

of this province and shall also account with the committees of assembly annually appointed to settle the public accounts, to be by the said committees laid before the assembly for their approbation.

[Section V.] And, be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall designedly take up, remove or destroy any such buoy or buoys so placed by the said commissioners in the bay or river Delaware from the place or places where the same shall be placed and fixed as aforesaid without the consent, order and direction of the governor or commander in chief of this province for the time being, every such person being thereof legally convicted in any county court of quarter sessions in this province shall forfeit and pay the sum of five hundred pounds, one-half thereof to him or them that will sue and prosecute for the same, and the other half to the governor of this province for the support of government, and, moreover, be committed to the common gaol of such county there to remain during the space of twelve months, without bail or mainprise.

Passed September 30, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the Acts of Assembly passed September 22, 1764, Chapter 556; (the two acts of) February 8, 1766, Chapters 536, 540; May 20, 1767, Chapter 561; May 27, 1769, Chapter 597; May 16, 1770, Chapter 613; March 9, 1771, Chapter 632; October 19, 1771, Chapter 640; February 26, 1773, Chapter 671; October 4, 1788, Chapter 1365; September 28, 1789, Chapter 1453.

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### CHAPTER DIII.

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AN ACT TO ENABLE THE COMMISSIONERS FOR PAVING THE STREETS OF THE CITY OF PHILADELPHIA, TO SETTLE THE ACCOUNTS OF THE MANAGERS AND TO SUE FOR AND RECOVER FROM SEVERAL PERSONS SUCH SUMS OF MONEY AS ARE NOW DUE AND UNPAID ON ACCOUNT OF THE SEVERAL LOTTERIES SET UP AND DRAWN FOR PAVING THE STREETS OF THE SAID CITY.

Whereas the commissioners nominated and appointed in and by an act of general assembly, 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," &c.,<sup>1</sup> or a majority of them, were, at the request of the managers of the lottery for paving the streets of the said city authorized and empowered to take and receive of and from the managers of any lottery or device whatsoever theretofore instituted to raise money for paving the streets of the said city or any of them, and of and from all and every other person and persons, bodies politic or corporate, all sums of money which should be offered or tendered to them, and to give receipts and discharges for the same, which were thereby declared fully and sufficiently to exonerate and discharge such person or persons, bodies politic or corporate who should pay such moneys to the said commissioners of and from the appropriation and disposition thereof and of and from all manner of trust or duty arising from or respecting such money to all intents and purposes whatsoever.

And whereas most of the managers of the lottery for paving the streets of the said city have, in pursuance of the act aforesaid, accounted with and paid into the hands of the said commissioners for paving the streets aforesaid all the moneys by them received on account of the said lottery, but some others, managers of the said lottery, have hitherto neglected and refused to pay into the hands of the said commissioners for paving the streets aforesaid the several sums by them received for and on account of the said lottery.

And whereas also one other lottery [was] heretofore set up and drawn for raising a sum of money for the paving the north end of the Second street of the said city, in pursuance whereof great sums of money have been expended and laid out by the managers of the said lottery in paving the said north end of the Second street; but no account hath hitherto been rendered nor any person or persons duly authorized to demand and require such account of the said managers or to receive any balances that may yet remain in their or any of their hands on account of the said lottery.

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

And whereas several debts are still due to the managers of the the said lotteries for tickets sold by them:

[Section I.] Therefore 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 the manager and managers aforesaid concerned in either of the lotteries aforesaid who have not already accounted with and paid into the hands of the said commissioners the sums from them respectively due shall and they are hereby enjoined and required, upon request for that purpose to them, or any or either of them, made by the said commissioners, to render fair and just accounts of the moneys by them, or any of them, received, with the debts to them, or any of them, due and owing for or on account of tickets sold, and the [names of the person or persons who stand indebted] to the said managers or any of them, for tickets sold as aforesaid; and upon settlement of such account with the said commissioners or their successors, commissioners for the time being, the said managers and every of them in either of the lotteries aforesaid upon any sum of money being found in their hands or from them, or either of them due or from any other person or persons to them or either of them indebted for tickets purchased as aforesaid, shall and they are hereby enjoined and required forthwith to pay to the said commissioners for the time being the sums from them respectively due; and in default of payment it shall and may be lawful to and for the said commissioners, or a majority of them, for the time being, and they are hereby enjoined and required, in their own names, to sue for and recover all such sums of money by action of debt, action on the case or otherwise as may be proper, if above five pounds in any county court of common pleas within this province, if five pounds or under before any justice of the peace, and upon trial to give this act and the books of the said managers or other legal proof in evidence. And if it shall appear to the court and jury or to the

justice of the peace aforesaid on any trial [by virtue] of this act before them respectively had, that the sum demanded or any part thereof is justly due, then the said court or justice respectively shall give judgment against the defendant for so much as shall appear to be due, with costs of suit, and shall award execution for the same as is usually done in such like actions before them respectively triable and determinable by the laws of this province; but if no part of the sum demanded shall appear to be due as aforesaid, then the said court or justice respectively shall give judgment for the costs against the plaintiffs, which costs shall be paid out of the moneys recovered or collected by virtue of this act.

[Section II.] And be it further enacted by the authority aforesaid, That the said commissioners for the time being, or a majority of them, may and they are hereby authorized and empowered, if there shall be any danger of losing any part of the money hereby directed to be recovered by the insolvency of the debtors or any of them, to compound with any person for the said debts and to receive a smaller sum or sums in satisfaction of the whole and to give discharges or releases for the same in such manner as to them shall seem most proper for securing the payment of the said debts or any part thereof.

[Section III.] And be it further enacted by the authority aforesaid, That [the said comm]issioners for the time being, or a majority of them, shall account in the same manner for any sums of money received or collected by virtue of this act as they are directed to account by the act hereinbefore recited for moneys received or collected by virtue thereof.

Passed September 30, 1763. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed March 26, 1762, Chapter 480.