

commonwealth which are dated on the sixteenth day of March in the year of our Lord one thousand seven hundred and eighty-five or in certificates of this state which have been or shall be issued according to law and the bearers whereof are entitled to receive of the treasurer of this commonwealth an annual interest thereon after the rate of six per centum half yearly and no other satisfaction for the said price. Provided always, That this act shall not extend to any lands which have been or which shall be surveyed by virtue of any warrant heretofore issued for the surveying of lands within the late purchase made by this commonwealth as aforesaid.

Passed October 3, 1788. Recorded L. B. No. 3, p. 424.

CHAPTER MCCCLXV.

AN ACT TO ESTABLISH A BOARD OF WARDENS FOR THE PORT OF PHILADELPHIA AND FOR OTHER PURPOSES THEREIN MENTIONED.

(Section I, P. L.) Whereas the act entitled, "An act appointing wardens for the port of Philadelphia"¹ is by its own limitation nearly expired:

Therefore:

[Section I.] (Section II, P. L.) Be it enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met and by the authority of the same, That immediately after the passing of this act a board of wardens for the port of Philadelphia consisting of seven discreet and skilful persons to be named and appointed [by the supreme executive council] of this commonwealth shall be established, and that it shall and may be lawful for them and they are hereby enjoined and required as soon as conveniently may be after they shall have been named and appointed as aforesaid to meet together at some convenient

¹Passed February 26, 1773, Chapter 641.

place in the city of Philadelphia, having first taken oath or affirmation hereinafter directed, and for them being so met to choose one of their own number to be the master warden who shall be styled the master warden and shall continue in the said office of master warden during the space of one year and the clerk of the said board, who, it is hereby declared, shall be the same person who shall be the tonnage officer for the time being shall keep fair minutes and entries of all the orders, regulations and transactions of the said master warden and board of wardens in a book to be kept for that purpose and shall have and receive a salary of one hundred pounds per annum, which with the perquisites in this section mentioned, shall be in full for all services as clerk of the wardens and the said minutes and entries shall be made public and submitted to the inspection of any person or persons who shall desire to see and peruse them, he or they so desiring the inspection paying to the clerk the sum of one shilling each time the books shall be examined, and the said clerk shall give true copies of any such entries or minutes made in the said book to such person or persons as shall demand the same, he or they paying to the said clerk three farthings for each line the said copy shall contain, every line to consist of not less than twelve words; and the said clerk shall be entitled to demand and receive for his own use the sum of two shillings and sixpence for every vessel above fifty tons and the sum of one shilling for every vessel under fifty tons which shall be entered in his office, every time she shall be entered; and the said wardens are hereby empowered to have and use one common seal in their affairs and the same at pleasure to change and alter.

[Section II.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said wardens shall meet together on the first Monday in every month at ten o'clock in the forenoon at a public office or place called the wardens' office to be by them procured and kept, for the purpose of discharging the duties hereby enjoined them and shall at every monthly meeting, remain and continue till one of the clock, in

order to dispatch such business as shall come before them in pursuance of this act and at all other times (Sundays only excepted) the master warden who shall be chosen annually in manner aforesaid shall attend at the said office from ten of the clock in the forenoon till one of the clock in the afternoon of every day during the year for which he shall be appointed for the dispatch of such business as shall come before him in pursuance of this act and shall have full power and authority to do and perform all and every act, matter and thing herein enjoined and required of him and shall be paid fifteen shillings for each day that he shall so attend or be employed and in case of the refusal, death, absence, or inability of any such master warden to do and perform the duties by this act enjoined and required of him, the said wardens shall, as soon as conveniently may be and as often as occasion may require meet at the said office and choose another fit person of their own number to be master warden of the said board for and during the remainder of the said year and the master warden so to be chosen shall during that time be vested with all the powers and authorities and do and perform all the duties which are by this act given to or enjoined on any master warden of the said board.

