

within this province,"<sup>1</sup> shall be deemed, construed or taken to extend to the public roads, streets, lanes or alleys within the said borough, or to the assessing the inhabitants thereof for the purposes therein mentioned, or to any other matter or thing to be done or performed therein; but the said act, so far as it respects or relates to said borough, and no further is hereby declared to be repealed.

[Section XLVII.] (Section XLVIII, P. L.) And be it also enacted by the authority aforesaid, That if any person or persons be sued or prosecuted for anything done in pursuance of this act he, she or they may plead the general issue and give this act and the special matter in evidence for their justification, and if the plaintiff or prosecutor become non-suit or suffer a discontinuance, or a verdict pass against him, the defendant shall have treble costs, to be recovered as in cases where costs by law are given to defendants.

Passed April 13, 1782. Recorded L. B. No. 1, p. 493, etc.  
See the Acts of Assembly passed September 13, 1785, Chapter 1179; April 19, 1794, Chapter 1756.

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## CHAPTER CMLXX.

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AN ACT FOR METHODIZING THE DEPARTMENT OF ACCOUNTS OF THIS COMMONWEALTH AND FOR THE MORE EFFECTUAL SETTLEMENT OF THE SAME.

(Section I, P. L.) Whereas, the methods heretofore practised for the settlement of the accounts of this state have, by experience, been found not to answer the good purposes intended thereby:

For remedy whereof:

[Section I.] Be it enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That an office shall be instituted in this commonwealth for auditing, liquidating

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<sup>1</sup>Passed March 21, 1772, Chapter 653.

and adjusting all the accounts thereof, and that the same shall be established and kept at the place where the general assembly of the state shall hold their sessions, to be styled "The Comptroller-General's office," and that a person of known integrity, diligence and capacity be appointed to execute and perform the duties of said office, by the name of "The Comptroller-General," who shall be and hereby is authorized and empowered to liquidate and settle, according to law and equity, all claims against the commonwealth, for services performed, moneys advanced or articles furnished, by order of the legislative or executive powers, for the use of the same, or for any other purpose whatever; to inspect and examine all vouchers which shall be produced in support of such accounts or claims, and in all cases of doubt or difficulty to call upon witnesses, examine them on oath or affirmation, touching any charge or account which it may be probable their evidence would tend to elucidate or explain; which oath or affirmation the said comptroller-general is hereby authorized and empowered to administer; to judge of prices and charges in all cases wherein such prices or charges have not been ascertained and fixed by persons duly authorized to ascertain and fix the same, and, generally, to call upon all persons or their representatives who have been or shall be possessed of any moneys, goods or effects belonging to this state, and have not severally accounted for the same, other than and except the collectors of public taxes, and the treasurers of the different counties, and to keep fair, distinct and clear accounts of all the revenues and expenditures of the commonwealth, of every kind and nature whatsoever.

[Section II.] (Section II, P. L.) And be it further enacted by the authority aforesaid, That from and after the first day of May next, all accounts between this state and any officer of the same, and all and every other person or persons (except as before excepted) shall be rendered into the said office in the first instance, where they shall, without delay, be liquidated, adjusted and settled; and upon settlement of any such account, the same shall be transmitted, together with the vouchers thereto belonging, to the president and council, who,

if satisfied with the justice of such settlement, shall, by warrant drawn on the treasurer of the state, direct the payment of any balance which may appear to be due thereupon to the party entitled to receive the same; and the president and council shall, by their secretary, return the same accounts and vouchers into the said office, together with such warrant; and the said comptroller-general shall make an entry in his books of such warrant, and having certified the same on the back thereof, shall forthwith deliver it to the party entitled to receive such balance, and shall carefully file and deposit all such accounts and vouchers in his office; and if upon any settlement a balance shall be found due to the state, the account and vouchers shall be filed in the said office, in like manner as afore-directed; and the said comptroller-general shall forthwith take the most effectual steps for the speedy recovery of the same.

