

Passed May 18, 1756. Referred for consideration by the King in Council, November 19, 1756, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXI, Section IV, Paragraphs 7 and 8, and note to the Act of Assembly passed April 5, 1755, Chapter 400, and the Act of Assembly passed September 7, 1778, Chapter 809.

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CHAPTER CCCCXI.

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AN ACT FOR REGULATING AND CONTINUING THE NIGHTLY WATCH AND ENLIGHTENING THE STREETS, LANES AND ALLEYS OF THE CITY OF PHILADELPHIA AND FOR RAISING OF MONEY ON THE INHABITANTS AND ESTATES OF THE SAID CITY FOR DEFRAYING THE NECESSARY EXPENSES THEREOF.

Whereas the well-ordering and regulating the watch and enlightening the streets, lanes and alleys in the nighttime within the city of Philadelphia have been found of great importance for the preservation of the persons and properties of the inhabitants and very necessary to prevent fires, murders, burglaries, robberies and other outrages and disorders. And whereas an act passed in the twenty-fourth year of the present reign for the purposes aforesaid, entitled "An act for the better regulating the nightly watch within the city of Philadelphia and for enlightening the streets, lanes and alleys of the said city and for raising of money on the inhabitants of the said city for defraying the necessary expenses thereof,"<sup>1</sup> is nearly expired by its own limitation; and the inhabitants of the said city, being desirous that the nightly watch within the city of Philadelphia aforesaid and the enlightening the streets, lanes and alleys thereof may be continued, under such regulations and alterations as on experience have been found necessary and expedient;

Therefore for effecting of these good purposes, and to the end that a due application and just account may be had and taken of the money which shall hereafter be levied and collected by virtue of this act for the purposes aforesaid:

[Section I.] Be it enacted by the Honorable William Denny,

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<sup>1</sup> Passed February 9, 1750-51, Chapter 389.

Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and the 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 Henry Harrison, Samuel Rhodes, George Okill, Joseph Morris, Daniel Roberdeau and William Fisher, gentlemen, who are hereby styled wardens, or the greater number of them, as soon as conveniently they can after the publication of this act, and having qualified themselves as is hereinafter-directed, to meet together at the court-house of the said city, and for those who in pursuance of this act shall succeed them in the said trust in like manner to meet together annually on the tenth day of October, and then and there or at such other times and places as they the said wardens shall appoint, to maintain, preserve and take care of the lamps already erected, put up and fixed, and to erect, put up and fix any additional number of lamps in such parts and places of the said city as to them shall seem meet and expedient, and to contract with any person or persons for the lighting, trimming, snuffing, supplying, maintaining and repairing them; and shall likewise order, appoint, hire and employ what number of watchmen they shall judge necessary and proper, from the time of their first meeting together as aforesaid after the publication of this act until the tenth day of October next, and from and after that day annually for one whole year, and shall then and there direct and order what wages shall be given them; and if any of the said watchmen so by them hired and appointed shall happen to die within the time for which they were appointed, or shall be negligent in his or their duty or be guilty of any misbehavior, it shall and may be lawful for the wardens aforesaid or a majority of them at any intermediate time of the year to remove any of the said watchmen so appointed, and to employ, hire and appoint one or more person or persons fitly qualified in the room and stead of him or them so dying, neglecting his duty or misbehaving as aforesaid.

[Section II.] And be it further enacted by the authority

aforesaid, That the mayor, recorder and four aldermen of the said city, together with the wardens now or hereafter to be appointed or elected by virtue of this act or a majority of the whole, shall, as soon as conveniently they can, direct and set down in writing at what stands it is fit for the said watchmen to be placed, how often they shall go their rounds, and also appoint the rounds each watchman is to go; and order what number of the constables of the said city shall watch each night; and shall from time to time make such further and other orders and regulations for the better government of the said constables and watchmen as the nature of each particular service shall seem to them to require.

[Section III.] And be it further enacted by the authority aforesaid, That a true copy or transcript of all orders, regulations, nominations and appointments which shall from time to time be so made as aforesaid for the better direction and government of the constables and watchmen shall be fairly written or printed and signed by the mayor or recorder or any two aldermen of the said city and any four of the wardens aforesaid or of those who in pursuance of this act shall succeed them in the trust aforesaid, and shall be delivered to all and every of the constables of the said city, and also a true copy of such parts thereof as shall relate to the conduct and government of the watchmen so to be hired shall be delivered to each of them.

[Section IV.] And be it further enacted by the authority aforesaid, That one or more of the said constables, as by the orders and regulations to be made as aforesaid shall be judged necessary, shall attend at the court-house of the said city or at such other convenient place as the mayor, recorder and four of the aldermen aforesaid and the wardens aforesaid or a majority of the whole shall appoint, and shall keep watch and ward in manner following: (That is to say) from the tenth day of the month called March to the tenth day of September in every year, from the hours of ten in the evening until four the next morning; and from the tenth day of September to the tenth day of the month called March in every year, from nine in the evening until six in the morning. And the constables shall, in their several turns and courses of watching, use their best endeavors to pre-

vent fires, murders, burglaries, robberies and other outrages and disorders within the said city, and to that end shall and they are hereby empowered and required to arrest and apprehend all night-walkers, malefactors and suspected persons who shall be found wandering and misbehaving themselves, and shall carry the person or persons who shall be so apprehended as soon as conveniently they may before one or more of the justices of the peace of and for the said city, to be examined and dealt with according to law; and shall once or oftener at convenient times in every night go about the several wards of the said city and take notice whether the watchmen perform their duties in their several stations according to such orders and regulations as shall have been made for that purpose as aforesaid; and in case any such watchman shall misbehave himself or neglect his duty, the said constables or one of them shall, as soon as conveniently may be, give notice thereof to some of the wardens aforesaid appointed by or to be hereafter appointed or elected according to this act, to the end the watchmen so neglecting or misbehaving may be admonished or discharged from the service as aforesaid. And the said constables shall also observe, execute and perform all such orders and regulations as shall from time to time be made upon and concerning the matters aforesaid by virtue of this act so far as to the constable pertaineth; and the said constable for every night's watching as aforesaid shall be paid by the treasurer, to be appointed as hereinafter-mentioned, at the rate of three shillings per night.

[Section V.] And be it further enacted by the authority aforesaid, That if any of the said constables shall willfully neglect to attend any night in his or their turns to keep watch and ward as aforesaid at the respective hours appointed by this act for his attendance thereon, or shall depart from or leave keeping watch and ward during the respective hours appointed by this act for keeping the same, or shall neglect to go about the several wards of the said city once at the least in every night of his or their watching for the purposes mentioned in this act or shall otherwise misbehave himself or themselves or be negligent in the duty prescribed them by this act or which shall be prescribed to them by any rules, orders or regulations to be made by the

mayor, recorder, aldermen and wardens as aforesaid by virtue of this act, in each and every of the said cases the person or persons so offending shall respectively forfeit the sum of twenty shillings for every such offense.

[Section VI.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said watchmen or any of them in the absence of the constables, and they are also hereby empowered and required, in their several stations, during the time of their keeping watch and ward as aforesaid, to apprehend all night-walkers, malefactors, rogues, vagabonds and disorderly persons whom they shall find disturbing the public peace or shall have just cause to suspect of any evil design, and to carry the person or persons so apprehended as soon as conveniently may be before one or more of the justices of the peace of the said city, to be examined and dealt with according to law. And the watchmen so to be appointed as aforesaid shall be at their respective stands, to be appointed as aforesaid, and keep watch and ward at the hours and during the time hereinbefore-mentioned; and shall observe, perform and execute all such matters and things as by the rules, orders and regulations of the mayor, recorder, aldermen and wardens aforesaid shall be from time to time enjoined them upon and concerning the matters aforesaid, according to the directions of this act; and in case of any fire breaking out or other great necessity shall immediately alarm each other and the inhabitants in their respective rounds, which when done they shall repair to their respective stands, the better to discover any other fire that may happen as well as to prevent any burglaries, robberies, outrages and disorders, and to apprehend any suspected persons who in such times of confusion may be feloniously carrying off the goods and effects of others.

And forasmuch as it is intended that six wardens shall be continued to assist in the execution of this act, and that the two eldest, or first named, shall be successively changed by yearly elections within the city:

[Section VII.] Be it therefore further enacted by the authority aforesaid, That the freeholders and inhabitants of the said city qualified to elect and be elected members of assembly, at the time and place of their electing burgesses (or representatives of

the freemen of the said city to serve in the assembly aforesaid) shall then and there yearly during the continuance of this act, in a peaceable and quiet manner, make choice of two persons for wardens, to join with four of the wardens hereinbefore-appointed, to execute and perform the services enjoined them by this act, which elections shall be carried on in manner following: (That is to say) all persons who by virtue of the laws of this province have right to vote in such elections, at the same time they deliver in their tickets for the choice of burgesses shall also deliver in writing in one other piece of paper to the judges of those elections the names of two persons for whom they vote as wardens. And when all the electors appearing shall have delivered in their papers or tickets, the sheriff and judges of those elections shall proceed in taking an account thereof and publishing the persons duly elected to the service aforesaid in like manner as by law is directed in the cases of elections of representatives to serve in the general assembly aforesaid, which wardens so from time to time to be chosen shall be the wardens to join with others hereinbefore named to execute this act, so always that the wardens hereinbefore-appointed shall be successively changed as is herein-directed: (That is to say) the two wardens in this act first named to go out at the end of the \* \* year, namely, on the first day of October next, and the two wardens next after named to go out at the end of the second year, and the other two wardens last named to go out at the end of the third year. And when the said wardens shall from time to time be chosen, the sheriff of the city of Philadelphia or other judges of the said elections then and so often shall take their names in writing under the hands and seals of at least six or more of the said freeholders and certify the same to the mayor, recorder and aldermen of the said city for the time being at their general sessions of the peace held for the said city next after any such election, there to be minuted by the clerk of the said court in the minute book of the said court.

And in regard it is intended that the wardens appointed by virtue of this act, together with the city assessors, shall execute the powers and authorities hereinafter given and required of

them by this act; and forasmuch as the act passed in the tenth year of Queen Anne, entitled "An act for raising money on the inhabitants of the city of Philadelphia for the public use and benefit thereof,"<sup>1</sup> by which the city assessors are directed to be chosen, has made no provision for the qualification of the said assessors to the faithful discharge of their several services and duties as ought to have been done and as the assessors for the respective counties are enjoined to do:

[Section VIII.] It is therefore enacted, That before any of the wardens herein nominated or hereafter to be chosen by virtue of this act shall take upon themselves the services and duties by this act required, they and each of them shall take a legal qualification of the tenor and effect following: (That is to say) that they will well and truly cause the debts arising by virtue of this act to be speedily adjusted and the several sums of money hereby imposed to be duly collected and applied to the purposes by this act intended and to no other purpose whatsoever, and that they will diligently attend and faithfully discharge the duties and services enjoined them by this act during the term of their continuance therein according to the best of their skill and abilities. And before any of the said assessors hereafter to be chosen by virtue of the aforesaid act of the tenth of Queen Anne shall take upon themselves their several duties enjoined by virtue of this or of the aforesaid act, entitled "An act for raising money on the inhabitants of the city of Philadelphia, &c.," they and each of them shall take a legal qualification of the following effect: (That is to say) That they will well and truly cause the rates and sums of money by this act and by the aforesaid city act imposed to be duly and equally assessed and laid out to the best of their skill and knowledge, and therein will spare no person for favor or affection nor grieve any for hatred or ill-will; and that they and each of them the said assessors will diligently attend and faithfully execute the said office during the term of their continuance therein according to the best of their abilities and judgment; which qualifications the mayor or recorder, or any two of the aldermen of the said city have power and are hereby enjoined to administer when re-

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<sup>1</sup> Passed June 7, 1712, Chapter 185.

quired. And the said qualifications shall be put in writing and signed by those who take them, and certified by the mayor or recorder or aldermen aforesaid, and filed by the clerk of the sessions aforesaid.

And for the better raising and levying of money for paying the wages of the watchmen hereinbefore-mentioned and other charges incident to the keeping a good and regular watch and for the enlightening the streets, lanes and alleys as aforesaid, and for keeping the lamps in good order:

[Section IX.] Be it enacted by the authority aforesaid, That it shall and may be lawful to and for the wardens in this act named, together with the city assessors for the time being or a majority of them, to meet as soon as they conveniently can after the publication of this act, and for those who shall succeed them in the said trust as by this act is directed or any four of them, together with the city assessors for the time being or a majority of them, to meet on the tenth day of October yearly and every year unless the same shall happen on the first day of the week, and then on the day following, at the court-house of the said city or some other convenient place, and then and there to estimate, determine and judge what sum and sums of money shall be necessary to be raised and levied on the inhabitants of the said city for answering the purposes intended by this act.

[Section X.] And be it further enacted by the authority aforesaid, That the said wardens and those who shall succeed them in the said trust or any four of them shall, within six days after such estimate is made, issue forth their precepts, directed to the constables of the said city, requiring them to bring to the said wardens and assessors within five days next after the date of such precept fair and true certificates in writing upon their legal qualifications of the names and surnames of all and every the persons dwelling or residing within the limits of their wards, and the names of all freemen, inmates, hired servants and all other persons residing or sojourning in every of the said wards; together with an account of what houses, lands, tenements, rent charges, bound servants and negroes, with their ages, they respectively hold or possess in such ward, without concealment, fear, malice, favor or affection, upon pain of for-



feiture of any sum not exceeding five pounds, to be levied as by this act is appointed. And every of the said constables shall have and receive from the treasurer hereafter to be appointed two pence per pound out of the sums to be collected from the inhabitants by them returned for their care and trouble in executing and returning the said precepts in manner aforesaid. And that the said wardens and assessors or a majority of them shall meet at the day and place where the said precepts shall be made returnable and then and there receive the constables' returns. And that the said assessors shall thereupon, by the legal qualifications of the said constables or other credible persons or by any other lawful ways or means, inform themselves what persons and estates in the said city are ratable by virtue of this act, and shall forthwith equally and impartially assess themselves and all other ratable as aforesaid, having a due regard to such as are poor and have a charge of children, and exempting out of such assessments all single men who at the time of assessment are under twenty-one years of age or have not been out of their servitude or apprenticeship twelve months. And all transient persons and strangers who shall have large quantities of goods and merchandise for sale in the said city shall for such goods and merchandise be rated in proportion to the said inhabitants. And the said assessors for their time and labor in the premises shall be allowed two pence per pound for the whole sums assessed after the assessment is rectified and adjusted by the wardens according to the directions of this act, to be paid by the treasurer hereinafter-appointed and to be equally divided amongst them, which said poundage shall be to the assessors for the time being in full satisfaction for all services and attendances required of them by this act.

Provided always, That no such assessment or assessments to be made by virtue of this act in any one year shall exceed the value of four pence in the pound, and that no person shall be chargeable within the intent and meaning of this act unless he be assessed at eight pounds or upwards.

And whereas several evil-disposed persons have broken and may willfully and maliciously break and destroy the lamps hung out in the streets, lanes and alleys of the said city:

Now, to prevent the like malicious practices for the future:

[Section XI.] Be it enacted by the authority aforesaid, That if any person or persons shall and do, from and after the publication of this act, willfully or maliciously break, throw down or extinguish any lamp that is or shall be hung out or set up to light the said streets, lanes or alleys, or shall willfully damage the post, iron or other furniture thereof, every person so offending therein, and being thereof convicted by the lawful testimony of one or more witness or witnesses before any one or more justice or justices of the peace for the said city, shall forfeit and pay the sum of forty shillings for each lamp so broken, thrown down, extinguished or otherwise damaged; or for each post, iron or other furniture thereof so broken or damaged. And if any person or persons shall accidentally or undesignedly break, throw down or extinguish any of the lamps aforesaid, or damage any of the said posts, irons or sentry-boxes, and having so done shall fail of giving notice thereof to some one or more of the said wardens within twelve hours from the time of the said damage, every person so failing to give notice shall be liable to the same fine and forfeiture as if the offense was willful or malicious, but if timely notice be by him given as aforesaid he shall only pay such costs as in the judgment of the wardens aforesaid will fully repair the damage done, anything herein contained to the contrary notwithstanding.

[Section XII.] And be it further enacted by the authority aforesaid, That the said wardens and assessors, the better to enable them to discharge the duties enjoined them by this act, shall choose and employ a fit and able person for their clerk, who shall, in books to be provided for that purpose by the wardens, make such entries and keep such accounts as he shall be directed to do by the wardens and assessors or a majority of them from time to time, and shall also make such entries and keep such accounts as he shall be required to do by the wardens or a majority of them of all such matters and things enjoined them by this act and also to do and perform all other duties by him to be done in pursuance of this act, for which he shall be allowed such a reasonable reward as the said wardens or any

four of them shall appoint, which shall, by an order from the said wardens or any four of them, be paid him by the treasurer.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said assessors shall, after the assessments made as aforesaid, appoint one or more fit person or persons to be collector or collectors of the said assessments from time to time, and shall cause fair duplicates of the assessments to be drawn; one part thereof shall be by the clerk delivered to the wardens and the other part to the collector or collectors, with directions under the hands of four or more of the wardens to every such collector, indorsed on his duplicate or annexed thereunto, requiring him or them to demand of the parties the respective sums of money wherewith they are chargeable and acquaint them of the day of appeal, which shall be appointed by the said wardens within twenty days after the assessments are made. But where any of the said collectors cannot meet the party of whom demand is to be made as aforesaid, he or they shall leave notice in writing with some of the family or at the place of the party's last abode, signifying also the day of appeal, at which day the said collector or collectors shall return their duplicates with the names of such persons and values of such estates as shall be concealed, undervalued or omitted in the constables' returns, and if any person or persons shall find him, her or themselves aggrieved with any of the said assessments, supposing the same to be unequal, he, she or they may appeal to the wardens aforesaid. And the said wardens are hereby required to meet on the said day of appeal, where the assessors shall attend and lay before the wardens all the written certificates of the names of the taxables and the account of their estates returned by the constables as this act requires, together with the particular valuation so set by the said assessors upon the persons and estates so returned; whereupon the wardens shall take due notice thereof and strictly examine the persons appealing upon their legal qualification concerning the cause of their appeal, and upon such examination or other proof they are hereby empowered to diminish or add to such persons' rate or assessment as to them shall seem just and reasonable, with power also to call before them such persons and take notice of such estates as they find are omitted in the said assessment in

order to rectify it; and if the persons so omitted refuse or neglect to appear and give an account of the value of their estates, they shall be rated and assessed according to their estates by the judgment of the said wardens or a majority of them. And the said wardens upon hearing of the said appeals shall rectify and adjust the said assessments by abating or adding to the sums contained in the duplicates, and shall also cause their collector to give the parties concerned, where omissions are supplied or additions made to their assessments, five days' notice to appear before the wardens and make their objections thereunto; and the clerk shall, within five days next after the day of appeal, deliver to the treasurer hereinafter-directed to be appointed a true account of the sums total which the collector or collectors aforesaid shall be charged with pursuant to the act. And the said wardens shall cause their clerk to draw fair duplicates of the assessments so rectified as aforesaid and deliver them to the collector or collectors to be appointed as aforesaid within five days after the said day of appeal, with a warrant annexed thereunto under the hands and seals of four or more of the said wardens, requiring him or them forthwith to collect and receive from the persons assessed the several sums in the duplicates mentioned. And in case any person or persons so rated or assessed by virtue of this act shall neglect or refuse to pay the sum or sums so assessed by the space of thirty days after demand made as aforesaid, it shall be lawful for the said collector or collectors, by virtue of a special warrant for that purpose signed and sealed by any four or more of the said wardens, who shall forthwith grant the same, and shall thereby empower the said collector or collectors to call to their assistance if occasion be, any constable or other person, and in case of resistance to break open in the daytime any house, trunk, box, chest, closet, cupboard or other things where any such offender's goods, chattels or effects are supposed to be and make distress and sale thereof, rendering the overplus, if any be, to the owners after reasonable charges deducted. But if no distress can be found by the collector or collectors, and the party refuses or neglects to show them goods or chattels of his own forthwith to satisfy the money then due with reasonable charges, then the

said assessments to be levied by imprisonment of the person so refusing or neglecting to pay as aforesaid until the same shall be paid, or on the goods and chattels of any of his tenants if such there be, and the delinquent shall be obliged to discount it out of the first rent that shall afterwards accrue from the premises.

Provided always, That where effects cannot be found sufficient to answer the whole sum in arrear with charges as aforesaid, then distress shall be made for so much as the effects extend to, and the party be imprisoned as aforesaid only for the residue thereof with incident charges, all which charges of distress, assistance and bringing to prison shall be adjusted and settled by any four or more of the said wardens when such occasion shall happen.

[Section XIV.] And be it further enacted by the authority aforesaid, That the said collector or collectors shall once in six weeks at least render a just and true account of, and bring in and pay unto the treasurer hereinafter-directed to be appointed, all such sums of money as he or they shall have received, and shall pay the whole and every of the sums of money assessed in his or their respective duplicates within three months next after the day of appeal (such deficiencies as the said wardens or any four of them shall allow being first deducted). And the treasurer shall give receipts to the collectors for what they shall so bring in and pay from time to time, which receipts shall be the collectors' discharges for so much. And the said treasurer shall from time to time signify in writing to the said wardens how much every collector brings in and pays as aforesaid. And when the said collectors or any of them are negligent or refuse to do their duty in the premises, the treasurer is hereby required forthwith to signify the same by way of complaint to the wardens aforesaid.

[Section XV.] And be it further enacted by the authority aforesaid, That if, upon complaint of the treasurer to the wardens, it shall appear that the said collector or collectors, having taken upon him or themselves the duties enjoined him or them by this act, shall refuse or neglect to pay the said sums of money which he or they shall be respectively charged to collect within

the times limited by this act, every such collector so refusing or neglecting shall forfeit and pay to the treasurer the sum of five pounds, and shall also pay all the arrearages of such assessment which he was appointed to collect, to be levied by a warrant under the hands and seals of the said wardens or any four of them directed to the sheriff of the city and county of Philadelphia, who is hereby authorized and empowered to execute such warrant upon the goods and chattels of such collector or collectors, and in case goods and chattels sufficient cannot be found, then to imprison such collector or collectors until payment made. And every collector so distrained on and having made full satisfaction as aforesaid is hereby empowered without any further warrant to distrain for his own use upon all such as shall neglect or refuse to pay him the arrearages due.

And the said collector or collectors shall for his or their trouble and service by this act required and enjoined retain in his or their hands six pence per pound for all sums of money by him or them respectively collected. And if the said collector or collectors shall refuse or neglect to take upon him or themselves the trust and duty required of him or them, he or they shall forfeit and pay to the treasurer hereinafter-appointed the sum of five pounds. And the said assessors shall appoint some other fit person or persons in place or stead of the collector or collectors so refusing or neglecting as aforesaid.

[Section XVI.] And be it further enacted by the authority aforesaid, That if any of the said wardens appointed by this act or those who shall be chosen to succeed them in the said trust shall refuse or neglect to take upon him or themselves the services and duties hereby required of him or them, he or they so refusing or neglecting shall pay to the treasurer aforesaid ten pounds. Or if any of the said wardens shall happen to die during the time for which they are chosen, the other wardens and assessors for the time being or a majority of them shall in every such case appoint one or more fit person or persons in place and stead of the warden or wardens so refusing or dying.

And the said wardens for the services required and enjoined them by this act shall be paid by the treasurer five shillings each for every day's attendance on that particular service,

which shall be to the wardens for the time being in full satisfaction for all the attendance and services required of them by this act.

[Section XVII.] And be it further enacted by the authority aforesaid, That the said wardens and assessors for the time being or the major part of them are hereby empowered and required as often as there may be occasion during the continuance of this act to choose a treasurer, which treasurer when so chosen is hereby empowered and required to receive all the money arising as well from the said assessments as also the fines and forfeitures imposed by virtue of this act. And the said treasurer shall keep a distinct and fair account in a book to be provided by him for that purpose of all the rates and assessments made or to be made as aforesaid, and also of all moneys by him so received, and also of all disbursements and payments he shall make by orders from the wardens or any four of them, whose order to the said treasurer from time to time shall be sufficient for the payment of such moneys as shall come into his hands.

[Section XVIII.] And be it further enacted by the authority aforesaid, That the said treasurer for the time being before he enters upon the execution of his office is hereby required to give a bond with one or more sufficient sureties to the wardens aforesaid in the penalty of five hundred pounds, lawful money of this province, with condition for the payment of all such moneys which shall come to his hand by virtue of this act, according to the orders to him to be given as aforesaid from time to time and not otherwise, and for the due performance of his duty in the trust hereby committed to him. And the said treasurer shall yearly bring in his accounts and settle the same with the wardens and assessors aforesaid or a majority of them, which said accounts so settled and adjusted shall be laid before the mayor, recorder, alderman and grand jury of the said city at the general quarter-sessions of the peace to be held for the said city in the month of October yearly, together with the books, receipts and vouchers if required; which said accounts, books, receipts and vouchers, being examined by the mayor, recorder, aldermen and grand jury aforesaid, shall be delivered back safely without alteration

to the said treasurer, and a true copy of the said accounts to be made out by the treasurer and delivered to the court shall be filed and kept among the records of the said court. And the said treasurer shall be allowed for his trouble in keeping such accounts and receiving and paying all such money as shall come into his hands by virtue of this act at the rate of six pence in the pound.

[Section XIX.] And be it further enacted by the authority aforesaid, That if the said treasurer shall refuse or neglect to do his duty as by this act is required, he shall be removed from his said office by any four or more of the said wardens, and in case of such removal, or if the said treasurer shall happen to die, the wardens and assessors or the major part of them shall appoint another in his place, who shall give security as hereinbefore-directed. And the treasurer so removed or the executors or administrators of the said treasurer so dying shall deliver to the succeeding treasurer all books, public accounts and papers belonging to the said office, whole and entire and undamaged and shall likewise pay to the said succeeding treasurer all such sum and sums of money as he may have received or have been paid to him in pursuance of this act under the penalty of one hundred pounds, to be recovered in the manner and to the uses hereinafter-mentioned.

And whereas the having a sufficient number of pumps situated in the streets, lanes and alleys and keeping them in due order and repair may be of great use and service in extinguishing fires which may happen within the city:

[Section XX.] Be it further enacted by the authority aforesaid, That the wardens hereinbefore-appointed or hereafter to be chosen by virtue of this act are hereby authorized and empowered, with the consent of the mayor, recorder and any two of the magistrates of the city, to dig such an additional number of wells and therein fix pumps in such convenient places as to them shall appear necessary within the streets, lanes or alleys of the city. And the said wardens or any four of them are hereby further authorized and empowered to agree with the owner or owners for such pump or pumps as are already fixed in the streets, lanes or alleys within the said city, and after



such agreement made with respective owner or owners thereof such pump or pumps shall forever after become the property of and belong to the public, to be maintained and kept in repair at the public charge.

And whereas many of the pumps within the streets of the said city have been greatly neglected and suffered to lie long out of repair by their respective owners:

[Section XXI.] Be it further enacted by the authority aforesaid, That the said wardens shall and they are hereby authorized and enjoined to inquire into the condition and take care of the repair of the said several pumps within the streets, lanes or alleys of the said city; and if after due inquiry any of the said pumps shall be found on the evidence of two or more witnesses to have been out of repair by the space of three months next after notice thereof given by one or more of the [said] wardens to the owner or owners of the said pumps then and in such case every such pump or pumps shall forever after become and be the property of the public, to be maintained at the public charge. And every such owner or owners of such pump or pumps within the said city as shall duly maintain and keep them in good order and repair to the satisfaction of the wardens or a majority of them, shall be allowed the sum of six shillings yearly, to be paid them the said owners out of the moneys arising by virtue of this act. And if any person or persons shall and do after the publication of this act willfully or maliciously break and carry away the handles of any of the pumps within the said city or otherwise injure or damage the same, every person so offending and being thereof convicted by the lawful testimony of one or more witnesses before one or more justice or justices of the peace for the said city shall for the first offense forfeit and pay the sum of five pounds for each pump so broken or damaged and for the second and every other offense ten pounds.

[Section XXII.] And be it further enacted by the authority aforesaid, That all the penalties, fines and forfeitures to become due and payable by this act the manner of levying and recovering of which is not before-directed, if they do not exceed the sum of five pounds, shall be recovered before one of the justices of the peace of and for the said city, and shall be levied by war-

rant under the hand and seal of such justice or of any other justice of the peace of and for the same city to any constable of the said city directed, who is hereby empowered and required to execute the same by distress and sale of the goods and chattels of the offender; and where goods and chattels sufficient cannot be found, then the party or parties offending shall be committed to the common gaol of the said city, there to remain until payment made. And if such penalties, fines or forfeitures do exceed the sum of five pounds, then to be recovered by action of debt, bill or plaint in any county court within this province, wherein no essoin, protection or wager of law to be allowed. All which recoveries shall be had in the name of and by the treasurer aforesaid for the time being, to whom the sums recovered shall be paid, to be by him applied towards defraying the charges of the said nightly watch and other charges incident thereto, to be recovered with costs of suit.

Provided always, That if any person or persons be sued or prosecuted for anything done in pursuance of this act, he or they may plead the general issue and give this act and special matter in evidence for their justification. And if the plaintiff or prosecutor become nonsuit or forbear prosecution or suffer discontinuance, or if a verdict pass against him or them in such action or suit, the defendant shall have treble costs, to be recovered as in cases where costs by law are given to defendants.

[Section XXIII.] And be it likewise further enacted by the authority aforesaid, That if any servant or negro slave be convicted of incurring any of the fines and penalties mentioned in this act, he, she or they shall for the first offense be whipped on the bare back with twenty-one lashes at the public whipping-post and kept on bread and water at hard labor in the public workhouse three days, and for the second and every other offense shall receive thirty-one lashes and be kept six days at hard labor as aforesaid.

[Section XXIV:] And be it further enacted by the authority aforesaid, That if any person under age, bound servant, apprentice, negro or mulatto slave be convicted of incurring any of the penalties or damages mentioned in this act, the parent, guardian, master or mistress shall be obliged to pay the said

penalties or damages in the same manner as if they themselves had been guilty of incurring the same.

Provided always, That no person or persons shall be sued or prosecuted for neglect in the execution of this act unless he or they be sued or prosecuted within twelve months after such offense committed.

[Section XXV.] And be it further enacted by the authority aforesaid, That in case there shall be any deficiency in any one year's rate or assessment so to be made as aforesaid, so that all the wages and allowances made to the watchmen and other incident charges cannot be fully paid and satisfied in that year, then and in such case the deficiency so happening shall be paid out of the next succeeding year's rate and assessment; and if there shall happen to be any surplus money collected by such rates and assessments in any one year, such surplus shall be carried on to the credit of the account of the next year's rate and assessment, to be applied to such use and in such manner as the rates and assessments to be collected as aforesaid are directed by this act to be laid out and applied.

[Section XXVI.] And be it further enacted by the authority aforesaid, That if the freeholders and inhabitants of the said city at the next or any future general election to be held for the said city as aforesaid shall neglect to choose the wardens and assessors aforesaid, or if the said wardens and assessors when so chosen shall neglect or refuse to lay the rates and assessments aforesaid or to do and execute the other services to be by them done and performed by virtue of this act, that then and in every such case the mayor and commonalty of the said city for the time being may and shall, until a succeeding election, appoint wardens or assessors or either of them as the occasion may require to perform the several and respective offices and duties of the said wardens and assessors as amply and largely as the said wardens and assessors if chosen [by the freemen] of the said city might or ought to do by virtue of this act.

[Section XXVII.] And be it further enacted by the authority aforesaid, That this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges and justices and other persons whatsoever without specially pleading the same.

[Section XXVIII.] 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 September 15, 1756. Confirmed by the King in Council, June 16, 1758. See Appendix XXI, Section IV, and the Acts of Assembly passed January 18, 1757, Chapter 418; September 30, 1763, Chapter 504; (continuing the Act in the text;) February 8, 1766, Chapter 532; March 9, 1771, Chapter 636.

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## CHAPTER CCCCXII.

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AN ACT FOR STRIKING THE SUM OF THIRTY THOUSAND POUNDS IN BILLS OF CREDIT AND GIVING THE SAME TO THE KING'S USE, AND FOR PROVIDING A FUND TO SINK THE BILLS SO TO BE EMITTED BY LAYING AN EXCISE UPON WINE, RUM, BRANDY AND OTHER SPIRITS.

Whereas the large sums already granted by this province to the King's use (whereby the public is become considerably indebted and the people burdened with taxes) are found insufficient and the moneys arising from the said grants are expended, yet forasmuch as the King's service and the present critical circumstances of this province require immediate additional supplies:

We, the representatives of the freemen of the province of Pennsylvania, being desirous of demonstrating our duty to our sovereign and willing to give further testimony of our loyalty and the most sincere affection of his loving subjects within this province, do pray that it may be enacted:

[Section I.] And be it enacted by the Honorable William Denny, 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 bills of credit to the value of thirty thousand