[Section III.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That there shall be no other meeting of the said wardens or any of them in pursuance of this act than the meetings aforesaid unless the master warden for the time being shall think it necessary to call a general meeting of all the wardens, which he is hereby authorized to do as often as he may think proper by issuing his order to the clerk directing him to cause them to be summoned to meet on three hour's notice to hear and determine all such matters and things which shall or may come before them as wardens of the port of Philadelphia, but at all other times the master warden alone for the time being shall [be and he is] hereby vested with full power and authority to do and discharge all the duties required of the wardens by this act except the making of contracts or disposing of moneys, which shall only be done by the board of

wardens at their monthly meetings aforesaid or by a majority of them when specially convened in the manner hereinbefore directed [and for that purpose] during all the time in which his attendance at the office is by this act required he shall be attended by the clerk of the said board of wardens and no other warden or wardens than the master warden for the time being shall be entitled to any further or other pay than for their actual attendance at the said monthly meetings or when they shall be specially summoned and shall attend in the manner hereinbefore directed and in such cases they shall be entitled to seven shillings and six pence per diem and no more and the said clerk shall moreover attend as collector of tonnage at the said office during all the usual hours of business observed at the custom house.

[Section IV.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said master warden for the time being or so many of the wardens as shall attend at the said monthly meetings or on being specially convened in manner aforesaid shall have full power and authority to examine all persons offering themselves to serve as pilots to and from the port of Philadelphia as to their knowledge and skill in pilotage and to grant three kinds of certificates, the first to such pilots as shall be qualified to pilot ships or vessels of any draught of water, the second to pilots for ships or vessels not exceeding in draught of water twelve feet, the third to pilots for vessels not exceeding in draught of water nine feet.

[Section V.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said persons upon the receipt of the said certificates shall pay [the sum of] five shillings and no more, and shall give bond with one sufficient surety to the president of the supreme executive council for the time being in any sum not exceeding one hundred pounds nor less than fifty pounds conditioned that they will truly and faithfully perform all and every the duties and services required of them by this act and shall deliver up such certificates to the said wardens to be cancelled upon their being declared void and such person or persons incapable of acting as pilots, agreeably to the directions of this act.

[Section VI.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the certificates heretofore granted to any pilot or pilots by any former board of wardens and not vacated shall for the space of one month from and after the passing of this act and no longer be of the same force and effect as if the said certificates were granted in pursuance of the directions of this act, and that all securities taken in consequence of any certificates shall be and continue to all intents and purposes of the same force and effect as any security or securities taken or to be taken in pursuance of this act may or can be.

[Section VII.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That no person shall be entitled to receive a certificate as a first rate pilot unless he shall have served a regular apprenticeship of at least four years to the business of a pilot nor a certificate as a second rate pilot unless he shall have served aforesaid three years nor a certificate as a third rate pilot unless he shall have served as aforesaid two years. Provided nevertheless, That no person who has heretofore obtained a certificate as a second or third rate pilot from any board of wardens shall be disqualified from obtaining a renewal thereof on account of his not having served such apprenticeship.

[Section VIII.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That every pilot who shall conduct any ship or vessel from the port of Philadelphia to the capes of Delaware or from the said capes to the said port shall have and receive [for] his trouble the sum of five shillings for every half foot of water which such vessel shall draw under and up to [twelve] feet and for every half foot of water which such vessel shall draw more than twelve feet the sum of ten shillings and so in proportion for any less distance, to be settled and adjusted by the master warden of the board for the time being or [by] any board of wardens and shall also receive over and above the said sums for every vessel which shall not be the property of a citizen or citizens of the United States or of some or one of them twenty shillings. Provided, That the said pilot

shall not have or receive any reward for any supernumerary inches under six. And the said master warden for the time being or any board of wardens shall and he and they are hereby authorized and required to settle and adjust the reward which shall be due from any master, owner or merchant of a ship or other vessel to the pilot thereof for any extraordinary time he shall be detained in the river or bay by the said master, owner or merchant in the service of the said ship or other vessel. Provided, The same shall not exceed fifteen shillings per diem, which said reward when so adjusted if not paid on demand shall be sued for and recovered in the same manner before any justice of the peace as the pilotage of the vessel is hereinafter directed to be recovered.

