

shall be deemed or taken to extend to any lottery advertised in the public newspapers of this province on or before the fourth day of February, in the year of our Lord one thousand seven hundred and sixty-two, nor to the the [*sic*] selling or buying of any ticket or tickets in such lottery, anything herein contained to the contrary thereof notwithstanding.

[Section VI.] And be it enacted by the authority aforesaid, That the clause in an act of Assembly of this province, entitled "An act for regulating peddlers and vendues," &c.,¹ enacting "That if any person or persons shall presume to take upon him or themselves, from and after the publication of said act, upon any pretense whatsoever, privately or publicly to be set up, exercise or keep any lottery or lotteries within the province of Pennsylvania and be thereof legally convicted, he, she or they shall forfeit one hundred pounds, one moiety thereof to the governor, the other moiety to any person that will sue for the same, is hereby repealed and declared to be null, void and of no effect.

Passed February 17, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the notes to the Acts of Assembly passed May 31, 1718, Chapter 236; and February 14, 1729-30, Chapter 308; and the Acts of Assembly passed June 20, 1759, Chapter 446; January 20, 1792, Chapter 1603; March 2, 1805, P. L. 48; April 2, 1811, P. L. 226; March 1, 1833, P. L. 60; March 16, 1847, P. L. 476; March 31, 1860, P. L. 382; April 2, 1870, P. L. 46; June 13, 1883, P. L. 90.

CHAPTER CCCCLXXIX.

AN ACT FOR OPENING AND BETTER AMENDING AND KEEPING IN REPAIR THE PUBLIC ROADS AND HIGHWAYS WITHIN THIS PROVINCE.

Whereas the laws now in force for the keeping in repair the several public roads and highways have been found burdensome and unequal upon many of the inhabitants of this province and insufficient to answer the good purposes thereby intended inas-

¹ Passed February 14, 1729-30, Chapter 308.

much as no provision is made for supplying the overseers and inhabitants working thereon with timber and other materials necessary for making effectual repairs on the said roads:

For remedying 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 Joseph Fox, Esquire, Hugh Roberts, William Callender, John Roberts (Miller), Jacob Edge, John Shrack and William Foulke, of Philadelphia county; James Melvin, Esquire, Joseph Hampton, John Woolston, Alexander Brown and John Brown (of Bristol), of Bucks county; John Morton, John Hannum, Esquires, Jonas Preston, Joseph Pennock, junior, John Griffith, John Marshall and Thomas Pimm, of Chester county; Emanuel Carpenter, Samuel Boude, Esquires, George Leanord, John Clemson and Peter Kucher, of Lancaster county; David McConaughy, Esquire, Francis Worley, William Dunlap, Thomas Minshal and David Griffith, of York county; John Byers, James Galbreath, Francis Campbell, Esquires, Benjamin Chambers and James McDowell, of Cumberland county; Francis Parvin, Jonas Seely, Isaac Levan, Esquires, Benjamin Spiker, Thomas Potts (of Colebrookdale), Israel Robeson and Sebastian Zimmerman, of Berks county; Adam Johe, John McDowell, Christopher Wagoner, John Walker and George Rex, of Northampton county, or the major part of them, in their and each of their counties, shall, on or before the tenth day of March next, divide their said respective counties into districts according to their best discretion, having a due regard to the public roads and highways passing through the same, allotting one or two townships adjoining each other into one district until all the townships in the several counties respectively shall be formed into districts as aforesaid; of which division they shall forthwith give notice in writing to the overseers of the public roads of the township or townships within their respective districts.

And to the end the charges of clearing, amending and repairing the several public roads and highways may be defrayed:

[Section II.] Be it enacted by the authority aforesaid, That the freeholders and others qualified to choose members of assembly of every district shall meet together on the third Saturday in the month of March yearly and every year during the continuance of this act, and then and there by [way of] ballot or tickets in writing, between the hours of two and five in the afternoon, choose two discreet and reputable freeholders within their respective districts to be supervisors of the highways, which said supervisors, when chosen and returned in writing, under the hands of the overseers of the public roads of the respective townships into the office of the clerk of the court of quarter sessions of the respective counties, which they are hereby enjoined to do on or before the twenty-fifth day of March, yearly, shall be the supervisors of the public roads and highways for the ensuing year; and if any supervisor or supervisors so elected or otherwise appointed by virtue of this act shall refuse to take upon him or themselves the said office, for every such refusal he or they shall forfeit and pay the sum of ten pounds, to be applied towards amending and repairing the said roads.

