

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 Repealed by the Act of Assembly passed February 18, 1769, Chapter 594.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

many convenient roads, lanes and alleys leading to and from the said streets; but as the said roads, streets, lanes and alleys are not laid out and confirmed by any legal authority, ill-disposed persons have frequently committed nuisances therein, to the great annoyance, impediment and disturbance of the inhabitants passing through them on their lawful occasions:

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the said tract of land before described shall be henceforth called The District of Southwark, and is hereby declared to be allotted and divided off into one district, and that all and every of the streets, lanes, alleys and roads laid out by agreement as aforesaid shall be and are hereby declared to be public streets, roads, alleys and lanes forever to all intents and purposes as if the same had been public roads and highways laid out according to law by order of the governor and council or by order of any court of quarter sessions in this province; and that all and every nuisance or nuisances committed in them, or any of them, shall and may be heard, tried and determined in the county court of quarter sessions in and for the county of Philadelphia in the same and as full and ample a manner as any nuisance committed in any public highway in the said county may and ought to be heard, tried and determined.

And in order that the said streets, alleys, lanes and roads and such others as shall be hereafter laid out may be duly regulated, made, opened, amended and repaired:

[Section II.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the freeholders and others within the said district qualified by law to elect members of assembly to meet together on the third Saturday in the month of April in every year, and between the hours of ten in the forenoon and four in the afternoon, choose by tickets in writing three surveyors or regulators of the said streets, lanes and alleys, who, upon

application made to them shall have full power and authority to regulate and lay out the proper gutters, channels and conduits for the carrying off the waters in the said district, and to enter upon the lands of any person or persons in order to set out the foundation and to regulate walls to be built between party and party within the said district as to the breadth and thickness thereof; which foundations shall be equally laid upon the lands of the persons between whom such party wall is to be made, and the first builder shall be reimbursed one moiety of the charge of such party wall or for so much thereof as the next builder shall have occasion to make use of before he shall in any wise use or break into the said wall, and that the charge or value thereof shall be set by the said regulators, or any two of them.

[Section III.] And be it further enacted by the authority aforesaid, That if any person or persons shall begin or lay the foundation of any party wall before the same be viewed and directed by the said regulators or some two of them, every such person, as well employer as master builder, shall forfeit the sum of five pounds, to be paid to the overseers of the poor in said district for the use of the poor thereof, being of the said offense first convicted in the county court of quarter sessions of the county of Philadelphia aforesaid.

[Section IV.] Provided always and be it further enacted by the authority aforesaid, That if either party between whom such foundation or party wall is to be made shall find themselves anyways aggrieved by any order or direction of the said regulators, he or they may appeal to the justices at the next court of quarter sessions to be held for the said county, who shall finally adjust and settle the same, the costs of which appeal shall be paid as the said court shall direct and appoint.

[Section V.] And be it further enacted by the authority aforesaid, That the said regulators or surveyors attending the said service for their trouble shall be paid by the party or parties concerned in erecting such party wall the sum of six shillings [each] and no more.

And for the preventing of accidents that may happen by fire in the said district:

[Section VI.] Be it enacted by the authority aforesaid, That if any person or persons within the said district shall set on fire his or their chimney or chimneys to cleanse them or shall suffer the same to be done, or that shall suffer any of them to blaze out at the top, and be thereof legally convicted before any justice of the peace of the county of Philadelphia, such person or persons shall forfeit and pay the sum of twenty shillings to the overseers of the poor of the said district for the use of the poor thereof.

[Section VII.] And be it further enacted by the authority aforesaid, That from and after the publication of this act no unhealthy or sickly vessel shall come nearer than one mile to the southern bounds of the said district without bills of health, nor shall presume to bring to shore such vessels nor to land their passengers or their goods at any part of the said district until they shall obtain a license for their landing from the governor for the time being and his council or from any two justices of the peace for the county of Philadelphia, under the penalty of ten pounds for every passenger so landed and one [hundred] pounds for every vessel so brought within a mile of the bounds aforesaid, to be paid by the commander, merchants or owners of the said vessel offending in the premises, being first legally convicted thereof in the county court of quarter sessions for the county of Philadelphia, one-half thereof to be paid to the governor for the support of government, the other half to the overseers of the poor of the said district for the time being for the use of the poor thereof.