(Section III, P. L.) And whereas, many accounts of long standing are still unsettled, or have not been finally closed, and large sums of money or considerable effects belonging to the commonwealth, remain in the hands of divers persons, and the same will probably be lost, if vigorous measures be not taken to compel such persons to settle their accounts, and discharge the balances which may appear to be due to the state.

[Section III.] (Section IV, P. L.) Be it therefore enacted by the authority aforesaid, That the comptroller-general shall, with all convenient speed, form abstracts or lists of the names and surnames, additions and places of abode of all persons who shall have received moneys, effects or property of this commonwealth into their hands which they have not accounted for, and of the value or amount received by each person, as well as the dates of the several transactions; for which purpose he shall be, and hereby is authorized and empowered to call for all the books and papers, accounts and vouchers, appertaining to or belonging to the state, which shall be in possession of the auditors heretofore appointed, or in the hands of any other person or persons whatever.

[Section IV.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said comptroller-general shall, with all dispatch, direct the prothonotary of the county

wherein the person or persons whose names shall be contained in such abstract be resident, or in which they had their last known abode, to issue process, commanding the sheriff or coroner of the said county to summon such person or persons to appear within three months in the comptroller's office, and there exhibit and settle their accounts, and pay all sums of money belonging to the state, of which they shall, respectively, be found possessed; whereupon such sheriff or other officer shall serve a copy of such summons upon the party or parties aforesaid, at least thirty days before the end of the term last mentioned, and shall make proper return of every such summons within twenty days after such service, to the prothonotary upon oath; and if such person or persons, whose name or names shall be contained in such summons are not found within the county, the sheriff or coroner of the same shall proceed to demand and call, in an audible public manner, upon such person or persons, in open quarter sessions of the peace, to appear as aforesaid and settle his, her or their accounts and pay over to the treasurer of the state all moneys belonging to the state which they severally possess and detain in their hands respectively.

[Section V.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons who shall be summoned or demanded, and called upon as aforesaid, shall refuse or neglect to exhibit their accounts as aforesaid, within three months after the service of such summons, every and all such delinquent or delinquents shall be liable to answer for and pay to the treasurer of the state the amount of the moneys or the full value of all public effects, which shall appear to the comptroller-general to have been received or come to the hands or possession of such person or persons, respectively, without any allowance, deduction or set-off whatsoever.

[Section VI.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That if any auditor or auditors, person or persons aforesaid, having in his or their possession any of the public books, [or papers], accounts or vouchers hereinbefore mentioned, shall refuse or neglect, within ten days after demand made by the said comptroller-general, to deliver

up to him on oath, all and every the books, papers, accounts or vouchers aforesaid, all and every such auditor or auditors, person or persons, so offending against this act, shall be proceeded against by the comptroller, and shall forfeit and pay any sum not exceeding one thousand pounds, to the use of the state, to be recovered on conviction in any court of record within the same.

[Section VII.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That in case any person shall be found to have a balance in his or her hands due to the state and shall, on order from the comptroller-general, refuse or neglect to pay the same as before directed, and in case any person who shall be summoned or demanded and called upon in open quarter sessions of the proper county, shall not exhibit his or her accounts and procure the same to be settled, according to the directions of this act, all and every such person shall be liable to be taken and imprisoned in any county gaol, by warrant under the hand and seal of the prothonotary of said county, or his or her goods and chattels shall be distrained and sold after thirty days from such distraining, by warrant under the hand and seal of said prothonotary, to satisfy such balance or such value or sum certified as aforesaid, together with costs and charges; and if other property cannot be found, the lands and houses of the delinquent may be taken and sold by the sheriff of the county so far as may be necessary for the purposes aforesaid, by virtue of a writ of fieri facias, to be issued by the prothonotary of the county where such real estate lieth, upon a certificate of the debt due to the state from the comptroller being filed with such prothonotary.

[Section VIII.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the money so recovered shall be paid by the sheriff or coroner who shall receive the same into the hands of the treasurer of the state, for the use of the state, within thirty days after such recovery.