[Section III.] And be it further enacted by the authority aforesaid, That the overseers or supervisors of the public roads of the respective townships within the several counties of this province shall, at least five days before the third Saturday in March, yearly and every year, during the continuance of this act, give public notice in writing, by affixing the same in the most public places in their respective townships, of the place where the inhabitants and freeholders of the several districts so divided as aforesaid shall meet to elect supervisors for each and every of the said districts according to the directions of this act, which place so appointed for the said election shall be as near the centre of the respective districts as conveniently may be.

[Section IV.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said supervisors of the public roads and highways, within the respective districts of this province, in conjunction with the assessors of the

several townships within their respective districts, chosen by virtue of the act of assembly made in the thirty-first year of the reign of his late Majesty, King George the Second, entitled "An act for granting the sum of one hundred thousand pounds to His Majesty's use and for striking the same in bills of credit, and for continuing the several acts of assembly of this province hereinafter mentioned for sinking the bills of credit so to be struck, at the times and in the manner hereinafter directed and appointed,"¹ to make or lay a rate or assessment not exceeding three pence in the pound, clear value of the real and personal estates of all and every the freeholders and inhabitants within their respective districts, to be employed for the opening, clearing, amending and repairing the [several] public roads and highways within their respective districts in such manner as by this act is directed and appointed.

Provided, nevertheless, That the said rate or assessment shall be laid according to the best of their skill and judgment, and as near as may be to the county assessment for [other] purposes laid in pursuance of the act, entitled "An act for laying county rates and levies,"² having due regard to every man's estate within the respective district in which he is assessed, without favor or affection to any person whomsoever.

[Section V.] And be it further enacted by the authority aforesaid, That if any supervisor or supervisors of the public roads and highways so as aforesaid chosen shall refuse or neglect to take upon him or themselves the said office, or shall die or remove out of the district for which he or they shall be chosen, or if the freeholders and inhabitants of the districts aforesaid shall neglect or refuse to elect or choose supervisors as is hereinbefore directed and appointed, then and in every such case it shall and may be lawful to and for the justices of the court of quarter sessions of the respective counties, and they are hereby enjoined and required to appoint another supervisor or supervisors in the room [and] stead of every such supervisor or supervisors so refusing, dying or removing as aforesaid; and likewise to appoint supervisors for such districts as have neglected or

¹ Passed April 22, 1758, Chapter 431.

² Passed March 20, 1724-25, Chapter 234.

refused to choose supervisors for their respective districts in the manner herein directed and appointed, which said supervisor or supervisors so appointed shall have the same powers and authorities and shall be liable to the same penalties as the supervisors so elected and chosen by each respective district in pursuance of the directions of this act, and shall have and receive for his or their trouble in collecting the several sums of money to be raised as aforesaid twelve pence in every pound by him or them collected, and five shillings per diem for each day he or they shall attend in overseeing, employing and attending the workmen upon the public roads and highways within their districts.

[Section VI.] And be it further enacted by the authority aforesaid, That the said supervisors, before they proceed to the collecting of the said rate, shall procure the same to be allowed by at least two justices of the peace of the county wherein the said tax is laid, and if any person or persons so rated or assessed shall refuse to pay the sum or sums on him or them charged, and shall not enter his or their appeal at the next general court of quarter sessions, that then it shall and may be lawful to and for the said supervisor or supervisors (having first obtained a warrant, under the hand and seal of one justice of the peace of the county where the said assessment is made, who is hereby empowered and required to grant such warrant) to levy the same on the goods and chattels of the person or persons so refusing; and in case such person shall not, within three days next after such distress made pay the sum or sums on him or her assessed, together with the charges of such distress, that then the said supervisors, or either of them, may proceed to the sale of the goods distrained, rendering to the owner the overplus, if any, that shall remain on such sale, reasonable charges being first deducted.