[Section VIII.] And be it enacted by the authority aforesaid, That if any person or persons shall presume to stop any of the said streets, lanes, alleys or public roads heretofore laid out [or hereafter laid out] and confirmed as aforesaid, or shall commit any nuisance therein and shall not remove the same forthwith, every such person or persons so offending, being thereof legally convicted in the said court, shall forfeit and pay the sum of three pounds to the supervisors of the streets and highways aforesaid, to be laid out in repairing the same.

[Section IX.] And be it further enacted by the authority aforesaid, That the said freeholders and others qualified as aforesaid shall, on the same day whereon they are hereinbefore

directed to choose surveyors and regulators of the streets, lanes and alleys aforesaid choose in the same manner three assessors and three supervisors of the public highways within the said district, which said assessors and supervisors when chosen and returned in writing under the hands of any two freeholders of the said district into the office of the clerk of the county court of quarter sessions aforesaid shall be the assessors of the said district and the supervisors of the streets, lanes, alleys, roads and highways thereof for the ensuing year; and if any supervisor so elected or otherwise appointed by virtue of this act shall refuse to take upon himself the said office, for every such offense he shall forfeit and pay the sum of ten pounds, to be applied towards amending and repairing the said streets, lanes, alleys and highways.

[Section X.] And be it further enacted by the authority aforesaid, That the overseers of the roads in the said township the first year and the supervisors of the streets, lanes, alleys and highways of the said district forever afterwards, shall, at least five days before the third Saturday in April yearly and every year give public notice in writing by affixing the same in the most public places in the said district of the place where the inhabitants and freeholders of the said district shall meet to elect supervisors for the said district according to the directions of this act, which place so appointed for the said election shall be as near the centre of the said district as conveniently may be.

[Section XI.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said supervisors of the public streets and highways, together with the assessors of the said district for the time being, 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 the said district, to be employed for the amending and repairing the streets, lanes, alleys and highways within the said district 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,"¹ having due regard to every man's estate within the said district, without favor or affection to any person whomsoever.

[Section XII.] And be it further enacted by the authority aforesaid, That if any supervisor or supervisors of the public streets 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 said district for which he or they shall be chosen, or if the freeholders and inhabitants of the district 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 county court of quarter sessions of the county of Philadelphia, 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 or so neglecting to be chosen as aforesaid, 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 appointed and chosen by the said district in pursuance of the directions of this act, and that each supervisor shall have and receive for his trouble in collecting the several sums of money to be raised as aforesaid six pence in every pound by him collected and five shillings per diem for each day he shall attend in overseeing, employing and attending the workmen upon the public streets and highways within said district.

[Section XIII.] 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 said county of Philadelphia, 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 aforesaid, 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

¹ Passed March 20, 1724-25, Chapter 284.

peace of the said county, 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 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 [aforesaid], 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 XIV.] And be it further enacted by the authority aforesaid, That the said supervisors of the public streets and highways of the said district shall and they are hereby enjoined and required, as often as the said several streets, lanes, alleys and highways within the said district shall be out of repair, 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 streets, lanes, alleys, roads and highways be effectually opened, cleared, amended and repaired according to the true intent and meaning of this act.

[Section XV.] And be it further enacted by the authority aforesaid, That if any person working on the highways within the said district or being with them shall ask any money, drink or any other reward whatsoever, or shall by any contrivance, ways or means whatsoever extort any money or other thing of or from any person passing or travelling upon the said public roads or highways, he or she 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 persons 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 XVI.] And be it further enacted by the authority aforesaid, That all and every supervisor or supervisors of the public roads and highways within the said district 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 said district.

[Section XVII.] And be it further enacted by the authority aforesaid, That the justices of the peace of the county of Philadelphia, or any three of them, shall and may, at the time and times when new supervisors of the highways within the said district 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 into 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 within the said district as aforesaid, then the said justices may order the succeeding supervisors to repay and reimburse the former supervisors 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.

[Section XVIII.] And be it enacted by the authority aforesaid, That two overseers of the poor, one assessor to join in assessments to be hereafter made towards sinking the sums of money heretofore granted to the King's use, and one inspector to be returned and if chosen to serve at the general election in and for the county of Philadelphia, shall be nominated and elected in and for the said district in the same manner as they are directed by law to be appointed and chosen in and for the several townships within this province, which said overseers so nominated and assessors and inspectors so elected shall have, use and exercise all and every the powers, rights and privileges and be subject to the same penalties and forfeitures within their said districts respectively which are lawfully had, used and exercised by the several overseers, assessors and inspectors of the several townships aforesaid to all intents and purposes as if they were respectively nominated and chosen overseers of the poor, assessors and inspectors of any of the townships aforesaid in pursuance of the laws of this province in such cases made and provided.

