

CHAPTER MMDLXXX.

AN ACT VESTING IN THE SELECT AND COMMON COUNCILS OF THE CITY OF PHILADELPHIA, THE CORPORATION OF THE DISTRICT OF SOUTHWARK, AND THE COMMISSIONERS OF THE INCORPORATED PART OF THE NORTHERN LIBERTIES RESPECTIVELY, ALL AND EVERY THE POWER OF REGULATING THE MARKETS IN SAID CITY AND DISTRICTS AFORESAID HOLDEN ON THE FIRST DAY OF THE WEEK, COMMONLY CALLED SUNDAY.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That it shall be lawful for the select and common councils of the city of Philadelphia, the corporation of the district of Southwark, and the commissioners of the incorporated part of the Northern Liberties respectively, to make, ordain and pass such ordinance or ordinances as they may judge proper, for the better regulation of the markets holden in the said city and districts aforesaid on the first day of the week, commonly called Sunday.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That so much of the act passed the twenty-second day of April, one thousand seven hundred and ninety-four,⁽¹⁾ entitled, "An act for the prevention of vice and immorality, and for other purposes," as relates to the sale of the necessaries of life on the first day of the week, commonly called Sunday, so far as it respects the city and districts aforesaid, be and the same is hereby repealed.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 131.

Note (*). Chapter 1758; 15 Statutes at Large, p. 110.

CHAPTER MMDLXXXI.

AN ACT FOR THE BETTER REGULATION OF THE CITY OF PHILADELPHIA AND DISTRICTS ADJOINING, AND PRESERVING THE NAVIGATION OF THE RIVER SCHUYLKILL.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-

sylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the court of quarter sessions of the county of Philadelphia, on being petitioned to grant a view of or for opening any street, lane, or alley, within the city of Philadelphia, shall have power, and by virtue of this act are directed and required, as often as they judge it useful, in open court, to order and appoint twelve discreet and disinterested freeholders, neither of whom shall reside or own real estate in the city aforesaid, who, being first sworn or affirmed, shall, together with the commissioners of the county for the time being, or a majority of them, view the ground proposed for opening such street, lane or alley, and if they, or any ten of them view the said ground, and any seven of the actual viewers, exclusive of the county commissioners, agree that there is occasion for such street, lane or alley to be opened, they shall proceed to lay out the same, as agreeably to the desire of the petitioners as may be, in such manner as to do the least injury to private property, and shall make report thereof, stating particularly, whether they judge the same necessary, together with a plot or draft thereof, to the next court of quarter sessions; and if then and there the court aforesaid shall approve of the same, it shall, at the next court thereafter, be entered on record, and thenceforth shall be taken, deemed and allowed to be a public street, lane or alley, compensation being first made to the owner of the ground or other property, as hereinafter directed: Provided, that no street, lane or alley, so opened, shall, in any case exceed, fifty feet in breadth.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That on the return of the viewers reporting in favor of opening any street, lane or alley, as aforesaid, and the same being approved of by the court, at their next session thereafter to which the report is returned, the court shall appoint twelve discreet and disinterested freeholders, neither of whom shall reside or own real estate within the city aforesaid, who, being first sworn or affirmed, shall enquire what damages the owner or owners of lands,

house, houses, or other property shall or may sustain by reason of the same being taken, used and appropriated for the purpose aforesaid: Provided always, that it shall be the duty of the said freeholders in assessing damages, to consider the advantages which may accrue to the owner or owners of such lands, house, houses or other property, by reason of opening such street, lane or alley.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That upon the return of valuation and assessment of damages, as aforesaid, for ground or other property taken and appropriated for public streets, lanes or alleys, within the city aforesaid, and the court of quarter sessions of the county of Philadelphia having approved the same, the amount of damages awarded, as aforesaid, shall be paid by the treasurer of the said county, and so soon as the said damages are paid, the mayor of the said city shall cause such street or other passage to be opened, agreeably to the direction of the court: Provided always, that unless the same shall be paid within one year next after the return made by the viewers, all such proceedings as aforesaid shall be void and of no effect whatever.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That all streets, alleys, courts and lanes which have been heretofore laid out, opened and appropriated to public use by private persons within the city of Philadelphia, and all those streets, courts and other passages which shall be laid out and opened by order of the inspectors of the jail, on any of the city lots granted by the commonwealth, by an act, entitled, "An act to direct the sale of certain unimproved lots, the property of this commonwealth, in the city of Philadelphia, and to appropriate the proceeds thereof towards the erection of a building for the purpose of more completely carrying into effect the penal laws of this state,"⁽¹⁾ and also all those streets, alleys, courts and lanes which shall hereafter be laid out, opened and appropriated to public use by private persons, provided, the same be not less than twenty feet wide, shall, to all intents and purposes, be held, deemed,