Provided nevertheless, That if any person or persons shall find him, her or themselves aggrieved with such rate or assessment, it shall be lawful for the justices of the peace, at their next general quarter sessions, upon the petition of the party, to take such order therein as to them shall be thought expedient, and the same shall conclude and bind all parties, and the

supervisor and supervisors in case of such appeal shall forbear making distress until the same be determined in the quarter sessions in the manner hereinbefore directed and appointed.

[Section VII.] And be it further enacted by the authority aforesaid, That the said supervisors of the public roads and highways of the several districts shall, and they are hereby required and enjoined, as often as the said several roads and highways within their respective districts shall be out of repair or as often as any new road shall be laid out and directed to be opened by lawful authority, to hire and employ a sufficient number of laborers to work upon, open, amend, clear and repair the same in the most effectual manner, and to purchase wood and all other materials necessary for that purpose, and to overlook the said laborers and see that the said roads and highways be effectually opened, cleared, amended and repaired according to the true intent and meaning of this act.

And in order to enable the said supervisors the more effectually to discharge their duty:

[Section VIII.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the supervisors aforesaid, or any other person or persons by his or their order and direction, to enter upon any lands adjoining to or lying near the public roads and highways within their respective districts and to cut or open such drains or ditches through the same as he or they shall judge necessary completely to carry off and drain the water from such road; provided the same be done with as little injury and damage as may be to the owner of such lands; which drains and ditches so cut and opened shall be kept open by the said supervisors, if necessary, for amending the said road, and shall not be stopped or filled up by the owner or owners thereof or any other person or persons whatsoever, under the penalty of five pounds for every such offense.

[Section IX.] And be it further enacted by the authority aforesaid, That the said supervisors shall have full power and authority in any lands or ground adjoining the said public roads and highways within their respective districts to dig, or cause to be dug, any gravel, sand or stones, or to gather any loose stones lying on the said lands or to cut down any wood or trees growing in any piece or parcel of woodland adjoining the said

roads, as he or they shall think necessary for the purposes aforesaid, provided the same be done with as little damage as may be to the owner or owners of such land, and the same sand, gravel, stones or wood so dug, gathered and cut to carry off without the let, hindrance or control of the owner, he, the said supervisor paying or tendering to the said owner so much purchase-money as they shall agree the same to be worth; and if the said supervisor and owner cannot agree upon the price of the materials so wanted for repairing the roads as aforesaid, then and in [every] such case so much money shall be paid by the said supervisors respectively as any two indifferent freeholders of the district where such public roads and highways do lie, to be chosen by the parties, shall estimate and adjudge to be the value of the materials so wanted for repairing the said roads in their respective districts as aforesaid.

[Section X.] And be it further enacted by the authority aforesaid, That if any person working on the highways or being with them, shall ask any money, drink or any other reward whatsoever, or shall by any contrivance, ways or means whatsoever extort or endeavor to extort any money or other thing of or from any person passing or travelling upon the said public roads or highways, he shall, for every such offense, pay to the supervisor or supervisors of the said district the sum of three shillings, to be recovered by the said supervisors respectively in a summary way before any justice of the peace, and applied for and towards repairing the said roads; and in case any supervisor shall connive at any person's asking and demanding any reward from any traveller as aforesaid; every such supervisor shall forfeit and pay for each offense the sum of twenty shillings, to be recovered by any person whatsoever in manner aforesaid, one-half to the use of the prosecutor and the other half to and for the service of the said roads.

[Section XI.] And be it further enacted by the authority aforesaid, That all and every supervisor or supervisors of the public roads and highways within this province who shall be convicted of having refused or neglected to do and perform his or their duty as directed by this act (not otherwise particularly provided for) shall be fined and shall pay the sum of five pounds

for every such offense, to be applied towards repairing the public roads and highways within the respective districts where such fines and penalties are incurred.

[Section XII.] And be it further enacted by the authority aforesaid, That the justices of the respective counties within this province, or any three of them, shall and may, at the time and times when new supervisors of the roads are to be appointed, annually examine and settle the accounts of the said supervisors going out of their office, and shall have full power to allow such accounts and sums only as to them shall seem just and reasonable, and to order the then last supervisors to pay the balances, together with the fines and penalties on themselves respectively and others which have come to their hands or been imposed by virtue of this act to the supervisors for the ensuing year, and in case the said supervisors, on their going out of their respective offices, shall be found to be in advance for moneys expended upon the public roads and highways as aforesaid, then the said justices may order the succeeding supervisors to repay and reimburse the former supervisors as [as] soon as a sufficient sum of money shall have come into their hands; and in case of disobedience to any such of their orders, the said justices may and shall from time [to time] grant attachments to compel obedience to the same.