[Section IX.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That every pilot who shall pilot any ship or vessel into the port of Philadelphia shall within forty-eight hours next after her arrival make report thereof at the wardens office, specifying the names of the master and vessel and the depth of water she draws and if any pilot shall neglect or refuse so to do he shall forfeit and pay for every such offense the sum of five pounds, to be recovered as other fines are in and by this act directed to be recovered.

[Section X.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That from and after the publication of this act no person or persons whatsoever shall be capable of suing, commencing or prosecuting any action, suit or complaint at law against any person or persons whatsoever for any sum or sums of money that shall be claimed for pilotage of any ship or vessel in the said river or bay of Delaware unless he or they shall have obtained a certificate as aforesaid of his or their being duly qualified to act as a pilot or pilots and unless such pilotage shall be performed during the force of such certificate. And that if any ship or vessel shall be brought or navigated up to the port of Philadelphia (except as hereinafter excepted) or carried from thence by any person or persons not having such certificate if such qualified pilot may be had or procured that then and in every such case the master,

owner or merchant of such vessel on due proof thereof shall forfeit and pay to the collector of tonnage to be by him paid over to the wardens or master warden of the board for the time being for the use of the pilot who shall have first offered himself [a sum of money equal to one fourth part of the pilotage of the said vessel, settled and ascertained by virtue of this act] provided such offer shall have been made before such ship or vessel shall have arrived as high up the river as Reedy Island, and that the said collector shall not under the penalty of fifty pounds to be paid to the wardens for the uses in this act mentioned give a receipt to such person or persons so navigating such vessel, for the tonnage thereof agreeable to the directions of this act until such fourth pilotage shall be paid [sic], except the making of contracts or disposing of moneys which shall only be done by the board of wardens, at their monthly meetings aforesaid or by a majority of them when specially convened in the manner hereinbefore directed.

And in order to prevent vessels from departing from this port without pilots and thereby evading the payment of pilotage.

[Section XI.] (Section XII, P. L.) Be it enacted by the authority aforesaid, That from and after the passage of this act no ship or vessel of the burden of fty tons and not more than one hundred tons shall be entitled to or permitted to clear at the naval office till the master or owner thereof shall produce to the naval officer a certificate from the tonnage officer of their having lodged in his hands a sum equal to one fourth of what the pilotage of such ship or vessel from this port would amount to agreeably to the directions of this act, which said sum shall be paid to the pilot who shall carry such ship or vessel to sea on proof thereof being made and on failure of such proof the said sum shall be forfeited to the commonwealth and be accounted for and paid by the tonnage officer in such manner as in and by this act is directed as to other moneys received by the tonnage officer.

[Section XII.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be law-

ful, upon complaint made to any justice of the peace and he is hereby empowered and required to issue forth his precept in writing under his hand and seal in the nature of a summons, *capias*, or attachment as the case may require directed to any constable commanding him to bring or cause to come before him any person or persons against whom such complaint shall be made respecting any demand, matter, cause, controversy or dispute, that shall or may arise between pilots, masters of vessels, merchants or others respecting pilotage and thereupon proceed to hear the proofs and allegations of the said parties or such of them as shall appear and to determine and pass judgment thereon and also to award process under his hand and seal against the body or the goods of the person or persons against [whom] such judgment shall be given for the sum due with costs of suit as are generally recovered before a justice of the peace on debts under ten pounds, and the said justice shall keep fair entries and records of all his proceedings from the commencement of the first process to the final end of such suit. Provided nevertheless, That in all cases in this act mentioned, where power is given to the master warden for the time being or to any board of wardens to settle or adjust any matter or thing, the same shall be deemed and taken for conclusive evidence before such justice.

