

The Eighteenth-Century Records
of the Boston
Overseers of the Poor



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Appendices



Appendix 5

The Boston Overseers Incorporation Act, 1772

The following selection is from an act of the Massachusetts General Court on April 23–25, 1772, following a petition to the legislature in which the Overseers of the Poor sought to control the receipt and distribution of all private funds intended for poor relief. The Overseers had long been solely responsible for the public care and control of the dependent poor within their jurisdiction. But the legal designation of the Overseers, by act of “incorporation,” as the authorized agency for the management of private funds in addition to public monies established the Overseers as a genuine monopoly in the fiscal support and management of the poor. The preamble of the act (the first paragraph below) is, in fact, drawn from the Overseers petition which is in Massachusetts Archives (Boston), 118, “Towns, 1763–1774;” 572. The act is in Acts and Resolves 5:177–78, and in manuscript form in Overseers, box 13, folder 1.

An Act for incorporating the Overseers of the Poor of the Town of Boston

Whereas many charitably disposed persons have given & bequeathed considerable sums of money and other interest and estate to the Poor of the Town of Boston & their use, & many other persons are well inclined to make charitable donations to the same good purpose, but the Overseers of the Poor of the same Town not being incorporated, the good intentions of those who have made & those who incline to make such charitable donations, have been wholly frustrated or not carried into full effect.

Be it therefore enacted by the Governor, Council and House of Representatives, that the Overseers for the time being of the Poor of the Town of Boston... be created, made, erected and incorporated into a body politic by the name of the Overseers of the Poor of the Town of Boston in the Province of the Massachusetts Bay in New England, and that they and their successors...have perpetual succession by such name.

...That all and singular sum and sums of money, interest and estate, real or personal, of what name or nature soever heretofore given, or at any time hereafter to be given, granted, bequeathed or devised by any way or means whatsoever to the Poor of the Town or to their use, not exceeding the sums & value in this Act aforementioned, be & the same hereby is & shall be to all intents & purposes vested in the same Overseers & their successors in their said corporate capacity and they are hereby enabled in the same capacity to receive, manage, lease, let & dispose the same according to best discretion to & for the use & benefit of the Poor of the said town.

Provided always, & be it hereby enacted, that the said Overseers shall not be able to receive or be capable of having or holding any monies or personal estate of any kind or nature whatsoever at any time above and beyond the sum and amount of Sixty Thousand Pounds lawful money of this Province, accounting and reckoning the whole monies and value of all the personal estate, personal securities, and choses in

Appendices



action, which they shall own or be vested withal in their corporate capacity together, & that all Gifts & Bequests of money or personal estate of any kind made to the said Corporation, or which by the tenor of this act they might take or be vested with shall be utterly void at all times hereafter when their whole Stock ... together amount to ... sixty thousand pounds.

...That the Overseers & their successors ... have a perpetual succession ... to sue or be impleaded by its said corporate name to purchase lands & hold them not exceeding the sum of five hundred pounds... by the year, & to manage, lease, bargain & sell or otherwise dispose of all or any part thereof & do all acts as natural persons may, as from time to time the said Corporation shall judge best for the benefit, advantage & use of said poor.

...That the said Corporation shall have a common seal & power, &... is hereby authorized to make by-laws & private statutes & ordinances not repugnant to the laws of the land, for the better government of the said Corporation & its finances, to choose a treasure[r], clerk, & other subordinate officers as from time to time shall be found necessary, & all or any of them again at pleasure to displace.

Be it further enacted, that all instruments which said corporation shall lawfully make by the name aforesaid and sealed with their common seal, and all acts done or matters passed upon, by the consent of a major part of the said Overseers for the time being, shall bind said Corporation and be valid in law.

Act passed 23d [to] 25th April 1772

Within the range of the 1772 act was the ability of the Overseers to administer individual trusts—in effect, to establish a “corporation within a corporation.” For example, in 1803, the Commonwealth of Massachusetts passed a law establishing a trusteeship for the specific purpose of administering private funds for the use of older paupers, orphans and abandoned children. The 1803 act is attached to Overseers, box 13, folder 1, and reads in part, as follows:

“An Act to incorporate Oliver Wendell and others together with the Overseers of the poor... by the name and title of The Trustees of John Boylston’s charitable donations for the benefit and support of aged poor persons and of orphans and deserted children.” The act names Wendell, William Cooper, Ebenezer Stour, William Smith, and John Pitts as trustees of Boylston’s will, but after their “decease” the Overseers “shall have perpetual succession” as trustees.