

[Section VIII.] And be it further enacted, That the one-half of all the fines and forfeitures arising by this act in the city of Philadelphia, except such as are to be recovered and imposed in the court of quarter sessions for the said city, shall be paid to the informer or such person or persons as shall sue for the same, and the other half thereof shall be paid to the city treasurer, to be applied towards paving and cleansing the streets of the said city; and that all fines and forfeitures so as aforesaid incurred [for any offenses] committed out of the said city shall be paid to the supervisors of the highways of the respective district or township where the offense was committed and applied to the repair of the highways of such district or township.

[Section IX.] And be it further enacted by the authority aforesaid, That this act shall be and continue in force for and during the space of five years and from thence to the end of the next session of assembly and no longer.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II. Repealed by the Act of Assembly passed February 18, 1769, Chapter 594.

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## CHAPTER CCCCLXXXV.

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A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR REGULATING, PITCHING, PAVING AND CLEANSING THE HIGHWAYS, STREETS, LANES AND ALLEYS, AND FOR REGULATING, MAKING AND AMENDING THE WATERCOURSES AND COMMON SEWERS WITHIN THE INHABITED AND SETTLED PARTS OF THE CITY OF PHILADELPHIA, AND FOR RAISING OF MONEY TO DEFRAY THE EXPENSE THEREOF." 1

Whereas, the paving of the city of Philadelphia within the inhabited parts thereof without delay will be attended with many conveniences and advantages, and it is but just and reasonable that the benefits and emoluments of the act of General Assembly of this province, entitled "An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys, and for regulating, making and amending the water-

courses and common sewers within the inhabited and settled parts of the city of Philadelphia and for raising of money to defray the expense thereof,"<sup>1</sup> passed in the second year of His Majesty George the Third, should be extended as soon as may be to all the inhabited parts of the said city, inasmuch as every inhabitant contributes immediately to the expense thereof. And whereas the tax and assessment of three pence in the pound on the estates, real and personal, within the said city in each year in and by virtue of the said recited act of general assembly being charged with the value of pavements theretofore pitched in the cartway to the amount of four thousand pounds and upwards to be deducted from the said tax will scarcely produce money sufficient to defray the expense of regulating, cleansing and preparing the said streets for paving and therefore not answer the good purposes intended and designed by the said act:

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, 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 on 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 it shall and may be lawful to and for the commissioners nominated and appointed in and by a certain act of general assembly passed in the second year of his present Majesty's reign, entitled "An act for granting to His Majesty the sum of twenty-three thousand five hundred pounds for the purposes therein mentioned,"<sup>1</sup> with the assent and approbation of the governor or commander in chief for the time being, and not otherwise, to advance and lend to the commissioners nominated and appointed or to such as shall hereafter [be] nominated and appointed in and by virtue of the act to which this act is a supplement for cleansing and paving the streets of the city of Philadelphia, or to a majority of them, such sum or sums of

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<sup>1</sup> Passed March 26, 1762, Chapter 480.

<sup>1</sup> Passed May 14, 1762, Chapter 483.

money not exceeding eight thousand pounds in the whole, as shall be convenient and necessary for the purposes mentioned in this act and the said act out of the moneys liable and subject to their draft on the trustees of the general loan office for the protection and defense of the city of Philadelphia, and for that purpose to draw an order or orders, as occasion may be, on the said trustees within the space of seven months from the passing of this act and not afterwards, payable to the said commissioners for paving and cleansing the streets of the said city, which said sum or sums the said commissioners are hereby authorized and empowered to borrow and receive for the uses, intents and purposes mentioned and contained in this and the said herein first recited act of general assembly; and the said commissioners for cleansing and paving the streets aforesaid shall, upon receipt of the moneys mentioned and specified in such order or orders, give a note or certificate in writing of and for the sum lent, signed by them, or a majority of them, which note or certificate shall be registered in the book wherein are entered the proceedings of the governor and provincial commissioners for the time being.

