

CHAPTER DCXL.

AN ACT FOR THE SUPPORT OF THE LIGHTHOUSE ERECTED AT THE MOUTH OF THE BAY OF DELAWARE AND THE BUOYS PLACED IN THE SAID BAY AND THE RIVER DELAWARE, AND FOR THE REPAYMENT OF THE MONEYS BORROWED FOR THE ERECTING THE SAID LIGHTHOUSE AND PLACING THE SAID BUOYS.

Whereas in pursuance of several acts of general assembly a lighthouse has been erected at the mouth of the bay of Delaware and buoys have been placed in the said bay and the river Delaware pointing out the channel thereof which have greatly contributed to the ease and security of the navigation of the said bay and river and the trade of this province:

And whereas divers sums of money have been borrowed and received by the commissioners appointed for carrying into execution the good purposes aforesaid and a fund was provided for the repayment of the same with the legal interest arising thereon in and by virtue of the act of general assembly, entitled "A supplement to the act, entitled 'An act for erecting a lighthouse 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

And whereas His Majesty has been pleased under his privy seal to repeal and declare null and void the said last-recited act, and it is but reasonable and just that a fund be provided for securing the repayment of the moneys so borrowed with the interest thereof, and expedient that the said lighthouse and buoys should be maintained and supported:

[Section I.] Be it therefore enacted by the Honorable Richard Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and John Penn, Esquires, true and abso-

¹ Passed September 22, 1764, Chapter 515.

lute Proprietaries of the Province of Pennsylvania, 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 Peter Reeve, John Gibson, William Richards, Luke Morris, William Morrel, John Kidd [and] Joseph Stamper shall be and they are hereby nominated and appointed commissioners, and that they, or a majority of them, shall maintain and keep in repair the said lighthouse and buoys and shall draw on the provincial treasurer for the repayment of the sums of money so as aforesaid borrowed with the interest thereof to their respective lenders out of the moneys now in the hands of the said treasurer levied and raised by virtue of the said last-recited act and hereafter to be levied and raised by this act.

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 II.] Be it enacted by the authority aforesaid, That from and after the publication hereof 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 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 col-

lector 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, under the penalty of twenty pounds.

[Section III.] And be it further enacted by the authority aforesaid, That the masters or owners of all vessels in any port of this province at the time of the publication of this act shall within forty-eight hours after the said publication enter their vessels in the said collector's office and pay the said duties of tonnage to the said collector or secure the same to be paid in manner aforesaid, under the penalty of twenty pounds, and that the masters or owners of all vessels now building or hereafter to be built within this province shall within forty-eight hours after demand made enter their vessels in the said office and pay or secure to be paid the like duties of tonnage in manner aforesaid, under the penalty of twenty pounds.

[Section IV.] 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 following, 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 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 sternpost to the forepart 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 pro-

duct 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 V.] 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 VI.] 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 the said collector or any other person shall not [be sued] for anything done in pursuance of this act unless such suit be commenced within six months next after the pretended or supposed injury shall be done or committed.

[Section VII.] 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 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 VIII.] 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 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 [like] qualification and give the like security as is directed to be taken and given 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 do, execute and perform all the duties, matters and things hereby enjoined and required.

[Section IX.] 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 person to be the keeper of the said lighthouse, 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 lighthouse, 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 X.] 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 aforesaid or his successor 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 or his successor 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 duties of tonnage aforesaid are hereinbefore directed to be applied and appropriated.]

[Section XI.] 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 lighthouse and buoys aforesaid in the best manner, so as to be of the most advantage to trade and navigation.

Passed October 19, 1771. Referred for consideration by the King in Council, February 8, 1773, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXX, and the note to the Act of Assembly passed September 22, 1764, Chapter 515. Repealed by the Act of Assembly passed February 26, 1773, Chapter 671.

CHAPTER DCXLI.

AN ACT TO REGULATE THE ASSIZE OF BREAD AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas the mode heretofore used for regulating the assize of bread by the prices at which wheat is commonly sold has been found on experience to be unequal, as the price of wheat by no means determines with certainty the price of flour:

To the intent, therefore, that from and after the tenth day of April next ensuing the publication of this act a just, equal and constant rule and method may be duly observed and kept in the making and assizing the several sorts of bread hereinafter mentioned which shall be made for sale in any place or places where such assize shall be set in pursuance of this act:

[Section I.] Be it enacted by the Honorable Richard Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and John Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, 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 the mayor or recorder and any two of the aldermen of the city of Philadelphia, or for the burgess or burgesses of any borough and two justices of the peace of the county, or for any three justices of the peace for any county within this province, from and after the said tenth day of