

CHAPTER CCCCLXXX.

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 EXPENSES THEREOF.

Whereas the paving the streets, lanes and alleys of the city of Philadelphia within the inhabited and settled parts thereof hath been, in many places, neglected and in others very imperfectly and badly performed, so that for the want thereof they are rendered exceeding deep and miry and almost impassable in wet seasons, and in dry and windy weather very incommodious and disagreeable to the inhabitants, to their great injury and annoyance:

And whereas the paving the said streets, lanes and alleys and keeping the same clean when paved will render them more commodious and useful and greatly contribute to the preservation of the health of the people inhabiting therein or resorting thither:

For effecting which good purposes:

[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 Hugh Roberts, Philip Syng, Jacob Cooper, Thomas Gordon, Jacob Lewis and George Bryan are hereby nominated and appointed commissioners for paving and cleansing the said streets, and that the said Hugh Roberts and Philip Syng shall continue in their respective offices during the space of one year, and that Jacob Cooper and Thomas Gordon shall continue in their respective offices during the space of two years and that

Jacob Lewis and George Bryan shall continue in their respective offices during the space of three years from and after the second day of October next ensuing the publication of this act.

And in order to keep up a succession of persons in the said offices to execute and perform the several duties, matters and things by this act enjoined and required:

[Section II.] Be it further enacted, That the freeholders and inhabitants of the said city qualified to elect or to be elected members of assembly at the time and place of their electing burgesses to serve in assembly, shall then and there, yearly, during the continuance of this act (except on the second day of October next ensuing the publication hereof) in a peaceable manner, choose two persons for commissioners for paving and cleansing the streets of the said city, to serve in the room and stead of the commissioners whose office shall end and terminate at that time and to join with the four remaining commissioners in the execution and performance of the duties and services enjoined them by this act in manner following: That is to say, the said freeholders, at the time they deliver in their tickets for the choice of burgesses, shall also deliver in writing in one other piece of paper to the judges of the election, the names of two persons to be commissioners as aforesaid, and when all the electors appearing shall have delivered in their respective tickets, the sheriff and judges of the said election shall take an account thereof and publish the persons duly elected to the service as aforesaid in like manner as by law is directed in cases of elections of representatives to serve in the general assembly of this province, which commissioners so from time to time to be chosen shall be the commissioners to serve in the room and stead of the persons whose offices shall determine at the time of their election and shall remain in their said offices during the space of three years.

And when the said commissioners shall from time to time be so chosen, the sheriff of the county of Philadelphia or others the judges of the said election, then and so often shall take their names in writing under the hands and seals of at least four or more of the said freeholders and certify the same to the clerk of the mayor's court of the said city for the time being that by him

the same may be entered among the records of the said court. But before any of the said commissioners herein nominated and appointed or hereafter to be chosen by virtue of this act, shall take upon him or themselves the services and duties by this act enjoined and required, they and each of them shall take an oath or affirmation of the tenor and effect following: That is to say,

“That they will well and truly cause the debts arising by virtue of this act to be speedily adjusted and the several sums of money hereby imposed to be duly collected and applied to the purposes by this act intended and to no other purpose, and that they will diligently attend and faithfully discharge the duties and services enjoined them by this act during their office of commissioner as aforesaid, according to the best of their skill and abilities.”

[Section III.] And be it further enacted, That the said commissioners, or a majority of them, as soon as conveniently may be after the publication of this act, and so from time to time as often as there may be occasion, shall meet together at some convenient place in the said city and then and there consult together respecting the best method and manner of paving and keeping clean such of the streets and public lanes and alleys of the said city as are within the inhabited and settled parts thereof, and of amending and repairing the common sewers of the said city already made, and of making, amending and repairing such as shall hereafter be made for discharging and carrying off the water into the river, and of making, amending and repairing the public streets, roads and highways within the said city leading from any of the public roads in the country to the paved and regulated parts of the said streets and contract with any person or persons for sand, stone, gravel or any other materials convenient and necessary for the uses and purposes aforesaid, and to contract, agree with and hire such a number of pavers and workmen as they shall judge necessary and proper to be employed from time to time in and about the premises and to agree on, execute and perform every other act, matter and thing which to them shall appear necessary for the effectual paving and keeping clean the said streets, lanes and alleys when paved and other

purposes aforesaid from time to time and at all times hereafter during the continuance of this act.