And in order to assure and secure to the said lenders the disposition and application of the moneys which shall be so lent and advanced to the uses, intents and purposes to and for which the same by law was given and granted to His Majesty when it shall become expedient and necessary:

[Section II.] Be it further enacted by the authority aforesaid, That the moneys so borrowed shall be repaid and discharged out of the moneys directed to be raised and levied in and by virtue of the act to which this act is a supplement on or before the tenth day of March, in the year of our Lord one thousand seven hundred and seventy; or if the same shall be sooner demanded by the governor of this province for the time being and the said commissioners, or a majority of them, so lending the same, whenever the same shall be so demanded, and that the said commissioners for cleansing and paving the streets aforesaid, whenever such demand shall be made as aforesaid or at the expiration of the term before mentioned, which shall first happen, shall draw orders on the treasurer appointed or to be

appointed by them by virtue of the said act to which this act is a supplement, payable to the provincial treasurer for the discharge and payment of the said notes and certificates, until the principal sum of all and every such note and certificate shall be fully paid and discharged; but if it shall so happen that at the time when the said sum or sums of money shall be demanded as aforesaid there shall not be in the hands of the said treasurer a sufficient sum of money to satisfy and discharge the sums due on the said notes and certificates, then and in such case the said commissioners for pitching and paving the said streets shall and they are hereby authorized and empowered to borrow and receive from such person [and] persons as shall be willing and ready to lend and advance the same all such sums of money as shall be requisite and necessary to pay and discharge such deficiency or balance so remaining unpaid to the provincial treasurer aforesaid, which said lenders shall have and receive for the use and forbearance of their respective loans until the same shall be paid off, interest not exceeding six per centum yearly; and that the said lenders shall have and receive a note and certificate in writing of and for the sum lent, with the interest thereof, signed by the said commissioners so borrowing the same, which said note and certificate shall be registered in a book by them to be kept for that purpose, and that the said lenders shall be paid by the said commissioners the sum or sums of money of them respectively borrowed with the interest thereof out of the moneys which shall arise, be collected and paid into the hands of the said city treasurer in and by virtue of this act and the act to which this act is a supplement.

[Section III.] And be it further enacted by the authority aforesaid, That all and every person and persons to whom any money shall be due on account of the loan last aforesaid by virtue of this act, his, her or their executors, administrators or assigns, after such note and certificate shall be registered as aforesaid may assign, transfer and make over by proper words of assignment to be indorsed on his, her or their certificate all his, her or their right, title or interest of such note and certificate to any other person or persons whatsoever, which assignment shall entitle such assignee or assignees, his, her or their

executors, administrators or assigns, to the benefit thereof and payment thereon, and such assignee or assignees, their executors, administrators or assigns may in like manner assign the same again, and so *toties quoties*; and afterwards it shall not be in the power of such person or persons who hath or have made such assignment to make void, release or discharge the same or the moneys thereby due.

[Section IV.] And be it further enacted by the authority aforesaid, That if a sum of money shall not be raised and levied in and by virtue of the act to which this act is a supplement before the time limited and appointed therein for the expiration thereof, sufficient to pay off and discharge all and every the sum and sums of money so borrowed as is last hereinbefore directed, or (if the same last-mentioned loans should not be found necessary) the sum and sums of money so borrowed as is herein first before directed, then and in such case the said act to which this act is a supplement and every article, clause and thing therein contained not herein and hereby altered, changed, amended, contradicted or repealed shall be and is hereby declared to be and remain in full force, power and virtue until all and every the sum and sums of money borrowed and received in and by virtue of this act shall be fully paid off, satisfied and discharged, anything in the same act to the contrary thereof notwithstanding.

And whereas by the large increase of the inhabitants of the said city and the several improvements made in places and pieces of ground which have been heretofore left open by the owners thereof and made use of in common for the landing of commodities brought to market, the landing places and wharves belonging to the public are found insufficient to accommodate the persons who bring their goods and effects to be disposed of in the said city.

And whereas there is a certain piece of ground and water-course, commonly called and known by the name of The Dock, extending from the river Delaware across Front street, Second street and Walnut street to the Third street in the said city, with a street on each side thereof, formerly granted by the late Honorable William Penn, proprietary and governor of this pro-

vince to the inhabitants of the said city for public use, which said dock, for want of opening and cleansing, has heretofore proved a nuisance, pernicious to the health of the said inhabitants, whereas by a due regulation thereof the same may be made of public use and real benefit to the inhabitants of the said city:

For remedy whereof:

[Section V.] Be it enacted by the authority aforesaid, That the said commissioners shall and may, as soon as conveniently may be after the publication of this act, out of the moneys which they are so as aforesaid authorized and empowered to borrow, purchase two convenient lots [for] landing places on the river Delaware, one at or near each side of the said city, for the landing of boards, hay and other things which may be brought from time to time to the market of the same for the use of the inhabitants and citizens thereof, which said lots when so purchased shall be vested in the mayor and commonalty of the city of Philadelphia, in trust nevertheless to permit and suffer the mayor, recorder and aldermen of the said city, with the consent and approbation of any four of the assessors thereof for the time being, to take and receive the issues, profits and tolls of the said lots and landing places and to dispose of the same, with the concurrence of the assessors aforesaid for the use, benefit and advantage of the inhabitants of the said city and for no other use, intent or purpose whatsoever. And the said commissioners are hereby further authorized and empowered to open, cleanse, repair and regulate and make navigable the said Dock and every part thereof in such manner as to them shall seem most convenient, useful and advantageous to the public, and for that purpose shall and may contract and agree with such person [and] persons as they shall think proper from time to time to be employed under their direction in the premises, and generally to agree on, execute and perform all and every other act, matter and thing which to them shall appear necessary for the effectual opening, cleansing, [repair]ing, regulating and making the said Dock and every part thereof navigable from time to time and at all times hereafter during the continuance of this

act, and to defray the expense thereof out of the moneys so to be borrowed by them as aforesaid.

[Section VI.] Provided always nevertheless, and be it enacted by the authority aforesaid, That the owner and owners of the several lots of ground adjoining to the said streets situate as aforesaid on each side of the said Dock shall and are hereby enjoined and required, as soon as conveniently may be after the publication hereof, to build and erect before the whole front of his, her or their lot or lots so adjoining the said streets a good, strong, substantial wall of good, flat stone from the bottom of the said Dock of such thickness, height and depth as the said commissioners, or a majority of them, shall, by their order in writing, direct and appoint at his, her or their own costs, charges and private expense; unless it be in such cases where the front of any such lot shall be situate at any of the corners where the said Dock shall intersect any of the said streets, and that in such case the owner of such lot shall only erect so much of such wall as shall be thought reasonable and just by the said commissioners for paving the streets aforesaid, or a majority of them; and that [the] residue of the said wall on the fronts of the said lots shall be erected by the said commissioners out of the moneys so to be borrowed as aforesaid; and if the said owners or their tenants, or any of them, shall neglect or refuse to build and erect the said wall in manner aforesaid for and during the space of three months after the receipt of such order and directions in writing, that then and in such case the said commissioners, or a majority of them, shall build and erect the same and defray the expense thereof out of the said moneys so borrowed by them as aforesaid, and shall recover the money so expended of the said respective owner or owners as is hereinafter directed.

[Section VII.] And be it further enacted by the authority aforesaid, That the sum and sums of money which the commissioners for pitching and paving the [said] streets are hereby authorized and empowered to borrow shall be by them made use of, applied and appropriated to and for the uses, intents and purposes mentioned and directed in and by this act and the act of general assembly to which this act is a supplement and to and

for no other uses, intents and purposes whatsoever, and that the sum and sums of money which the governor of this province for the time being and the commissioners aforesaid are hereby authorized and empowered to lend when the same shall be repaid to the provincial treasurer as aforesaid shall be applied, disposed of and appropriated by the same persons in the same manner and to the same uses, intents and purposes as if the same had never been lent or this act had never been made, anything herein to the contrary notwithstanding.

[Section VIII.] And be it further enacted by the authority aforesaid, That if any person or persons shall, after the publication of this act, cast or throw down out of any cart, wagon or other carriage any rubbish, dirt or earth in any public street, lane or alley of the city of Philadelphia, save only in such parts and places as shall be appointed and agreed on by the said commissioners for pitching and paving the said streets, every such person shall forfeit and pay for every such offense the sum of five shillings and pay the cost of removing the same. And if any person or persons, save the said commissioners, shall destroy, remove or pull down any bars, chain, rope or fence which the said commissioners shall hereafter cause to be set up in or across the said streets, lanes or alleys for the preservation of the pavements then newly made or to be made, every such person who shall offend in the premises shall forfeit and pay the sum of twenty shillings for every such offense.

