

[STATUTES OF ENGLAND, 1598]

*Anno 39° [& 40°] ELIZABETHÆ. A.D. 1597. [& 1597–8.]***CHAPTER V.****AN ACTE for erecting of Hospitall^f or abiding and working Howses for the Poore.**

[1]
35 Eliz.
c. 7. § 9. as
to Houses
of Correc-
tion,

WHEREAS at the last Session of Parlyament Provision was made, as well for maymed Soldiers by Collecc^on in every Parish, as for other Pore, that it should be lawfull for every *person* during Twenty yeares next after the said Parlyamente, by Feoffament Will in wryting or other Assurance, to give and bequeath in Fee Simple aswell to thuse of the Pore as for the *Provision* Sustentac^on or Mayntenance of any Howse of Correcc^on or abiding Howses, or of any Stock^f or Stoares, all or any part of his Land^f Tenement^f or Hereditament^f;

required to
be extend-
ed to Hos-
pitals;

Her most Excellent Majestye understanding and finding that the said good Lawe hath not taken such effecte as was intended, by reason that no *person* can erecte or incorporate any Hospitall Houses of Correcc^on or abiding Plac^f, but her Majestye, or by her Highnes specyall License by *lettres Patent^f* under the Greate Seale of England in that behalfe to be obtayned:

[I.] For
Twenty
Years Per-
sons seized
of Fee Sim-
ple Estates
may found
Hospitals;

Her Majesty, graciously affecting the good succe^se of so good and charitable worck^f, and that without often suite unto her Majesty, and with as greate Ease and little Charge as may be, is of her princely care and blessed disposicion to and for the Releife and Comforte of maymed Soldyers Marryners and other pore and ympotent People, pleased and contented that it be enacted by thauc^otority of this *present* Parlyament, and be it enacted by the auct^otority of this *present* Parliament, That all and every *person* and *persons* seized of an Estate

in Fee Simple, their Heires Executors or Assignes at his or their Will^f and Pleasures, shall have full Power Strengthe Licence and lawfull Auct^otority, at any tyme during the space of Twenty yeares next ensuyng, [2] by Deede inrolled in the High Court of Chancery, to erecte founde and establysh one or more Hospitalls Measons de Dieu abiding Plac^f or Howses of Correcc^on, at his or their Will and Pleasure, as well for the finding Sustentac^on and Releife of the maymed pore needy or ympotent people, as to set the Pore to worcke, to have Contynuan^{ce} foever, and from tyme to tyme to place therein such Head and Members and such number of Pore as to him his Heires and Assignes shall seeme convenyent;

And that the same Hospitall^f or Howses so founded, shalbe incorporated and have *perpetuall* Successions for ever in Fact Deede and Name, and of such Head Members and numbers of pore needy maymed or ympotent people as shalbe appointed assigned lymitted or named by the Founder or Founders, his or their Heires Executors or Assignes, by any suche Deede inrolled;

which shall
be incorpo-
rated;

And that such Hospitall Meason de dieu abiding Place or House of Correcc^on, and the *persons* therein placed, shalbe incorporated named and called by such name as the said Founder or Founders his Heires Executors or Assignes shall so lymit assigne and appointe;

And the same Hospitall Meason de Dieu abiding Place or Howse of Correcc^on so incorporated and named, shalbe a Body Corporate and Polli- tique, and shall by that name of Incorporac^on have full power authority and lawfull Capacity

and may
take
Lands, &c.

[1] [*Statutes of the Realm* (1810–25) vol 4 part 2 pp 902–903. Also: *Statutes at Large*, Ruffhead (1763) vol 2 pp 687–688; Pickering (1763) vol 7 pp 2–4; Raithby (1811) vol 4 pp 510–512. This Act was passed (received royal assent) on 9 February 1598 but came into force on 24 October 1597, the date of commencement of the session; given the short title *The Hospitals for the Poor Act, 1597* by the *Statute Law Revision Act, 1948* (11 & 12 G 6 c 62) s 5 Sch 2 p 1500; repealed by the *Charities Act, 1960* (8 & 9 Eliz 2 c 58) s 39(1) Sch 5.]

[2] [The Parliament in which this Act was passed ended on February 9, 1598; twenty years later was February 9, 1618. Therefore this Act expired on February 9, 1618. However, in 1624 it was revived and made perpetual by statute 21 James 1 c 1 s 1.]

and Ability to purchase take hold receive enjoy and have to them and to their Successors for ever, as well Goodſ and Chattelſ as Manors Landſ Tenementſ and Hereditamentſ being Freeholde of any perſon or perſons whatsoever,

to the Value of £200 a Year.

so that the same exceede not the yearely value of Two hundred Poundſ [3] above all Chargſ and Reprises to any one such Abiding House Hospitall Meason de Dieu, or Howse of Correccion; And so as the same or any part thereof be not holden of our Sovereigne Lady the Queene her Heires or Successors, ymmediately in cheife, or els of our said Sovereigne Lady the Queene, or any other perſon by Knight service, without Lycense or Writ of *Ad quod dampnum* [4], or the *Statute of Mortmayne* [5], or any other Statute or Lawe to the contrary notwithstanding:

May sue and be sued;

And that the same Hospitall Meason de Dieu Abiding Place or House of Correccion, and the persons so being incorporated founded and named, shall have full power and lawfull auctory by the true name of the Incorporacion thereof, to sue and be sued, ympleade and to be ympleaded, to aunswere and to be aunswere unto, in all manner of Courtſ and Placſ that now are or hereafter shall be within this Realme, as well Spirituall as Temporall, in all manner of Suitſ whatsoever, and of what nature and kinde soever such Suitſ or Accions be or shall be:

shall have a common Seal;