[Section IV.] And be it enacted, That the mayor or recorder of the said city and any four of the aldermen, together with the commissioners aforesaid, or a majority of the said commissioners, shall meet together as often as occasion may require, at some convenient place in the said city and then and there consider, determine and agree on which of the said streets and public lanes and alleys within the inhabited and settled parts of the said city shall be first paved, having regard to the streets that are most used by the country in bringing their produce and effects to market, which are hereby directed to be first paved.

[Section V.] And be it enacted, That the said mayor or recorder and four aldermen, together with any four of the regulators of the said city for the time being, shall appoint and direct the regulation of the said streets, lanes and alleys and common sewers, with the degree of descent of each watercourse.

Provided always, That no common sewer or watercourse to be laid out shall be so regulated and laid out as to run through any lot or ground belonging to any private person or persons unless the same shall be agreed to and approved of by at least four of the said commissioners, and in every such case that the damages sustained, or to be sustained, by reason thereof by such private owner or owners shall be valued and appraised by two indifferent persons, one of them to be chosen by the said commissioners and the other by such owner or owners, and also that the said damages shall be paid to such owner by order of the said commissioners out of the moneys arising by virtue of this act.

[Section VI.] And be it further enacted, That the said mayor or recorder, aldermen and regulators shall have full power and authority to enter upon the lots, grounds and possessions of any person or persons, bodies politic or corporate, through which the said common sewers do or ought to run to regulate them, and the said commissioners to make, amend and repair the same, provided that such common sewers be regulated, made, amended and repaired with as little detriment and injury as may be

to the said owners and possessors of such lots, grounds and possessions.

[Section VII.] And be it enacted, That if any person or persons whatsoever shall wilfully stop up or obstruct the passage of the waters of any of the common sewers already made or hereafter to be made within the said city, he or they so offending shall forfeit and pay for every such offense any sum not exceeding the sum of twenty-five pounds.

[Section VIII.] And be it enacted, That the said commissioners, or a majority of them, from time to time shall employ, hire and agree with proper and capable persons to clean the cart-way of the said streets, lanes and alleys which have been heretofore or shall be so paved as aforesaid, and to remove and carry off from thence all the mud, dirt and other filth there found that shall or may incommode the inhabitants in such manner and form and at such time and times as they, the said commissioners, or a majority of them, with the mayor or recorder and any four of the aldermen aforesaid shall direct and appoint, which said persons so agreed with and employed, shall take upon themselves the office and duty of scavengers pursuant to their respective agreements aforesaid under the penalty of five pounds for every neglect or refusal, and if any such scavenger shall neglect or refuse to carry off and remove all and every part of the mud, mire, dirt and other filth found in the streets, lanes and alleys aforesaid agreeable to his contract with the said commissioners, he shall forfeit and pay any sum not exceeding twenty shillings for every such offense.

[Section IX.] And be it further enacted, That the inhabitants and occupiers of the houses and lots and the sextons, porters or other keepers of churches, meeting-houses, academies, schools and other public buildings and burying-grounds fronting the paved streets, lanes and alleys within the said city shall rake and sweep into the cartway the dirt, soil and other filth to be found on the brick pavement or footway, before their respective houses, lots or dwellings, or cause the same to be done once at least in every week: That is to say, on every Friday when the snow or ice on the said pavement does not prevent, that it may be removed by the said scavengers on the same day or the

day following, under the penalty of any sum not exceeding five shillings for every neglect or refusal.