And whereas by an act of assembly passed in the tenth year of the reign of her late Majesty, Queen Anne, entitled "An act for raising money on the inhabitants of the city of Philadelphia for the public use and benefit thereof,"¹ the mayor, recorder and aldermen, or a majority of them, with any four of the assessors of the said city, are, at the days and times therein limited and appointed and in the manner therein for that purpose specified and directed, authorized and empowered, to calculate the public debts and charges of the said city and what sum or sums of money may be needful and necessary to be raised upon the persons and estates within the said city from time to time for the building, repairing, regulating or amending of any houses, bridges, wharves, water courses or other uses for the public service and benefit of the said city, and shall also agree and

¹ Passed June 7, 1712, Chapter 185.

settle, from time to time as occasion [may require, what sum or sums of money or other effects] shall be applied to the service of every particular which they shall agree on to be necessary to be raised for the ensuing year; and that the said assessors shall, within six weeks after every such calculation, make or lay a rate or assessment upon themselves and all other persons and estates aforesaid to and for the aforesaid uses.

And whereas, notwithstanding the powers given by the said act to the said mayor, recorder, aldermen and assessors, many of the parts of the public streets and highways within the said city have, for some time past, been out of repair and in so bad a condition as to render it not only inconvenient but even dangerous for carriages as well as travellers to pass along the same:

[Section XIII.] Be it therefore enacted by the authority [aforesaid], That the said mayor, recorder and aldermen, or the majority of them, with any four of the assessors of the said city, are hereby [strictly] enjoined and required, as often as there may be occasion, to meet together and calculate, in the manner directed by the said act, what sum or sums of money shall or may be necessary to be raised upon the persons and estates within the said city for amending, repairing and making good the streets and highways in the same, which sums shall be raised and levied by a tax or rate not exceeding three pence in the pound, and collected in the manner and form by the said act particularly prescribed and directed.

And the more effectually to enable the magistrates and assessors to comply with this act:

[Section XIV.] Be it further enacted by the authority aforesaid, That the said mayor, recorder and aldermen, or a majority of them, with any four of the assessors as aforesaid, shall have power and they are hereby required and enjoined to appoint, on the twenty-fifth day of March yearly during the continuance of this act, a supervisor or supervisors of the said streets and highways in the said city, and to contract and agree with them for such sums and rewards as they shall judge reasonable to amend, repair and render convenient and safe for carriages, travellers and people going to and from market, all or any [of] such places in the said city and parts of the said streets, and particularly

such streets leading to and from the several great roads and highways of the county of Philadelphia as they, the said magistrates and assessors, or a major part of the said magistrates and any four of the said assessors shall order to be amended and adjudged necessary to be repaired from time to time.

And if the supervisor or supervisors so as aforesaid to be nominated and appointed shall neglect or refuse to amend and keep in repair the said streets, or any part thereof, he or they shall be subject to the same penalties as are hereinbefore imposed upon the supervisors in the districts of the several counties of this province, to be recovered of them in the same manner.

[Section XV.] And be it further enacted by the authority aforesaid, That so much of the act of general assembly of this province, made in the twelfth year of the reign of His Majesty, King William the Third, entitled "An act for erecting bridges and maintaining highways,"¹ as directs every overseer of the highways to summon all the inhabitants of his respective precinct as from time to time he should see occasion to come to such place or places as he should appoint, and so much of the said act as directs the inhabitants so summoned to attend and work upon the said highways, shall be and such parts of the said act are hereby repealed and made void.

[Section XVI.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of three years and from thence to the end of the next sitting of assembly, and no longer.

Passed February 17, 1762. Referred for consideration by the King in Council, February 14, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the notes (to the two acts of) Assembly passed November 27, 1700, Chapters 55, 57; January 12, 1705-6, Chapter 156; February 20, 1735-36, Chapter 342; and (the two acts of) Assembly passed March 26, 1762, Chapters 480, 481; March 4, 1763, Chapter 495; May 18, 1765, Chapter 526.

¹ Passed November 27, 1700, Chapter 57.