

CHAPTER DXV.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR THE ERECTING A LIGHT-HOUSE AT THE MOUTH OF THE BAY OF DELAWARE, AT OR NEAR CAPE HENLOPEN, FOR PLACING AND FIXING BUOYS IN THE SAID BAY AND RIVER DELAWARE, AND FOR APPOINTING COMMISSIONERS TO RECEIVE, COLLECT AND RECOVER CERTAIN SUMS OF MONEY HERETOFORE RAISED BY WAY OF LOTTERY AND TO APPROPRIATE THE SAME TO THE PURPOSES AFORESAID." ¹

Whereas the erecting a light-house at the mouth of the bay of Delaware and placing and fixing buoys in the said bay and river Delaware will greatly contribute to the ease and security of the navigation thereof and the advantage of the trade of this province.

And whereas the commissioners appointed by the act to which this act is a supplement have represented that the sum of money heretofore raised by way of lottery for the purposes aforesaid will be greatly deficient in effectuating and carrying into execution the purposes aforesaid, and have requested the aid of the legislature to enable them to perfect and carry into execution so expedient and salutary a design:

[Section I.] Wherefore be it enacted by the Honorable John Penn, 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 it shall and may be lawful for any person or persons, bodies politic or corporate to advance and lend to the said commissioners any sum or sums of money not exceeding in the whole the sum of five thousand pounds lawful money of Pennsylvania, which said sum of five thousand [pounds], or so much thereof as they shall find necessary, the said commission-

¹ Passed September 30, 1763, Chapter 502.

ers are hereby authorized and empowered to borrow and receive for the uses, intents and purposes hereafter mentioned. And the said lenders shall have and receive for the use and forbearance of their respective loans until the same shall be paid off and discharged, interest not exceeding six per centum per annum; and that every such lender shall have and receive a note or certificate in writing of and for the sum lent with the interest thereof, signed by the said commissioners, which note and certificate shall be registered in a book by them to be kept for that purpose; and that the said lenders shall be paid by the said commissioners yearly and every year the interest moneys arising on their respective loans, together with a proportionable part of the principal sum so lent out of the moneys arising by the duty of tonnage from time to time in virtue of this act, until the whole principal sum or sums so borrowed, together with the interest thereof, shall be paid off and discharged.

[Section II.] And be it further enacted by the authority aforesaid, That all and every person and persons, bodies politic and corporate, to whom any money shall be due for loan by virtue of this act after the note or certificate shall be entered in the book of registry as aforesaid, his, her or their executors, administrators, successors or assigns, by proper words of assignment to be indorsed on his, her or their certificate may assign, transfer and make over all his, her or their right, title or interest of, in or to such note or certificate to any other person or persons, bodies politic or corporate, whatsoever, which assignment shall entitle such assignee or assignees, his, her or their executors, administrators, successors or assigns, to the benefit thereof and payment thereon; and such assignee may, in like manner, again assign and so *toties quoties*, and afterwards it shall not be in the power of such assignors who have made such assignment to make void, release or discharge the same or the moneys thereby due.

[Section III.] And be it further enacted by the authority aforesaid, That the said commissioners shall apply, appropriate and dispose of all and every the sum and sums of money borrowed as aforesaid for and towards the uses, intents and purposes mentioned and specified in the said act of general assembly to which this act is a supplement and to and for the maintenance

and support of the light-house and buoys aforesaid, and to no other use or purpose whatsoever, and shall account for the same yearly on or before the first day of September in every year, to and with the committees of assembly annually appointed for the settlement of the public accounts, to be by them laid before the assembly for their inspection and approbation.

And in order to assure and secure to the said lenders their respective sums of money so lent and advanced, with the interest thereon accruing:

[Section IV.] Be it enacted by the authority aforesaid, That from and after the first day of November, in the year of our Lord one thousand seven hundred and sixty-five, there shall be laid, raised, collected and paid a duty of tonnage upon all ships and other vessels coming into or going out of this province (shallops and other small vessels trading within the river and bay of Delaware and along the coast as far as Sandy Hook to the eastward and as far as Indian River, to the southward, only excepted, That is to say, for every ton of the burden or contents of any of the said ships or vessels, the sum of six pence per ton, to be accounted, taken and paid according to the measure of every such ship or vessel, which shall be made and taken by the collector of the said duty of tonnage in the port or place where they shall arrive, enter or clear; and the master or owner of every such vessel shall, within forty-eight hours after the arrival of any such ship or vessel at the ports or places of their discharge or unloading in this province, cause or procure such ships or vessels to be entered in the said collector's office appointed by this act for collecting the said duties of tonnage, and at the time of such entry and before he or they presume to break bulk or unload shall either immediately pay to the said collector the sums of money due and payable for the tonnage of all such ships or vessels or otherwise shall give good and sufficient security by bond to the said collector, to be approved of by him, to pay the said duty of tonnage to the said collector or his successor for the uses aforesaid within the space of six weeks after the arrival of such ship or vessel.