[Section X.] And be it further enacted, That no person or persons whatsoever shall cast or lay, or cause to be cast or laid, any shavings, ashes, dung or other filth or annoyance on any pavement within the said city under the penalty of any sum not exceeding twenty shillings for every such offense; but every such person or persons having such shavings, ashes, dung or other filth shall keep the same in some other place until the scavenger shall attend with his cart to carry off the same, which he is hereby enjoined to do, once in every week at least if required, at the door of every such person under the penalty of five shillings for every refusal, and to take and receive the same into his cart and to remove the same out of the inhabited parts of the said city under the penalty of five shillings for every neglect or refusal.

[Section XI.] Provided always, and be it enacted, That every such person having such mud, dung, ashes or other filth so to be carried off shall pay to every such scavenger for all such filth, and no other, as shall be occasioned by or arise from his particular trade, business or occupation and is not incident to common house-keeping at such rates as shall be from time to time settled and ascertained by the said commissioners, unless he, she or they shall choose to carry off the same at his, her or their own expense in another manner.

[Section XII.] And be it enacted, That if the owner of any house or lot which shall be rated and assessed by virtue of this act or before whose front the foot pavement shall be hereafter directed to be paved, amended or repaired by the said mayor or recorder and aldermen and commissioners aforesaid shall not reside in the said city, the tenant or person occupying the same shall pay his, the said owner's rate and assessment and pave and repair the footway before the front of his possession as by this act is directed, and the taxes paid in pursuance of this act, and the money expended by such tenant in paving and repairing the footway aforesaid in obedience to the order of the mayor or recorder and four of the aldermen with any four of the commissioners as aforesaid shall be allowed by the owner and

defalked by the tenant out of the rent then due or thereafter to become due, any law, usage or custom to the contrary notwithstanding. And if any owner of any house and lot before whose front the cartway shall be paved in pursuance of this act, or if any tenant of any such house or lot shall refuse or neglect to pave and repair the footway agreeable to the direction and order aforesaid, every such owner, if a resident within the said city, and every such tenant of such non-resident owner shall forfeit and pay for every foot fronting his possession so neglected to be paved, the sum of one shilling; and that the said commissioners, or a majority of them shall make, amend and repair the same out of the public moneys by this act directed to be raised, and shall recover the same of such resident owner or tenant of such non-resident owner respectively as the case may require, in a summary way 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 by the justices of the peace of the respective counties within this province.

And whereas sundry owners and possessors of houses and lots within the said city have heretofore paved and pitched the cartway opposite to their respective houses and lots and it is but reasonable and just that such owners should be allowed for the value and worth of such pavements to the public, and that the same should be deducted and allowed out of the rate and assessment hereby directed to be made and laid.

[Section XIII.] Be it therefore enacted, That the pavement so made and pitched in the cartway by any such owner before or adjacent to his, her or their houses and lots at his, her or their proper costs and charge shall at his, her or their request and desire, made and signified to the commissioners aforesaid, or a majority of them, be valued and appraised by two appraisers, to be appointed by them for that purpose, and any two of the regulators of the said city (provided they are not commissioners), who are hereby enjoined and required to appraise the same and to deliver to such owner an account, in writing, of such appraisement, and also to return a duplicate of such account to the commissioners aforesaid with all convenient speed.

[Section XIV.] And be it further enacted and provided nevertheless, That no rate or assessment to be made by virtue of this act on the estates of such owners who shall have paved before or adjacent to their respective estates as aforesaid shall be levied or collected before the sum total of their several assessments shall amount to the sum at which the pavement so made in the cartway shall be appraised by the persons so to be appointed by the said commissioners and the regulators aforesaid, and the said appraisement shall be deemed and is hereby declared to be in satisfaction of the like money arising on a fair taxation of their respective estates as aforesaid and in discharge of so much of their several rates and assessments, to be made by virtue of this act, and no more.