taken and be highways, as fully and completely, according to their extent, as any highways laid out by order of the court of quarter sessions of any county within this commonwealth.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the select and common councils of the said city shall be authorized to make all ordinances which they shall judge useful or necessary for the forming, laying with broken stone, or gravelling any of the streets, alleys, courts or lanes within the said city, which shall at any time by them be judged improper to order to be paved, and whenever the cart way of any such street, court or other passage shall be regulated, shaped and formed, or when so formed and laid with gravel or other hard substances, in either of those cases the owners of the several lots which are bounded upon or adjoining any such street, court, or other passage shall be obliged to form or shape, or lay with hard substances or gravel, the respective footways opposite to their several lots, in such manner, at such time and under such penalties as shall be directed by the said ordinances.

Section VI. (Section VI, P. L.) And whereas the charter granted to the citizens of Philadelphia, by William Penn, (proprietor of Pennsylvania) on the twenty-fifth day of October, one thousand seven hundred and one, doth not grant to the citizens the same right to occupy and use the ends of the streets which extend to the river Schuylkill which was granted on the river Delaware, and as such a public benefit will now be highly useful to the inhabitants of the said city and to other citizens of this commonwealth, Therefore, be it enacted by the authority aforesaid, that the corporation of the said city shall be invested with all and singular the powers and authorities, jurisdictions, rights and immunities in, to and over the ends of each and every public street or alley which extends to or into the river Schuylkill, as fully to all intents and purposes, and to the like uses, as by the said charter, or any law of this commonwealth, is or are granted to the former or present corporation of the said city, respecting the east ends of the several streets which extend to or

into the river Delaware, that part of the west end of High-street, belonging to the bridge company only excepted.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the wardens of the port of Philadelphia, shall be authorized and empowered to fix and determine the extent or distance which any person or persons, or body or bodies, politic or corporate, who are the owner or owners of lots of ground extending to the said river Schuylkill, on either of its shores, from the lower falls thereof to its junction with the river Delaware, may build wharves therein.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That if any owner or owners of any lot or lots of ground extending into the river Schuylkill, from the lower falls thereof to its junction with the river Delaware, shall build any wharf, house, store or other building further into the said river than to common low water mark, without license first had and obtained from the said wardens, or further into the said river than may be permitted by such license, he, she or they being legally convicted of the same shall pay a fine of one thousand dollars, to be recovered with costs as debts of the same amount are or may be by law recoverable, one-half of which fine shall be paid to the guardians or overseers of the poor of the city, district or township where such wharf or building shall be erected, and the other half to the person or persons who shall sue for and recover the same.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall erect or make any fence beyond the common low water mark into the said river, without license first had and obtained from the said wardens, he, she or they being legally convicted of the same, shall, for every such offense, forfeit and pay a fine not exceeding twenty dollars; to be recovered with costs as debts of the same amount are or may be by law recoverable; one-half of which fine shall be paid to the overseers or guardians

of the poor of the city, district or township as aforesaid, and the other half to the person or persons who shall sue for and recover the same.

Approved March 25, 1805. Recorded in L. B. No. 10, p. 132.

Note ('). Chapter 2388. Supra, this volume, p. 469.

CHAPTER MMDLXXXII.

AN ACT EXPLANATORY OF THE ACT, ENTITLED, "AN ACT TO REGULATE THE PAYMENT OF COSTS ON INDICTMENTS." (').

Whereas the act entitled, "An act to regulate the payment of costs or indictments,"⁽¹⁾ has been construed by some courts of justice, to be of force, and by others not of force: Therefore, in order to prevent any mischief which might arise from such difference of construction,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the act, entitled, "An act to regulate the payment of costs on indictments" shall be considered in full force and operation, and the proceedings and adjudications had by any court of justice, agreeably to the provisions of the said act, are declared to be lawful and valid.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That in all cases where two or more persons have committed an indictable offense, the names of all concerned (if a prosecution shall be commenced) shall be contained in one bill of indictment, for which not more costs shall be allowed than if the name of one person only was contained therein.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the prosecutor, witness or witnesses marked on any bill of indictment which may be