And that the same Hospitall Meason de Dieu Abiding Howse or Howse of Correccion

shall have and enjoy for ever such a Common Seale or Seales, as by the said Founder or Founders his or their Heires Executors or Assignes shall be in Wrytinge under his or their Hande and Seale assigned named or appointed, whereby the same Corporacion shall or may seale any manner of Instrument towching the same Incorporacion, and the Landſ Tenementſ

Hereditamentſ Goods or other Thingſ thereto belonging, or in any wise towching or concerning the same:

And further shall be ordered directed and visited, placed or upon just cause displaced, by such perſon or persons Bodies Politique or Corporate, their Heires Successors or Assignes, as shall be nomynated or assigned by the Founder or Founders thereof, their Heires or Assignes, according to such Rules Statutſ and Ordinancſ as shall be set forth made devised or establiſhed by the said Founder or Founders their Heires or Assignes, in writing under his or their Hande and Seale, not being repugnant or contrary to the Lawes and Statutſ of this Realme; any Law Statute Custome Usage or other Thing whatsoever to the contrary in any wise notwithstanding:

shall be ordered and visited as appointed by the Founder.

And that it shall be lawfull unto the Founder or Founders his and their Heires or Assignes, upon the death or removing of any Head or Member of any such Corporacion, to place one other in the roome of him that dyeth or is removed successively for ever.

Founder, &c. may supply Vacancies.

PROVIDED alwayes, That all Leases Grauntſ Conveyance or Estatſ to be made by any Corporacion so to be founded as aforesaid, exceeding the number of xxj yeares, and that in Possession, and whereupon the accustomed yearely Rente or more, by the greater part of twenty yeares next before the making of such Lease, shall not be reserved and yearely payable, shall be void.

II. Leases by such Hospitals for Twenty-one Years only.

SAVING to all Persons Bodyes Politicke and Corporate their Heires and Successors, (other then the Founders and Gyvers their Heires and Successors,) all such Right Title Clayme Possession Rentſ servicſ Commons Demaundſ Interest and Proffittſ which they or any of them shall have, or of right ought to have, of in or to any the Landſ Tenementſ or Hereditamentſ hereafter to be given lymitted or assigned in forme aforesaid, in as ample manner as yf this Statute had never bene had or made.

III. General Saving for Titles of Strangers.

PROVIDED also, That this Act or any Thing therein conteyned shall not extende to enable any perſon or persons being within Age, Weomen Covert without their Husbandſ, or of not sane memorie, to make any such Corporacion, or to endow the

IV. Act not to authorize Infants, &c.

[3] [The value here is the maximum permitted annual rental income. In 1597 the English pound represented 3.70 troy ounces of silver. The modern (2022) Canadian price of silver is \$28.33 per troy ounce. So that pound equates to Can\$105 in silver, and a yearly rental value of £200 would be like Can\$21,000. A more elaborate comparison based on prevailing income levels (GDP *per capita*) in England in 1597 (£13) and in Canada in 2022 (about Can\$70,000) suggests this value would be more like Can\$1.1M today.]

[4] [See explanatory note at end.]

[5] [Probably the 1391 statute 15 Richard 2 c 5 (*Statutes of the Realm* vol 2 pp 79–80), under which the Acts controlling mortmain in regards to religious corporations were extended to civil corporations.]

same; Any Thing in this present Act to the contrary thereof in any wyse notwithstanding.

V. Hospitals shall be endowed with at least £10. a Year.

[6] PROVIDED always, That no such Hospitall Maison de Dieu Abiding Place or Howse of Correction shall be erected founded or incorporated by force of this Acte, unles upon the Foundacion or Ereccion thereof the same be endowed for ever with Land^f Tenement^f or Hereditament^f of the clere yearly value of Ten pound^f [7] by the yeare.

VI. Hospitals shall not alienate their Possessions, &c.

PROVIDED also and be it further enacted, That no such Incorporacion to be founded by force of this Acte, shall at any tyme hereafter doe or suffer to be don any Acte or Thing whereby or by meanes whereof any of the Land^f Tenement^f Hereditament^f Stocke Good^f or Chattels of such Incorporacion, or any Estate Interest Possession or Property of or in the same or any of them, shall be vested or transferred in or to any other whatsoever, contrary to the true meaning of this Acte;

And that such Construccion shall be made upon this Acte as shall be most beneficyall and avayleable for the Mayntenance of the Pore, and for repressing and avoyding of all Act^f and Devic^f to be invented or put in ure contrary to the true meaning of this Act.

Explanatory note: The writ *ad quod damnum* [Latin, to what damage] was issued by the Court of Chancery before a licence was given by the Crown to alienate lands in mortmain. It directed the local sheriff to inquire of jurors under oath what damage a grant would be to persons if the Crown were to make the grant. The mortmain licence would not be issued unless a return *ad damsum nullis* was made so as to show that no man would be injured.

—*Ordinance of Purchasing Liberties* (1299), 27 Edward 1, c 1 (*Statutes of the Realm* vol 1 p 131)

—*Osborn's Concise Law Dictionary*, 6th ed. by John Burke (1976) p 13

—*Mozley and Whiteley's Law Dictionary*, 10th ed. by E. R. Hardy Ivamy (1988) p 12

—*Black's Law Dictionary*, 7th ed., Bryan A. Garner, Editor in Chief (1999) pp 50–51

[6] The Two following Provisoos are annexed to the Original Act [in the Parliament Office] in a separate Schedule.

[7] [This minimum rental value of £10 a year would be Can\$1,100 in silver today; but based on relative incomes more like Can\$54,000.]