And whereas sundry sums of money have been heretofore raised on the inhabitants of this province by lotteries for paving and pitching the said streets, which sums of money, or a great part thereof, now remain in the hands of the managers of the said lotteries not yet laid out or disposed of, and the managers of one of the said lotteries have signified to the representatives of the people in assembly met their desire that the said sums of money in their hands should be appropriated and disposed of by the commissioners aforesaid towards paving the streets of the said city:

[Section XV.] Be it therefore enacted, That the said commissioners, or a majority of them, are hereby authorized and empowered to take and receive of and from the managers of any lottery or device whatsoever heretofore instituted for raising of 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 whatsoever, all and every such sum and sums of money which shall be offered or tendered to them, and to give one or more good and sufficient receipts and discharges for the same, which receipts or discharges shall and are hereby declared fully and sufficiently to exonerate and discharge every such person or persons, bodies politic or corporate, who shall pay any 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 that the said sums of money so received by the said commissioners shall, with all convenient speed, be applied and disposed of towards paving such of the said streets as were originally intended or declared in the public papers of this province by the managers of the said lotteries at the time of their institutions respectively and to no other use or purpose whatsoever and that in the same manner and under the same regulations and also accounted for as other the moneys arising by this act is directed and enjoined to be laid out, disposed of and accounted for.

And for defraying the expenses and charges arising by virtue of this act:

[Section XVI.] Be it enacted, That it shall and may be lawful to and for the commissioners aforesaid, or a majority of them, together with the city assessors for the time being, or a majority of them, to meet as soon as they conveniently can after the publication of this act and on the sixth day of October yearly and every year, unless the same shall happen to be on a Sunday and then on the day following, at the court-house of the said city or some other convenient place, and then and there to estimate and determine what sum and sums of money shall be necessary to be raised and levied on the inhabitants of the said city for answering the purposes by this act intended.

[Section XVII.] And be it further enacted by the authority aforesaid, That the said commissioners, or any four of them, shall, within six days after such estimate is made, issue forth their precepts, directed to the constables of the said city, requiring them to bring to the said commissioners and assessors, within eight days next after the date of such precept, fair and true certificates in writing, upon their legal qualifications (which the said commissioners are hereby empowered to administer) of the names and surnames of all and every the persons dwelling or residing within the limits of their wards, and the names of all freemen, inmates, hired servants and all other persons residing or sojourning in every of the said wards, together with an account of what houses, lands, tenements, rent-charges, bound servants and negroes, with their ages, they respectively hold or possess in such ward without concealment,

fear, malice, favor or affection, upon pain of forfeiture of any sum not exceeding five pounds, to be levied as by this act is appointed; and every of the said constables shall have and receive from the treasurer hereafter to be appointed two pence [per pound] out of the sums to be collected from the inhabitants by them returned for their care and trouble in executing and returning the said precepts in manner aforesaid; and that the said commissioners and assessors, or a majority of them, shall meet at the day and place where the said precepts shall be made returnable and then and there receive the constable's returns, and that the said assessors shall thereupon, by the legal qualifications of the said constables or other credible persons, or by any other lawful ways [or means, inform themselves what persons and estates in the said city are] ratable by virtue of this act, and shall forthwith equally and impartially assess themselves and all others ratable as aforesaid, having a due regard to such as are poor and have a charge of children, and exempting out of such assessments all single men who, at the time of assessment, are under twenty-one years of age or have not been out of their servitude or apprenticeship twelve months, and all transient persons and strangers who shall have any goods or merchandise for sale in the said city shall, for such goods and merchandise, be rated in proportion to the said inhabitants. And the said assessors, for their time and labor in the premises, shall be allowed two pence per pound for the whole sums assessed, after the assessment is rectified and adjusted by the commissioners, according to the direction of this act, to be paid by the treasurer hereinafter appointed and to be equally divided amongst them, which said poundage shall be to the assessors for the time being in full satisfaction for all services and attendances required of them by this act.