And whereas [some] doubts have arisen whether the owners of houses and lots before whose fronts the cartway was paved before the passing of the said act to which this act is a supplement were obliged and directed by the same act to pave the footway, and it is not therein appointed and ascertained with what materials the said footway shall be made and paved nor at whose expense the gutters for carrying off the water and posts for keeping off the carriages shall be found, provided, made and set up:

[Section IX.] Be it therefore enacted by the authority aforesaid, That the owner or owners, or the tenant or tenants, of every house [or] lot within the said city before whose front the cartway has been at any time before the passing of this act or



shall hereafter be paved shall, at his, her or their private expense, pave and repair the footway of such breadth into the street with good, sound, well-burnt bricks or good, square, flat stone, and shall make, pave, repair and amend the gutters to the said pavements belonging or adjoining of such width and depth, and shall provide, [find] and set up so many posts of such length, form and thickness and of such timber, for keeping [of] the carriages off and from the said footway and in such manner as shall be ordered and directed by the mayor [or] recorder and four of the aldermen, with any four of the said commissioners for cleansing and paving the said streets, under the penalty of one shilling for every foot fronting his said house or lot so neglected to be made, paved, amended or repaired, and two shillings and six pence for every post so neglected to be set up; and in such case the said commissioners, or a majority of them, shall make, amend and repair the said footway, gutters or watercourses, and find, provide and set up [the said] posts out of the moneys to be raised by virtue of the act to which this act is a supplement, and shall recover as well the money so expended for the purposes last aforesaid as the money expended by them in building and erecting the walls aforesaid with the fines and forfeitures aforesaid of the owner or owners, if resident within the said city or of the tenant of such owner or owners if they shall reside elsewhere, before the mayor, recorder or any alderman of the said city, in the same manner as debts not exceeding five pounds are by law directed to be recovered before the justices of the peace of the respective counties within this province, and that the sum or sums of money so expended by the tenant in and towards the purposes aforesaid shall be allowed by the owner or owners out of such rent as shall be then due or shall thereafter become due, any law, usage or custom to the contrary notwithstanding.

And whereas the paving the streets of the city of Philadelphia will be attended with a great expense to the inhabitants thereof, and it is necessary that due care be taken to preserve the pavements when made from [any and] every avoidable and unnecessary injury which may accrue from the use thereof. And whereas nothing can be more destructive to pavements of any

kind, and particularly to those newly made, than carrying [of] large and excessive weights and burdens in carriages, the fellies of the wheels whereof are of small breadth and narrow dimensions, whereby the stones of such pavements are loosened and tore up and the pavements themselves in a great measure ruined and destroyed:

For remedy whereof:

[Section X.] Be it enacted by [the] authority aforesaid, That no wagon, wain or cart whatsoever belonging to any person or persons whatsoever residing or inhabiting within the said city of Philadelphia or within the Northern Liberties thereof or within the district of Southwark or the township of Moyamensing or Passyunk shall travel, pass or be drawn on any of the paved parts of the said city from and after the first day of March in the year one thousand seven hundred and sixty-four with any greater number of beasts of draught than three, if a four-wheel carriage, and if a two-wheel carriage with any greater number of beasts of draught than two, unless the fellies of such wheels shall be of the breadth or gauge of seven inches from side to side at the least; and that from and after the first day of March which shall be in the year of our Lord one thousand seven hundred and sixty-six no such wheel carriage belonging to persons residing in the places aforesaid shall travel, pass or be drawn in the said city with or by any number of oxen or horses whatsoever unless the fellies of the wheels thereof shall be of the breadth or gauge of seven inches from side to side at the least, carts with one horse, stage and light traveling wagons for passengers only excepted; and that every owner or owners of such wheel carriage which shall pass or be drawn in the said city contrary to the directions, tenor, true intent and meaning of this act shall, for every such offense, forfeit and pay the sum of five pounds, to be recovered as debts not exceeding [five pounds] are by law directed to be recovered, or otherwise shall forfeit any one of the beasts of draught drawing such wheel carriage (except the shaft or thill horse), together with all the gears, bridles, halters and accoutrements to such beast of draught belonging, one moiety thereof to the use of the person or persons who shall seize [or] distrain the

same, and the other half thereof to the commissioners, to be applied for paving the streets.

[Section XI.] And be it [further] enacted by the authority aforesaid, That the person or persons making such seizure or distress as aforesaid shall deliver the horse or oxen so seized and distrained, with the accoutrements aforesaid, into the custody of some one of the constables of the said city, and every such constable is hereby required to take and receive and safely keep the same till the person or persons making such seizure or distress shall make proof, upon oath or affirmation, before some justice or justices of the said city of the offense committed; and the said justice or justices before whom such proof shall be made to their satisfaction is and are hereby empowered and required to issue his or their precept to such constable to sell and dispose of the beast so forfeited, with the accoutrements [aforesaid at] public auction or vendue, first giving [due] notice of such [sale and to pay the money arising from such sale one moiety thereof to the party or parties so seizing or distraining the said beast, and the other moiety to the said commissioners for paving the said streets, after deducting thereout such reasonable charges as the said justice or justices shall allow or direct; but in case no such proof shall be made within twenty-four hours next after such seizure, that then such beast shall be returned to the owner or owners thereof, he or they paying such reasonable charges as the said justice or justices shall allow and direct.

[Section XII.] And be it further enacted by the authority aforesaid, That if any person or persons shall hinder [or] prevent or obstruct the measuring or gauging of the fellies of such wheels or the seizing or distraining of any horse or beast of draught hereby directed to be forfeited, or shall use any violence to any person or persons who shall attempt to measure and gauge the said fellies or to seize or distrain such beast as aforesaid, every such person so offending shall for every such offense forfeit and pay the sum of ten pounds, being thereof legally convicted in any court of quarter sessions of the peace in and for the said city.

Provided always nevertheless, That if it shall appear [that

the fellies of such] wheels were originally made of the full breadth prescribed and directed by this act and to have become less by the wear of long usage, unless the same shall be less than six inches wide, the penalties and forfeitures hereby imposed on the owner or owners thereof shall not be incurred nor the same recovered in manner aforesaid or in any other manner whatsoever.

Provided also, That if any person or persons shall conceive him, her or themselves aggrieved by any judgment to be given by virtue of this act, if the same shall exceed the sum of forty shillings or the value thereof, it shall and may be lawful for such person or persons, within the space of six days next after the giving such judgment, but not after, to appeal therefrom to the next court of common pleas to be held for the said county, he, she or they first entering into recognizance with at least one sufficient surety in such a sum as shall be sufficient to answer the said penalty or value of the thing forfeited, together with all such costs as shall be awarded, to prosecute the said appeal with effect and to abide the order and judgment of the said court, which said court is hereby authorized and [required to] accept and receive the said appeal and to proceed therein [according to the usage] and practice in cases of appeal for debts above forty shillings and not exceeding five pounds.

Provided also, That if any person or persons be sued or prosecuted for anything done in pursuance of this act, he, she or they may plead the general issue and give this act and the special matter in evidence for their justification, and if the plaintiff or prosecutor become nonsuit or suffer a discontinuance or if a verdict pass against him, the defendant shall have treble costs, to be recovered as in cases where costs by law are given to defendants.

[Section XIII.] And be it further enacted by the authority aforesaid, That this act shall continue and remain in force for and during the time limited in and by the act to which this act is a supplement for the continuance thereof, and for and during the time hereinbefore limited for the continuance of the said act and no longer.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed March 26, 1762, Chapter 480. Repealed by the Act of Assembly passed February 18, 1769, Chapter 594.

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CHAPTER CCCCLXXXVI.

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AN ACT FOR THE REGULATION OF APPRENTICES WITHIN THIS PROVINCE.

Whereas great mischiefs and losses have been sustained by the masters and mistresses of apprentices within this province for want of some law to regulate their conduct and behavior during their apprenticeships, to prevent their absenting themselves from their said masters' or mistresses' service without leave, to punish them for any disorderly or immoral behavior, and to make the covenants between them mutually obligatory:

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, 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 all and every person or persons that at any time or times after the publication of this act shall be bound by indenture to serve as an apprentice in any art, mystery, occupation or labor with the assent of his or her parent, guardian, next friend or overseers of the poor, although such persons or any of them be within the age of twenty-one years at the time of making their several indentures, shall be bound to serve the time in their respective indentures contained, so as such time or term of years of such apprentice, if a female, do expire at or before the age of eighteen years, and if a male at or before the age of twenty-one years, as fully to all intents and purposes as