[Section V.] And be it further enacted by the authority aforesaid, That the masters of all ships and vessels in any port

of this province from and after the first day of November in the year one thousand seven hundred and sixty-five and of all ships or vessels built in this province after the time aforesaid during the continuance of this act, before they clear out at the office of the collector of the King's customs, shall pay or otherwise sufficiently secure to the officer aforesaid the duties and sums of money which shall be due for tonnage imposed by virtue of this act.

[Section VI.] And be it further enacted by the authority aforesaid, That if any officer belonging to His Majesty's customs within this province shall clear any vessel liable by this act to the said duty of tonnage before it shall appear to such officer by a certificate or receipt, under the hand of the collector hereby appointed to receive the said duty, that the same is paid and discharged or otherwise secured to be paid for such ship or vessel, every such officer of His Majesty's customs so clearing such ship or vessel without such certificate or receipt [as] aforesaid shall forfeit and pay the sum of ten pounds for every such offense, to be recovered and applied to the purposes mentioned in the said act to which this act is a supplement.

[Section VII.] And be it further enacted by the authority aforesaid, That for preventing disputes concerning the contents of vessels hereby made liable to the said duty of tonnage, the said tonnage shall be measured and computed in manner follow, That is to say, every single-decked ship or vessel shall be measured by the length of the keel and the breadth of the beam, taken within board by the midship beam from plank to plank, and the depth of the hold from the ceiling plank next the kelson to the under part of the deck plank, then multiply the length by the breadth and the product thereof by the depth and divide the whole by ninety-five; the quotient shall give the contents of the tonnage of such single-decked vessel. And in order to find the length of the keel, measure the gun-deck from the fore part of the stern-post to the fore part of the stem, from which deduct three-fifths of the beam for the rake forward and four inches out of the length of each foot of the stern-post as high as the gun-deck for the rake abaft; the remainder shall be the length of the keel. And every two-decked ship which carries goods between decks shall be measured in the manner

hereinafter directed, That is to say, the breadth to be taken within board by the midship beam from plank to plank, multiplied by the length of the keel, to be measured as hereinbefore directed, and the product thereof, multiplied by one-half of the breadth on the midship beam as aforesaid, the whole divided by ninety-five; the quotient shall be and is hereby declared to be the contents of the tonnage of every such two-decked ship or vessel, according to which method and rules all ships and vessels shall be measured and the several duties of tonnage thereby computed and collected accordingly, any law, usage or custom to the contrary notwithstanding.

[Section VIII.] And be it further enacted by the authority aforesaid, That Thomas Coombe shall be and is hereby appointed collector of the duties and sums of money due and payable for the tonnage of all ships and vessels chargeable by this act and receiver of the fines and penalties imposed by this act, and is hereby authorized and empowered from time to time to measure all vessels and take the bonds required to be given as aforesaid, and to appoint, constitute and make deputies, as many as shall be necessary for the effectual execution of this act.

[Section IX.] Provided always and be it further enacted by the authority aforesaid, That if the said collector or any other person or persons shall be sued or prosecuted for anything done in pursuance of this act, he or they so sued or prosecuted may plead the general issue and give this act and the special matter in evidence for their justification, and if, upon trial thereof, a verdict shall be given against the plaintiff or he shall become nonsuit or suffer a discontinuance, the defendant or defendants in such action shall recover treble damages, with full costs of suit.

Provided also, That no collector or other officer shall be sued for anything done in pursuance of this act unless such suit be commenced within twelve months next after the pretended or supposed injury shall be done or committed.

[Section X.] And be it further enacted by the authority aforesaid, That the said collector shall keep fair and true accounts in writing of all his transactions relating to the premises and the duty of his office, which he shall from time to time submit to

the view and inspection of the commissioners aforesaid and lay the same before the assembly of this province when thereunto required. And the said collector shall, once in six weeks or oftener if required, during the continuance of this act, pay to the provincial treasurer for the time being all such sums of money which he shall receive by virtue of this act (subject to the drafts of the said commissioners, or a majority of them, for the purposes last aforesaid), deducting first thereout for his trouble in executing the duties hereby enjoined six per centum for measuring, receiving and paying as aforesaid.