Provided always, That no such assessment or assessments to be made by virtue of this act in any one year shall exceed the value of three pence in the pound, and that no person shall be chargeable within the intent and meaning of this act unless he be assessed at eight pounds or upwards, and that the said assessors, and each of them, shall, before they take on them-

selves the duties enjoined and required by this act, take a legal qualification to the effect following: That is to say,

“That they will well and truly cause the rates and sums of money by this act imposed to be duly and equally assessed and laid, to the best of their skill and knowledge, and therein shall spare no person for favor or affection, nor grieve any for hatred or ill-will, and that they and each of them, the said assessors, will diligently attend and faithfully execute the said office during the term of their continuance therein according to the best of their abilities and judgment;”

Which qualification the mayor or recorder, or any two of the aldermen aforesaid are hereby empowered and required to administer and to certify the same to the clerk of the sessions of the peace of the said city, to be by him filed among the records and papers of his office.

[Section XVIII.] And be it further enacted by the authority aforesaid, That the said commissioners and assessors the better to enable them to discharge the duties enjoined them by this act shall choose and employ a fit and able person for their clerk, who shall, in books to be provided for that purpose by the commissioners, make such entries and keep such accounts as he shall be directed to do by the commissioners and assessors, or a majority of them, from time to time, and shall also make such entries and keep such accounts as he shall be required to do by the commissioners, or a majority of them, of all such matters and things enjoined them by this act, and also to do and perform all other duties by him to be done in pursuance of this act, for which he shall be allowed such a reasonable reward as the said commissioners, or any four of them, shall appoint, which shall, by an order from the said commissioners, or any four of them, be paid him by the treasurer.

[Section XIX.] And be it further enacted by the authority aforesaid, That the said assessors shall, after the assessments made as aforesaid, appoint one or more fit person or persons to be collector or collectors of the said assessments from time to time, and shall cause fair duplicates of the assessments to be drawn, one part thereof shall be by the clerk delivered to the commissioners and the other part to the collector or collectors, with directions under the hands of four or more of the commis-

sioners to every such collector indorsed on his duplicate or annexed thereunto, requiring him or them to demand of the parties the respective sums of money wherewith they are chargeable and acquaint them of the day of appeal, which shall be appointed by the said commissioners within twenty days after the assessments are made, but where any of the said collectors cannot meet the party of whom demand is to be made as aforesaid, he or they shall leave notice in writing with some of the family or at the place of the party's last abode, signifying also the day of appeal, at which day the said collector or collectors shall return their duplicates with the names of such persons and value of such estates as shall be concealed, undervalued or omitted in the constables' returns; and if any person or persons shall find him, her or themselves aggrieved with any of the said assessments, supposing the same to be unequal, he, she or they may appeal to the commissioners aforesaid. And the said commissioners are hereby required to meet on the said day of appeal where the assessors shall attend and lay before the commissioners all the written certificates of the names of the taxables and the account of their estates returned by the constable as this act requires, together with the particular valuation set by the said assessors upon the persons and estates so returned, whereupon the commissioners shall take due notice thereof and may, if they think proper, examine the persons appealing upon their legal qualification concerning the cause of their appeal, which qualification they are hereby authorized to administer, and upon such examination or other proof they are hereby empowered to diminish or add to such person's rate or assessment as to them shall seem just and reasonable, with power also to call before them such persons and take notice of such estates as they find are omitted in the said assessments in order to rectify it and if the persons so omitted refuse or neglect to appear and give an account of the value of their estates, they shall be rated and assessed according to their estates by the judgment of the said commissioners, or a majority of them; and the said commissioners, upon hearing the appeals, shall rectify and adjust the said assessment by abating or adding to the sums contained in the duplicates and shall also cause their