[Section XIX.] And be it enacted by the authority aforesaid, 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 or taken to extend to the public roads, streets, lanes or alleys within the said district nor to the levying 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 district and no further, is hereby declared to be repealed, null and void to all intents and purposes.

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.

As to Section I, see the Acts of Assembly passed April 15, 1782,

¹ Passed February 17, 1762, Chapter 479.

Chapter 981; September 20, 1782, Chapter 991; April 18, 1794, Chapter 1742; March 27, 1795, Chapter 1814; February 13, 1796, Chapter 1872; March 7, 1799, Chapter 2024; February 13, 1802, P. L. 58; February 23, 1809, P. L. 25; March 28, 1814, P. L. 365; March 19, 1816, P. L. 195; March 29, 1827, P. L. 153; April 13, 1827, P. L. 277; March 7, 1829, P. L. 63; March 31, 1836, P. L. 308; March 8, 1839, P. L. 45; October 13, 1840, P. L. (1841) 1; March 5, 1841, P. L. 67; April 10, 1841, P. L. 167; April 8, 1842, P. L. 256; August 2, 1842, P. L. 458; March 11, 1843, P. L. 78; April 30, 1844, P. L. 533; March 14, 1845, P. L. 149; March 7, 1846, P. L. 86; February 19, 1849, P. L. 75; April 5, 1849, P. L. 344; April 15, 1850, P. L. 456; May 15, 1850, P. L. 762; March 29, 1851, P. L. 293; April 14, 1851, P. L. 572; February 2, 1854, P. L. 21.

As to Sections II-V, see the Acts of Assembly passed April 30, 1844, P. L. 533; May 2, 1853, P. L. 667.

As to Section VI, see the Acts of Assembly passed March 21, 1772, Chapter 648; November 25, 1779, Chapter 867; September 29, 1787, Chapter 1318.

As to Section VII, see the Act of Assembly passed January 22, 1774, Chapter 691.

As to Sections VIII-XIX, see the Acts of Assembly passed September 29, 1787, Chapter 1321; October 4, 1788, Chapter 1376; April 3, 1794, Chapter 1725; April 18, 1794, Chapter 1742; March 28, 1796, Chapter 1890; April 13, 1804, P. L. 507; April 7, 1807, P. L. 170; March 25, 1809, P. L. 200; March 31, 1812, P. L. 208; February 16, 1813, P. L. 66; March 26, 1813, P. L. 185; March 23, 1818, P. L. 257; February 24, 1820, P. L. 37; March 22, 1820, P. L. 98; March 27, 1820, P. L. 103; April 2, 1822, P. L. 227; April 1, 1823, P. L. 263; March 28, 1825, P. L. 128; April 22, 1829, P. L. 226; May 3, 1832, P. L. 432; May 5, 1832, P. L. 506; April 1, 1834, P. L. 181; April 10, 1834, P. L. 266; April 13, 1835, P. L. 202; April 15, 1835, P. L. 369; June 13, 1836, P. L. 551; April 1, 1837, P. L. 125; March 27, 1839, P. L. 189; April 30, 1844, P. L. 533; April 5, 1849, P. L. 344; April 9, 1849, P. L. 523; May 15, 1850, P. L. 762; (the two acts of) April 12, 1851, P. L. 418, 424; April 14, 1851, P. L. 572; May 1, 1852, P. L. 495; (the two acts of) May 4, 1852, P. L. 566, 569; April 6, 1853, P. L. 329; April 18, 1853, P. L. 627; May 2, 1853, P. L. 667; February 2, 1854, P. L. 21.

CHAPTER CCCCLXXXII.

AN ACT TO ENABLE THE TRUSTEES OF THE STATE HOUSE TO PURCHASE CERTAIN LOTS OF GROUND, THE REMAINDER OF THE SQUARE WHEREON THE SAID HOUSE NOW STANDS.

Whereas in and by an act of assembly of this province passed in the first year of his present Majesty's reign, entitled "An act for appointing certain persons thereafter named to apply for