And the receipt or receipts of the said treasurer shall be a good and sufficient discharge to the said collector for so much of the duties of tonnage as shall be therein expressed and specified. [And the said provincial treasurer shall have and receive, for his trouble in receiving and paying the moneys coming to his hands by virtue of this act, the sum of ten shillings for every hundred pounds, and no more.]

[Section XI.] Provided always, and be it further enacted by the authority aforesaid, That the said collector, before he enters upon the execution of his office, shall take an oath or affirmation before some justice of the peace of the county of Philadelphia, who is hereby empowered to administer the same, and shall also become bound with one or more sufficient sureties (to be approved of by the said commissioners) to the governor or commander in chief of this province for the time being, conditioned for the true and faithful execution of his said office. And in case of the death or removal of the said collector, the commissioners aforesaid, or a majority of them or of the survivors of them, shall appoint another to supply his place from time to time until one shall be appointed by act of assembly, who shall take the oath and give the like security as is directed to be taken by the collector appointed by this act, and shall have the same power and authority as the said Thomas Coombe hath or ought to have, and shall execute, do and perform all the duties, matters and things hereby enjoined and required.

[Section XII.] And be it further enacted by the authority aforesaid, That the commissioners aforesaid, or a majority of them, shall from time to time nominate and appoint one or

more careful and reputable persons to be the keeper of the said light-house, who shall carefully and diligently attend his duty in kindling and keeping burning the lights from sun-setting to the rising thereof and at such other times as the said commissioners shall order and direct and in placing the said lights so as they may be best seen by [persons on board] vessels coming in or going out of the said bay of Delaware; and in case such keeper shall neglect his duty in any part of the premises he shall forfeit and pay any sum of money according to the degree of his offense, not exceeding the sum of two hundred and fifty pounds.

Provided always, That the said keeper, before he enters upon the duty of his said office or takes charge of the said light-house, shall give one or more good and sufficient sureties residing in this province to the governor or commander in chief for the time being for the true and faithful performance and discharge of his duty.

[Section XIII.] And be it further enacted by the authority aforesaid, That the fines and penalties hereby inflicted and imposed shall be recovered by and in the name of the collector appointed by virtue of this act, by bill, plaint or information, in any court of record within this province, wherein no essoin, protection or wager of law nor [any] more than one imparlance shall be allowed, one moiety thereof to the said collector and the other moiety to the provincial treasurer, to be applied by the commissioners aforesaid to the same uses, intents and purposes to which the moneys borrowed as aforesaid are directed to be applied and appropriated.

[Section XIV.] And be it further enacted by the authority aforesaid, That this act shall be and continue in force for and during the space of eight years from and after the passing thereof and from thence to the end of the next sitting of assembly, unless it shall so happen that the said duties of tonnage so to be collected shall not in that time be sufficient to pay [off] and discharge the several sums of money so as aforesaid directed to be borrowed for the purposes aforesaid, together with the interest thereof, in that case this act shall continue in force until the said duties shall be sufficient for that purpose; and in

case a greater sum of money shall be raised within the time aforesaid more than sufficient for the purposes aforesaid, then and in such case the surplus aforesaid shall be applied for and towards the supporting, maintaining and keeping in repair and use the said light-house and buoys aforesaid in the best manner, so as to be of the most advantage to trade and navigation.

Passed September 22, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII, and the note to the Act of Assembly passed September 30, 1763, Chapter 502; and the Act of Assembly passed October 19, 1771, Chapter 640.

CHAPTER DXVI.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR GRANTING TO HIS MAJESTY THE SUM OF TWENTY-FOUR THOUSAND POUNDS FOR THE DEFENSE AND PROTECTION OF THIS PROVINCE AND FOR OTHER PURPOSES THEREIN MENTIONED." ¹

Whereas by an act of assembly passed in the third year of His Majesty's reign, entitled "An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province and for other purposes therein mentioned," ² the commissioners for Indian affairs are enjoined and required, with all convenient speed and at farthest within the space of eighteen months from the publication of the said act, to sell, dispose of and convert into money all and every part of the goods, wares and merchandise in their hands, custody or power, by them purchased with certain moneys borrowed by virtue of another act of general assembly of this province from the trus-

¹ Passed October 22, 1763, Chapter 505.

² Passed October 22, 1763, Chapter 505.