collector to give the parties concerned where omissions are supplied or additions made to their assessments five days' notice to appear before the commissioners and make their objections thereunto; and the clerk shall, within five days next after the day of appeal, deliver to the treasurer hereinafter directed to be appointed a true account of the sums total which the collector or collectors aforesaid shall be charged with pursuant to the act; and the said commissioners shall cause their clerk to draw fair duplicates of the assessments so rectified as aforesaid and deliver them to the collector or collectors to be appointed as aforesaid within five days after the said day of appeal, with a warrant annexed thereunto under the hands and seals of four or more of the said commissioners, requiring him or them forthwith to collect and receive from the persons assessed the several sums in the duplicates mentioned; and in case any person or persons so rated or assessed by virtue of this act shall neglect or refuse to pay the sum or sums so assessed for the space of sixty days after demand made as aforesaid, it shall be lawful for the said collector or collectors, by virtue of a special warrant for that purpose signed and sealed by any four or more of the said commissioners, who shall forthwith grant the same, and shall thereby empower the said collector or collectors to call to their assistance, if occasion be, any constable or other person, and in case of resistance to break open in the daytime any house, trunk, box, chest, closet, cupboard or other things where any such offender's goods, chattels or effects are supposed to be and make distress and sale thereof, rendering the overplus, if any be, to the owners after reasonable charges deducted; but if no distress can be found by the collector or collectors and the party refuses or neglects to show them goods or chattels of his own forthwith to satisfy the money due, with reasonable charges, then the said assessments to be levied by imprisonment of the person so refusing or neglecting to pay as aforesaid until the same shall be paid, or on the goods or chattels of any of his tenants, if such there be, and the delinquent shall be obliged to discount it out of the first rent that shall afterwards accrue from the estate rented.

Provided always, That where effects cannot be found suf-

ficient to answer the whole sum in arrear, with charges as aforesaid, then distress shall be made for so much as the effects extend to and the party be imprisoned as aforesaid only for the residue thereof with incident charges, all which charges of distress, assistance and bringing to prison shall be adjusted and settled by any four or more of the said commissioners when such occasion shall happen.

[Section XX.] And be it further enacted by the authority aforesaid, That the said collector or collectors shall, once in six weeks at least, render a just and true account of and bring in and pay unto the treasurer hereinafter directed to be appointed all such sums of money as he or they shall have received, and shall pay the whole and every of the sums of money assessed in his or their duplicates within six months next after the day of appeal (such deficiencies as the said commissioners or any four of them shall allow being first deducted) and the said treasurer shall give receipts to the collectors for what they shall so bring in and pay from time to time, which receipts shall be the collector's discharges for so much, and the said treasurer shall from time to time signify in writing to the said commissioners how much every collector brings in and pays as aforesaid, and when the said collectors, or any of them, are negligent or refuse to do their duty in the premises, the treasurer is hereby required forthwith to signify the same by way of complaint to the commissioners aforesaid.

[Section XXI.] And be it further enacted by the authority aforesaid, That if upon complaint of the treasurer to the commissioners it shall appear that the said collector or collectors, having taken upon him or themselves the duties enjoined him or them by this act, shall refuse or neglect to pay the said sums of money which he or they shall be respectively charged to collect within the times limited by this act, every such collector so refusing or neglecting shall forfeit and pay to the treasurer the sum of five pounds, and shall also pay all the arrearages of such assessment which he was appointed to collect, to be levied by a warrant under the hands and seals of the said commissioners, or any four of them, directed to the sheriff of the city and county of Philadelphia, who is hereby authorized and em-

powered to execute such warrant upon the goods and chattels of such collector or collectors; and in case goods and chattels sufficient cannot be found, then to imprison such collector or collectors until payment be made, and every collector so distrained on, having made full satisfaction as aforesaid, is hereby empowered, without any further warrant, to distrain for his own use upon all such as shall neglect or refuse to pay him the arrearages due.

And the said collector or collectors shall, for his or their trouble and service by this act required and enjoined, retain in his or their hands six pence per pound for all sums of money by him or them respectively collected; and if the said collector or collectors shall refuse or neglect to take upon him or themselves the trust and duty required of him or them, he or they shall forfeit and pay to the treasurer hereinafter mentioned the sum of five pounds, and the said assessors shall appoint some other fit person or persons in the place or stead of the collector or collectors so refusing or neglecting as aforesaid.