[Section IX.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That no account whatever between the commonwealth and any public officer or other person whatsoever, except as before excepted, shall be deemed to be settled

and the party exonerated from settling and supporting the same in the manner required by this act, until the same shall be audited, liquidated and settled in the office of the comptroller-general erected by this act, other than and except all such accounts as have been settled by auditors or commissioners heretofore appointed for the purpose or by the committees of assembly.

[Section X.] (Section XI, P. L.) Provided nevertheless, and be it further enacted by the authority aforesaid, That the said comptroller-general shall be and is hereby authorized and empowered to examine, revise and correct all and every the account or accounts settled by the auditors, commissioners or committees of assembly aforesaid, and shall report all substantial errors or omissions which he may discover to the general assembly of this commonwealth, who shall finally determine thereon, either by directing a re-settlement of such accounts with the said comptroller-general or by confirming the same.

[Section XI.] (Section XII, P. L.) Be it further enacted by the authority aforesaid, That it shall and may be lawful for the said comptroller-general, as often as there shall be occasion, to call before him, by subpoena or summons, and in case of contempt to issue a writ of attachment in order to compel the appearance of any person or persons who the said comptroller-general may reasonably suppose is or are capable of giving evidence or information concerning the said accounts, or any of them; and in case any person or persons on whom such subpoena or summons shall be served, shall refuse to appear, as in such writ shall be expressed and directed, or, having appeared, shall refuse to make a full disclosure of his, her or their knowledge in the matter depending before the said comptroller-general, the said comptroller-general may award an attachment and commit such delinquent or delinquents to the common gaol of the county, there to be holden till such person or persons shall submit to the said comptroller-general and comply with the directions of this act; and all persons who shall be summoned as witnesses by the said comptroller-general, and every sheriff, coroner or other officer to whom he shall direct his precepts or writs, shall be allowed like fees for their attendance

and services as witnesses summoned to appear in the inferior courts of justice and sheriffs, coroners and other officers are entitled to in such courts, such costs, together with further charges accruing, to be levied on the several delinquents by the said comptroller-general, by warrant, in like manner as small debts are recoverable.

[Section XII.] (Section XIII, P. L.) Provided always, and be it further enacted by the authority aforesaid, That if upon any subpoena or summons requiring the attendance of any person or persons before the said comptroller-general as aforesaid, a return be made that such person is not to be found within the proper county, that the said comptroller-general may issue an attachment and proceed thereon as aforesaid, as if such subpoena or summons had been duly served.

[Section XIII.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the secretary of the supreme executive council shall be and he is hereby required and enjoined, once in every month, to enter in the comptroller-general's office all and every marriage and tavern or other license, noting how many of said licenses have been paid for and the sums so paid, and also what number of blank licenses have been granted either for marriages or taverns not paid for and to whom granted, and the said comptroller-general shall cause fair entries to be made of all such sums of money so received by the secretary, and also of all such licenses as have been so granted to the several prothonotaries and others and have not been paid for, and shall open an account against all such prothonotaries or other persons for the amount of such licenses, and the said prothonotaries and others, at least once in three months, shall settle their respective accounts with the comptroller-general, in which the treasurer's receipts and the blank licenses which may at such time be unused and produced to the said comptroller shall be received and accepted by him as the only sufficient vouchers in such settlement.

[Section XIV.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the comptroller-general shall particularly attend to such parts of the accounts already settled, or that may hereafter be settled, as are properly a

charge against the United States and, selecting such parts with great precision, institute an account between the United States and the commonwealth, in forming which he shall regulate himself by the resolution of Congress authorizing such charges, and by the accounts raised against the commonwealth in the books of the department of the treasury of the United States; and where any charge shall appear to him to be of a federal nature, although such charge shall not be expressly acknowledged by Congress, he shall open a separate account for the same, to be finally settled on such principles as may hereafter be established by Congress and agreed to by this commonwealth.

