

for their respective accounting for and paying all such sums of money as they shall from time to time receive for the excise aforesaid.

Passed May 20, 1767. Referred for consideration by the King in Council, December 17, 1767, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXVI, Section II, and the note to the Act of Assembly passed March 5, 1725-26, Chapter 289; and the Act of Assembly passed September 26, 1767, Chapter 569.

As to Sections VI-IX, see the Act of Assembly passed February 17, 1768, Chapter 571.

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## CHAPTER DLX.

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### AN ACT TO AMEND THE ACT, ENTITLED "AN ACT FOR ESTABLISHING COURTS OF JUDICATURE WITHIN THIS PROVINCE."<sup>1</sup>

Whereas it has been found inconvenient for the judges of the Supreme Court of this province to ride the circuit and to try the issues joined in the said court in causes removed from the respective counties of Chester and Bucks on the days and times appointed for that purpose in and by the act of general assembly of this province passed in the eighth year of His Majesty George the First, entitled "An act for establishing courts of judicature within this province,"<sup>1</sup> whereby a practice has been introduced of trying all issues in fact joined in causes which have been removed from the several counties thereof into the said court at the city of Philadelphia, which has often obliged the parties, jurymen and witnesses to attend from the most remote parts of the province at the said city, to their very great and unnecessary expense and aggrievance:

For remedy whereof, we, the representatives of the freemen of the province of Pennsylvania, do pray that it may be enacted:

[Section I.] And 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 New-

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<sup>1</sup> Passed May 22, 1722, Chapter 255.

castle, 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 so much of the said recited act of general assembly as relates to the governor's appointing and commissionating three supreme judges only and to the nomination and appointment of the days and times for riding to and holding the circuit and *nisi prius* courts in the said counties of Chester and Bucks respectively shall be and is hereby declared to be repealed, null and void, and that there shall be four persons of known integrity and ability commissioned by the governor of this province for the time being by several distinct patents or commissions under the great seal of this province to be judges of the Supreme Court, one of whom shall be distinguished in his commission by the name of [the] chief justice, and every of the said judges shall have all the powers, rights, authorities, jurisdictions and privileges as are given to the supreme judges by the above recited act of assembly, and that the said judges of the Supreme Court of this province shall and they are hereby enjoined, if occasion require, to go the circuit twice in every year into the several counties within this province on such days and times as they shall nominate and appoint, when and where they, or any one of them, shall try all such issues in fact as shall be depending in the said Supreme Court and removed out of any of the counties, and generally do, execute and perform all and every such acts, matters and things and exercise, use and put in practice all such powers, authorities, jurisdictions and privileges as are enjoined and required of them or given and granted unto them in and by the said recited act of general assembly.

[Section II.] And be it enacted by the authority aforesaid, That the charges and expenses of the judges and clerk of the Supreme Court, with their servants in their said circuit, shall be paid in manner following: That is to say, all such expenses as shall happen in their circuit through any of the counties where they shall not hold their said court shall be paid by the province, and that all such expenses which shall accrue from the time of their coming into and during their continuance in the county where they shall hold their said court by the treasurer

of the same county out of the county stock; and that they, the said judges and clerk, with their servants, shall pass and repass and shall be conveyed by the ferrymen over all the several ferries within this province without paying any ferriage, fee or reward for the same.

Provided always nevertheless, That if after the publication of this act any plaintiff or defendant in any cause depending in any county court of common pleas shall remove any such cause into the Supreme Court aforesaid, the debt or damages whereof which shall be found due by default, confession, verdict or report of referees shall not amount to the sum of fifty pounds lawful money of this province, every such person so removing such cause if a plaintiff shall not recover any costs of suit, or if a defendant he shall pay double costs, to be awarded by the said Supreme Court.

[Section III.] Provided also, and be it further enacted by the authority aforesaid, That nothing herein contained shall be deemed, construed or understood to prevent the removing any action of debt for rent, replevin, ejectment, trespass or any other plaint or suit wherein the title to lands or any other real estate may come in question.

[Section IV.] And be it enacted by the authority aforesaid, That it shall not be lawful for any person or persons, their heirs, executors or administrators, to appeal from the final sentence or judgment of the said Supreme Court awarded in any action or suit wherein a general verdict shall be given or in any other case, but where there shall be a demurrer to evidence or bill of exceptions or where a writ of error may legally be brought, and that upon prayer or petition made or exhibited to the said court for such appeal after such general verdict or final sentence or judgment thereon the said Supreme Court shall enter a disallowance of such appeal and proceed in the same manner as if none such had been moved or petitioned for, anything in the said recited act of general assembly to the contrary thereof notwithstanding.

And in order to compel the due attendance of jurymen on the said circuit and *nisi prius* courts and all other the courts within this province:

[Section V.] Be it enacted by the authority aforesaid, That if any person shall, after the publication of this act, be duly summoned to attend any court of judicature within this province to serve on a jury or on any inquest required by law and shall neglect or refuse to give his attendance on the day and during the time his service is necessary, every such person so offending shall be fined for every such offense in the Supreme Court and court of oyer and terminer by the judges or justices thereof any sum not exceeding three pounds, and for every such offense in the county court of common pleas or court of quarter sessions of the peace for any county or city in this province by the judges or justices thereof any sum not exceeding forty shillings, unless such delinquent shall at the same or next succeeding court render to the judges or justices thereof a reasonable excuse for such neglect or refusal, to be allowed by such of them as shall be present, which said justices are hereby empowered and required, on failure of such delinquent to render such reasonable excuse, to issue a writ to the sheriff of the county to levy the said fines on the goods and chattels of every such delinquent, to be paid to the overseers of the poor of the city, borough or township where he shall reside to the use of the poor thereof.

Passed May 20, 1767. Referred for consideration by the King in Council, December 17, 1767, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXVI, Section II, and the note to the Act of Assembly passed May 31, 1718, Chapter 236; May 22, 1722, Chapter 255.

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## CHAPTER DLXI.

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AN ACT FOR APPOINTING WARDENS FOR THE PORT OF PHILADELPHIA AND FOR THE BETTER REGULATING PILOTS PLYING IN THE RIVER AND BAY OF DELAWARE AND PRICE OF PILOTAGE TO AND FROM THE SAID PORT.

Whereas frequent and heavy losses have arisen to the merchants and others trading to and from the port of Philadelphia from the ignorance and misconduct of unskilful persons acting