[Section XXII.] And be it further enacted by the authority aforesaid, That if any of the said commissioners appointed by this act or those who shall be chosen to succeed them in the said trust shall refuse or neglect to take upon him or themselves the services and duties required of him or them, he or they so refusing or neglecting shall pay to the treasurer aforesaid, ten pounds; or if any of the said commissioners shall happen to die during the time for which they are appointed or chosen, the other commissioners and assessors for the time being, or a majority of them, shall, in every such case, appoint one or more fit person or persons in place and stead of the commissioner or commissioners so refusing or dying.

And the said commissioners, for the services required and enjoined them by this act, shall be paid by the treasurer five shillings each for each day's attendance on that particular service, which shall be to the commissioners for the time being in full satisfaction for all the attendance and services required of them by this act.

[Section XXIII.] And be it further enacted by the authority aforesaid, That the said commissioners for the time being, or the

major part of them, are hereby empowered and required, as often as there may be occasion during the continuance of this act, to choose a treasurer, which treasurer when so chosen is hereby empowered and required to receive all the money arising as well from the said assessments as also the fines and forfeitures imposed and other moneys arising by virtue of this act; and the said treasurer shall keep a distinct and fair account, in a book to be provided by him for that purpose, of all the rates and assessments made or to be made as aforesaid, and also of all moneys by him so received and also of all disbursements and payments he shall make by orders from the commissioners, or any four of them, whose order to the said treasurer from time to time shall be sufficient discharges for the payment of such moneys as shall come to his hands, which orders the said commissioners, or any four of them, are hereby authorized and empowered to draw from time to time for the uses and purposes in this act mentioned and specified.

[Section XXIV.] And be it further enacted by the authority aforesaid, That the said treasurer for the time being, before he enters upon the execution of the said office, is hereby required to give a bond with one or more sufficient sureties to the said commissioners, to be by them approved of, in the penalty of five hundred pounds lawful money of this province, with condition for the payment of all such moneys which shall come to his hands by virtue of this act according to the orders drawn on him as aforesaid from time to time and not otherwise and for the due performance of his duty in the trust hereby committed to him, and the said treasurer shall yearly bring in his accounts and settle the same with the commissioners aforesaid, or a majority of them; which said accounts so settled and adjusted shall be laid before the mayor, recorder, aldermen and grand jury of the said city at the general quarter sessions of the peace to be held for the said city in the month of January yearly, together with the books, receipts and vouchers, if required, which said accounts, books, receipts and vouchers, being examined by the mayor, recorder, aldermen and grand jury aforesaid, shall [be] delivered back safely without alteration to the said treasurer, and a true copy of the said accounts to be made out by the said treasurer and delivered to the court shall be filed and

kept among the records of the said court. And the said treasurer shall be allowed for his trouble in keeping such accounts and receiving and paying all such money as shall come into his hands by virtue of this act at the rate of six pence in the pound.

[Section XXV.] And be it further enacted by the authority aforesaid, That if the said treasurer shall refuse or neglect to do his duty as by this act is required, he shall be removed from his said office by any four or more of the said commissioners, and in case of such removal or if the said treasurer shall happen to die, the commissioners, or the major part of them, shall appoint another in his place, who shall give security as hereinbefore directed, and the treasurer so removed or the executors or administrators of the said treasurer so dying shall deliver to the succeeding treasurer all books, public accounts and papers belonging to the said office whole and entire and undefaced, and shall likewise pay to the said succeeding treasurer all such sum and sums of money as he may have received or have been paid to him in pursuance of this act under the penalty of two hundred pounds, to be recovered in the manner and to the uses hereinafter mentioned.

[Section XXVI.] And be it further enacted by the authority aforesaid, That all the penalties, fines and forfeitures to become due and payable by this act, the manner of levying and recovering of which is not before directed, if they do not exceed the sum of five pounds, shall be recovered before one of the justices of the peace of and for the said city and shall be levied by warrant under the hand and seal of such justice or of any other justice of the peace of and for the said city to any constable of the said city directed, who is hereby empowered and required to execute the same by distress and sale of the goods and chattels of the offender, and where goods and chattels sufficient cannot be found, then the party or parties offending shall be committed to the common goal of the said city, there to remain until payment made, and if such penalties, fines and forfeitures do exceed the sum of five pounds, then to be recovered by action of debt, bill, plaint or information in any county court within this province, wherein [no] essoin, protection or wager of law to be allowed, all which recoveries shall be had in the name of

and by the treasurer aforesaid for the time being, to whom the sums recovered shall be paid, to be by him applied towards defraying and paying the charges and expenses arising by virtue of this act, to be recovered with costs of suit.

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

[Section XXVII.] And be it further enacted by the authority aforesaid, That in case there be any deficiency in any one year's rate or assessment to be made as aforesaid, so that all the wages and allowances for the purposes herein mentioned and other incident charges cannot be fully paid and satisfied in that year, then, and in such case, the deficiency so happening shall be paid out of the next succeeding year's rate or assessment; and if there shall happen to be any overplus money collected by such rates and assessments in any one year such surplus shall be carried on to the credit of the account of the next year's rate or assessment, to be applied to such use and in such manner as the rates and assessments to be collected are directed by this act to be laid out and applied.

[Section XXVIII.] And be it enacted, &c., That nothing in a certain act of assembly passed in the present year of His Majesty's reign, entitled "An act for opening and better amending and keeping in repair the public roads and highways within this province,"¹ shall be deemed, construed and taken to extend to the public highways, streets, lanes and alleys within the said city nor to the laying or assessing the inhabitants thereof for the purposes therein mentioned, nor to any other matter or thing to be done and performed within the same, but the said act, so far as it relates to or respects the said city and the highways within the same and no further, is hereby declared to be repealed, null and void to all intents and purposes whatsoever.

¹ Passed February 17, 1762, Chapter 479.

Provided always, That this act continue in force for the space of seven years, and from thence to the end of the next sessions of assembly and no longer.

Passed March 26, 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 Acts of Assembly passed March 4, 1763, Chapter 485; September 30, 1763, Chapter 503; February 15, 1765, Chapter 524; February 8, 1766, Chapter 537; February 21, 1767, Chapter 554. Repealed by the Act of Assembly passed February 18, 1769, Chapter 594.

CHAPTER CCCCLXXXI.

AN ACT FOR ERECTING THE SOUTHERN SUBURBS OF THE CITY OF PHILADELPHIA INTO THE DISTRICT OF SOUTHWARK, FOR MAKING THE STREETS AND ROADS ALREADY LAID OUT THEREIN PUBLIC ROADS AND HIGHWAYS, AND FOR REGULATING SUCH OTHER STREETS AND ROADS AS THE INHABITANTS THEREOF MAY HEREAFTER LAY OUT, AND FOR OTHER USES AND PURPOSES THEREIN MENTIONED.

Whereas there is a certain tract of land adjoining to and bounded by the southernmost bounds of the city of Philadelphia, beginning at South street, in the said city, and running thence along the several courses of the road formerly called the Passyunk Road, including the same, two hundred and ninety-six perches to a corner, thence south forty-five degrees east to a road called the Moyamensing Road, thence along a lane known by the name of Keeler's Lane to Greenwich Road, thence east to the river Delaware, thence up the several courses of the said river to South street, and thence along the south side of the said street to the place of beginning; on which said tract of land the owners and possessors thereof have built and erected, at a very great expense, a large number of houses, messuages, wharves, stores and other buildings, and have continued, by agreements among themselves made, the several streets of the said city running north and south through part of the said improved ground and have also opened, in the same manner, cross streets running westward from the said river towards the river Schuylkill with