaid shall be allowed and distributed to and among the owners of uncontested shares in proportion to the quantity of shares or interest they hold.

[Section VIII.] Provided always and it is hereby further enacted, That if any person or persons shall apprehend him, her or themselves aggrieved by any determination of the said trustees touching or concerning any claim of, in or to any share or shares in the money to be distributed by this act, it shall be lawful to and for such person and persons within the space of three months next after such determination given to commence an action at law in the court of common pleas of the said county against the said trustees or the survivor of them, and to prosecute his, her or their action or actions to effect, so that judgment be obtained thereon within the space of one year from the commencement of such action, and that such judgment shall be final and conclusive.

[Section IX.] And be it likewise enacted by the authority aforesaid, That if any two of the said trustees during the time for which their office and authority by this act granted to them is limited shall remove out of this province, or by sickness, death or otherwise be disabled to perform the duties required by this act, that then and in every such case the speaker of the house of assembly, the chief justice of this province and the mayor of the city of Philadelphia for the time being, or any two of them, may under their hands and seals appoint two new trustees, and the persons so to be nominated and appointed shall have the same powers and authorities of trustees to all intents and purposes as if they had been specially appointed trustees by this act.

[Section X.] And be it further enacted by the authority aforesaid, That the said trustees shall from time to time enter, or by a clerk of their appointment cause to be entered into a book to be provided for that purpose the respective claims which

shall be made before them by any person or persons to any of the said sixteen shares, or to any part or proportion of such share, and likewise an account of all deeds or grants of any such share or shares and all assignments, devises or other transfers of such share, or other written evidence to make out the right of any person or persons to any share or shares as aforesaid, together with an account on whose behalf every such claim shall be made or evidence of the title produced, and the names and places of abode of the respective persons to whom the said trustees, or any three of them, shall allow and adjudge such share or shares to belong, and how much they have deducted out of the shares of claimants that have neglected to contribute their proportionable part of the expenses aforesaid, and such other of their proceedings as they shall think proper, which book of proceedings in any action or suit to be brought as aforesaid may be given in evidence, as well upon trial by jury as by any auditors or referees to be appointed by court. Saving always to all and every other person and persons, bodies politic and corporate, his, her and their heirs, successors, executors and administrators (other than the parties interested in the said mine company and land), all such estate, right, title and interest of, into and out of the premises vested, settled and limited and by this act directed to be sold, as they, every or any of them, had before the passing of this act, or could or might have in case this act had not been made.

[Section XI.] And be it likewise enacted by the authority aforesaid, That the said trustees for their labour and service in executing the trusts and authorities hereby in them vested and reposed shall have five per cent. on the amount of sales by them made, besides all reasonable charges and expenses laid out and expended by them in the execution of their trust or any matter or thing thereunto relating.

Passed March 21, 1772. Referred for consideration by the King in Council, January 15, 1773, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXX.