

1782. ed, in all actions touching and concerning the same) by the name of The supervisors of the public landings and highways in the district of Southwark, and to their successors, for ever, in trust for the use of the public, in the manner herein after mentioned ; that is to say, in trust, that the said supervisors for the time being, or a majority of them, with the approbation of three Justices of the peace of and for the said county, shall and may demise, grant, and to farm let, the same landings, to any person or persons, for any term of years, not exceeding seven at one time, upon such rents and conditions as they shall think proper ; and shall and may make such rules, orders and regulations, for the well governing as well the tenants thereof, as the boats, flats, carts and waggons, which shall frequent the same, and the owners, skippers and drivers thereof, and the prices or rates of toll or wharfage to be paid for all articles to be unladen thereon ; and that the said supervisors shall receive the rents, issues and profits thereof, and apply the same to make any improvements or buildings thereon, to pave any of the streets, or to maintain and repair any of the highways, or to any other public use, within the said district, which the said supervisors, or a majority of them, with the approbation of three Justices of the said county, as aforesaid, shall order, direct and appoint.

Passed 15th April, 1782.—Recorded in Law Book No. I. page 527.

CHAPTER DCCCLXXI.

An ACT to amend and render effectual an act, entitled “ An act for regulating party walls and partition fences in the city of Philadelphia,” to declare divers new streets and ways opened and to be opened and laid out within the said city, to be highways, and also to declare nuisances by buildings within the said streets removable, and for other purposes therein mentioned. (a)

SECT. I. **WHEREAS** an act of Assembly, passed on the twenty-fourth day of February, which was in the year of our Lord (according to the new stile) one thousand seven hundred twenty and one, entitled “ An act for regulating party walls and partition fences in the city of Philadelphia,” has upon experience been found to be an useful law, by preventing contentions concerning the boundaries of landed property within the said city, and by preserving the breadth and directness of the streets and alleys of the said city : And whereas, ever since the late revolution, the said act, though revived with divers other laws of the late province of Pennsylvania, has been wholly dormant and inoperative, because of the dissolution of the late corporation of the mayor and commonalty of the said city,

(a) For the act referred to in the title, see vol. I. page 124, chap. 242, and the note there subjoined.

The twelfth section of this act was repealed by an act of the 20th of September, 1782, (chap. 979.) By a decision pronounced by Judge Shippen, in the court of Common Pleas of

Philadelphia county, the reimbursement of the cost of the moiety of a party wall, is declared to be only a personal charge against the builder of the second house, and not a lien upon the house itself.—See 1, Dallas's 345. (Note to former edition.)

which corporation, in and by the said act, was authorized to appoint the surveyors and regulators in the said act mentioned, and to receive and determine appeals from the said surveyors or regulators : And whereas divers amendments to the said act may be usefully made :

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SECT. II. *Be it therefore enacted by the Representatives of the Freemen of the commonwealth of Pennsylvania, in General Assembly met, and by the authority of the same,* That any four or more of the Justices of the peace, who are or shall be commissioned for the city and county of Philadelphia, residing in said city, together with four or more of the commissioners for paving and cleansing the streets of the said city, shall appoint the surveyors or regulators aforesaid, as fully to all intents and purposes, as they were formerly appointed by the Mayor and commonalty of the said city, in Common Council assembled ; and in case of the death, removal, refusal to serve, or misbehaviour, of any of the persons appointed by virtue of this act, the said Justices and commissioners to appoint another or others in his or their room and stead.

By whom regulators are to be appointed.

and vacancies supplied.

SECT. III. *And be it further enacted by the authority aforesaid,* That all appeals hereafter made from the order, direction and award of the said regulators, in pursuance of the said act, and of this act, shall be taken and made, and shall lie to the next court of Common Pleas to be holden for the county of Philadelphia, after the expiration of one calendar month from the time of making the order, direction or award, appealed from, but not afterwards nor otherwise ; whereupon the said court (upon security being entered by the party appealing for the payment of costs, as well his own as those of the party appellate, in case he or she prevail not in his or her suit) shall direct a *venire* to the Sheriff of the county, commanding him to summon a jury to try the matter in dispute, and shall proceed therein according to the course of the common law.

Appeals from the order of the regulators shall lie to the next Court of Common Pleas.

Proceedings on the appeals.

SECT. IV. *And be it further enacted by the authority aforesaid,* That if any person shall lay the foundation, or begin to lay the foundation of any party wall, or of any wall adjoining or upon the line of any public street, lane or alley, within the said city, before the line and boundaries of the lot or piece of land whereon the said foundation shall be so laid, or begun to be laid, shall be adjusted and marked out by the said regulators, or two of them, every such person, as well employer as master-builder, shall forfeit the sum of ten pounds, one half part thereof to the street commissioners for the time being, to be laid out towards making or amending the pavements of the public streets, and the other half thereof to the use of the informer, together with costs ; provided the prosecution be commenced in the city of Philadelphia, and within twelve calendar months after the offence shall be committed.

Penalty on laying the foundation of a party-wall before viewed by the regulators.

Limitation of the prosecution.

SECT. V. *And be it further enacted by the authority aforesaid,* That, as soon as conveniently may be, the northern line of Vine-street and southern line of Cedar-street shall be ascertained, regulated and marked out, by the regulators of the city of Philadelphia, assisted by the regulators of the district of the Northern-Liberties,

Northern line of Vine-street, and southern line of Cedar-street, to be ascertained.

1782. so far as said district that they are appointed for is bounded on the said city; and assisted by the regulators of the district of Southwark, so far as the said district is bounded on said city; and the rest of the northern line of Vine-street, and the rest of the southern line of Cedar-street, respectively, shall be ascertained, adjusted and marked out, by the regulators of the said city; which regulating and marking out of Vine and Cedar-streets shall be performed and done at the joint proportionable expense of the said city and districts, to be paid by the commissioners for paving and cleansing the streets, and by the regulators of the said districts, respectively, upon the certificate of the regulators of the said city and districts, who are hereby empowered to proportion the said expense.

How the expense shall be defrayed.

Regulators to enter all orders, &c. in a book to be provided for that purpose,

Their awards binding on all persons, unless appealed from.

Proceedings of Justices to be recorded.

Proviso respecting persons under age, or other legal disability.

Regulators' fees.

How to be paid.

Power of the regulators.

SECT. VI. *And be it further enacted by the authority aforesaid,* That the regulators, so to be appointed as aforesaid for the said city, shall enter into a book all directions, orders and awards, by them made in pursuance of said act, and of this act, concerning the boundaries of any lot or land situated within the said city (such book to be provided for them by the commissioners for paving and cleansing the streets of the said city) and every such order and award, if made with reasonable notice before-hand to the parties interested therein, shall conclude and bind all persons, unless the same be set aside upon appeal as aforesaid; and the said regulators of the said city shall in like manner enter in the same book all regulations, made by the said Justices and themselves, of descents, water courses, common sewers, and all other their proceedings and actions in their office as regulators.

SECT. VII. *Provided always,* That no person under age, *non compos mentis*, covert, imprisoned, or beyond sea, or any person who shall not have reasonable notice as aforesaid, shall be injured or affected by any proceeding, order, direction or award of the said regulators, so as the party and parties so disabled, or not noticed, enter and prosecute his, her and their appeal as aforesaid, within three years after coming to full age, sound memory, discovery, return from beyond sea, or, if within the United States, within one year after notice in writing shall be given of the order and award of the said regulators.

SECT. VIII. *And be it further enacted by the authority aforesaid,* That the said regulators, for their trouble in regulating and setting out the lines of any lot or piece of land, in pursuance of the said act, and of this act, and for entering their order and award concerning the same as aforesaid, shall be paid by the parties interested therein five shillings each, and no more; and for surveying, regulating and laying out any streets, water courses and common sewers, the sum of ten shillings to each of them who shall be employed therein, for every day so employed; to be paid by the commissioners for paving and cleansing the streets of said city, by an order on their Treasurer.

SECT. IX. *And be it further enacted by the authority aforesaid,* That the regulators of said city, together with their necessary assistants, may, at all seasonable hours, enter into or upon any lot or land within the said city, and survey and measure the same, in order to perform the service and duty required of them by virtue of this act.

SECT. X. *And be it further enacted by the authority aforesaid,* 1782. That the streets, lanes and alleys within the said city, heretofore opened for and dedicated to public use by private persons, and that all streets, lanes and alleys, which have been directed and laid out by the Supreme Executive Council, for the accommodation of the purchasers of the public lots within the said city, that have been or shall be sold, so far as the same are laid out through the said public lots, for the redemption of the bills of credit of this commonwealth, dated the twenty-ninth day of April, one thousand seven hundred and eighty, shall be considered and deemed highways, according to the records thereof remaining in the Surveyor-General's office, as fully to all intents and purposes, as any highways laid out by order of the court of Quarter Sessions of any county within this state.

Streets &c. declared highways.

SECT. XI. And whereas in time past, from inattention and otherwise, divers buildings and fences have been erected within the said city, in such manner as to stand partly on the public streets and alleys thereof, and these nuisances, from tenderness to the possessors or owners of the adjoining freeholds, have been suffered to continue for many years, with design, that when such buildings should decay, the public ways which were so obstructed might be properly opened and extended: *Be it therefore enacted by the authority aforesaid,* That no length of possession whatever of any part of any public street or way within the said city, so encroached upon, shall be available to bar or prevent the correction and removal of any nuisance by buildings, enclosure or otherwise, which have been or hereafter may be erected or made within or upon any street, lane or alley in the said city.

No length of possession to bar the removal of nuisances.

[SECT. XII. And whereas trees growing in the public streets, lanes and alleys, of the said city of Philadelphia, do obstruct the prospect and passage through the same, and also disturb and disorder the water courses and foot-ways, by the extending and increase of the roots thereof, and must tend to spread fires, when any break out within the said city: *Be it therefore enacted by the authority aforesaid,* That all trees now growing, or which shall hereafter grow or be planted, within the streets, lanes and alleys of this city, shall be removed out of the same by the said commissioners; and that if any person or persons shall obstruct or hinder the removal of any trees as aforesaid, every person, so offending, shall respectively forfeit the sum of ten pounds, to be recovered on indictment, with costs, in the City Court, if the prosecution be commenced within six months after the offence, to the use of the said commissioners, to be by them applied to the paving and cleansing the streets of the said city.

Commissioners to remove the trees growing in the streets.

Penalty if they are obstructed in so doing. [Repealed post. p. 54.]

SECT. XIII. And whereas the grates in the public streets of the city of Philadelphia over vaults are become very dangerous, by the manner of their constructions, and the owners neglecting to keep them in proper repair: For remedy whereof, *Be it enacted by the authority aforesaid,* That, within three calendar months after the passing of this act, every owner or owners of vaults, over which a grate or grates are placed, shall cause the said grate or grates to be made of good iron bars, of one inch square, if eighteen inches

Regulations respecting grates over vaults in the streets.

1782. long, and so in proportion to the length of the bar, the said bar to be laid crossways of the street, and the space between the bars not to exceed one inch and a quarter of an inch; and the said grate or grates shall be fixed in a frame of stone, or good red cedar, the scantling of which to be at least six inches square for a bar of eighteen inches long, and so in proportion for the length of the bar, the frame to be laid solid on the wall of the opening of the said vault, and the upper side of the frame nearly level with the pavement, the wall of the opening, with the arch of the vault, and the grate or grates, always to be kept in good repair. And every owner, if a resident within the said city, or tenant of a non-resident owner, who has or may have vaults under any of the public streets, is hereby directed and enjoined to comply with the above regulations, under the penalty of thirty shillings, to be paid to the commissioners for pitching, paving and cleansing the streets, and by them to be applied towards making, amending and cleansing the same: And the said commissioners are hereby directed to make and amend such vaults or grates, which the owners neglect to repair agreeable to this act, out of the public money, and recover the expense thereof, with the forfeiture, of such resident owner or tenant of such non-resident owner, respectively, as the case may require, in a summary way, as debts under five pounds are usually recovered.

Tenants of non-resident owners repairing the grates, &c. may deduct the same out of the rent.

SECT. XIV. *And be it enacted by the authority aforesaid,* That if any tenant of a non-resident owner shall make or repair the vault, grate or grates, agreeable to this act, it shall be allowed to him by the owner or landlord out of the rent then due, or thereafter to become due. *Provided nevertheless,* That any grate or grates, which may at present appear safe and substantial, in the judgment of any two or more of the Justices of the peace for the city, with the said commissioners, or a majority of them, may be indulged therewith until they want repairing, or by said Justices and commissioners ordered otherwise.

No vaults to be dug, without leave first obtained.

SECT. XV. *And be it enacted by the authority aforesaid,* That no person or persons shall hereafter dig, or cause to be dug, any vault or vaults under any of the streets of the said city, without first obtaining liberty of four of the Justices of the peace for the city, with a majority of the regulators appointed by this act, who are hereby authorized to judge and determine on the necessity thereof, and the distance to be dug under any of the streets; provided the same does not exceed fifteen feet from the front wall of the dwelling, before which such vault is intended to be dug.

Passed 15th April 1782.—Recorded in Law Book No. I. page 531.

CHAPTER DCCCCLXXVI.

An ACT to amend the several acts of this commonwealth, directing the mode of electing members of the General Assembly thereof.

SECT. I. WHEREAS business of great consequence has been frequently delayed, and manifest injury thereby done to this commonwealth, by reason that persons elected to serve as members of