[Section XV.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That the treasurer of this state shall not, from and after the first day of May next, issue or pay any of the public moneys which have come, or shall come, to his hands, without a warrant for so doing, signed by the president or vice-president in council and entered in the comptroller-general's office, such entry to be certified on such warrant by the said comptroller-general, other than and except the moneys appropriated to the use of the United States for the current year, which shall remain subject to the orders of the superintendent of the finances of the United States, and the wages and incidental expenses of the house of assembly, which shall be paid on warrants drawn by the speaker in assembly, any law, custom or usage to the contrary in anywise notwithstanding. Provided always, That such orders or warrants, drawn by the superintendent of the finances or speaker for the purposes aforesaid, be first entered and certified in the comptroller-general's office as before directed.

[Section XVI.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That the books, papers and transactions of the office of the comptroller-general shall be open to the inspection and examination of the committees of accounts, who shall be empowered by the assembly of this state for the time being or executive council; and the said comptroller-general shall be obliged to furnish annually and at all other times a state or abstract of the public accounts,



or any of them, to the legislative and supreme executive powers of the state when he shall be thereunto required by either of them.

[Section XVII.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the salary of the comptroller-general shall be the sum of five hundred pounds per annum, payable in quarterly payments, by warrant drawn on the treasurer for that purpose by the president or vice-president in council.

[Section XVIII.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said comptroller-general shall, before he enters on the duties of said office, give bond, with one or more sufficient sureties, in the sum of five thousand pounds to the president or vice-president in council for the faithful performance of the duties of his office, and shall likewise take and subscribe the following oath or affirmation, to wit: I do swear or affirm that I will faithfully execute the office of comptroller-general for the commonwealth of Pennsylvania, and will do equal right and justice to all men to the best of my judgment and abilities, according to law and equity.

[Section XIX.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the act of assembly of this commonwealth, entitled "An act to compel the settlement of public accounts,"<sup>1</sup> passed on the first day of March, one thousand seven hundred and eighty, and a supplement to the said act,<sup>2</sup> passed on the thirtieth day of May in the same year, as likewise all and every act or acts of the assemblies of this commonwealth heretofore passed, for regulating or settling the accounts of the same, of every kind or nature whatsoever, shall, from and after the passing of this act, be, and the said acts are hereby repealed and declared void.

[Section XX.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That this act shall be publicly read in every court of oyer and terminer and of the quarter sessions of the peace which shall be holden in this state be-

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<sup>1</sup> Passed March 1, 1780, Chapter 882.

<sup>2</sup> Passed May 30, 1780, Chapter 909.

tween the first day of May and the first day of January next, during which all other business shall cease.

[Section XXI.] (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That John Nicholson be and he is hereby appointed comptroller-general for the time being.

Passed April 13, 1782. Recorded L. B. No. 1, p. 508, etc. See the Acts of Assembly passed September 20, 1782, Chapter 988; February 18, 1785, Chapter 1133; April 4, 1785, Chapter 1158; March 24, 1786, Chapter 1218.

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## CHAPTER CMLXXI.

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AN ACT FOR SETTling AND ADJUSTING THE DEPRECIATION OF THE PAY ACCOUNTS OF SUNDRY OFFICERS, NON-COMMISSIONED OFFICERS AND PRIVATES BELONGING TO THE STATE OF PENNSYLVANIA, AGREEABLE TO THE RESOLVES OF THE UNITED STATES IN CONGRESS ASSEMBLED.

(Section I, P. L.) Whereas the United States in Congress assembled, on the tenth day of April, one thousand seven hundred and eighty, did resolve in the words following, to wit: "Resolved, That when Congress shall be furnished with proper documents to liquidate the depreciation of the continental bills of credit, they will, as soon thereafter as the state of the public finances will admit, make good to the line of the army and the independent corps thereof, the deficiency of their original pay, occasioned by such depreciation; and that the money and articles heretofore paid or furnished, or hereafter to be paid or furnished by Congress or the states, or any of them, as for pay, subsistence or to compensate for deficiencies, shall be deemed as advanced on account until such liquidation as aforesaid shall be adjusted, it being the determination of Congress that all the troops serving in the continental army shall be placed on an equal footing: Provided, That no person shall have any benefit of this resolution except such as were engaged during the war or for three years, and are now in service, or shall hereafter engage during the war."