[Section XIII.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the said wardens or so many of them as shall attend at any stated monthly meeting shall be and they are hereby authorized and empowered from time to time to make such orders and rules as shall be useful and necessary for governing and better regulating the pilots aforesaid, and to impose and lay any penalty for the breach of such orders and rules not exceeding ten pounds to be recovered by the said wardens for the uses in this act mentioned and shall cause the said orders and rules to be recorded in their office and to be printed and published for the information of all whom it may concern, which said orders and rules shall be inviolably observed, and executed by all persons concerned, according to the tenor, true intent and meaning thereof. Pro-

vided, They be not repugnant to the laws of this commonwealth and shall be approved by the president or vice president and supreme executive council of this commonwealth.

[Section XIV.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That before the said warden shall take upon themselves the office of wardens each and every of them shall take an oath or affirmation before some justice of the peace for the city and county of Philadelphia that he will well and faithfully, to [the] best of his skill, understanding and judgment, perform, do, execute and discharge the office and duty of a warden of the port of Philadelphia according to the directions of this act.

[Section XV.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That if it shall so happen that any first rate pilot having his boat attending him shall be carried out to sea by any ship or vessel contrary to his inclination, the master or owner of such ship or vessel shall pay to such pilot, his executors or administrators the sum of six pounds per month for every month he shall be necessarily absent until his return to the said capes, or in case he shall die while so absent then to the time of his death and if no boat shall attend such pilot, the said master or owner shall pay him the sum of four pounds per month as aforesaid, and if any second rate pilot shall be carried off as aforesaid, having his boat attending him as aforesaid, he shall be paid the sum of five pounds per month, if without his boat, three pounds ten shillings per month, and if any third rate pilot shall be carried off as aforesaid, having his boat attending him, he shall be paid three pounds per month, if without his boat, forty-five shillings per month, by the said master or owner of such ship or vessel, which shall so convey or carry off such pilots respectively, for every month until his death or return to the said capes aforesaid. And if any master of any ship or vessel shall carry off to sea any pilot contrary to his inclination when his boat or any other boat is ready and offers to take him from such ship or vessel and the same may be done without endangering the vessel aforesaid, every such master

shall for every such offence forfeit and pay to the said pilot so carried off the sum of three hundred pounds to be recovered by action of debt, plaint, or information and the owner or owners of every such ship or vessel shall also forfeit and pay to every such pilot the sum of fifty pounds to be sued for and recovered in manner aforesaid which sums shall be recovered and paid over and above the wages aforesaid.

And whereas disputes have arisen between the owners of vessels in ward bound and pilots, by reason of their detention in the river in the winter season:

For remedy whereof:

[Section XVI.] (Section XVII, P. L.) Be it enacted by the authority aforesaid, That when any ship or vessel inward bound shall be safely moored at Reedy island and be there detained by ice, it shall and may be lawful for the master of any such ship or vessel, after being so detained for six days to discharge his pilot and in such case, the said pilot shall be entitled to receive and recover full pilotage as if he had conducted such ship or vessel to the port of Philadelphia.

[Section XVII.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That if any pilot duly qualified in virtue of this act shall neglect or refuse on due notice given to him to aid and assist any ship or vessel which shall be in distress within six leagues to the southward of Cape Henlopen or the same distance to the northward of Cape May or in the river or bay of Delaware aforesaid or in case any ship or vessel shall be lost or damaged by the manifest neglect of the pilot having charge of her, every such pilot so refusing to aid or assist or neglecting his duty shall on due proof made thereof before any board of wardens, at any of their said monthly meetings or when they shall be specially convened in manner aforesaid be rendered incapable of exercising the office or duty of a pilot, and the certificate before given shall be utterly void and all contracts and agreements made or to be made by and between any pilot and the master of a ship or vessel in distress for his aid and assistance shall be also void and such pilots shall be entitled to ask, demand and recover

no more than a reasonable reward for his said aid, assistance and service any such contract notwithstanding. Provided always nevertheless, That if any pilot on endeavoring to assist or relieve any ship or vessel in distress shall suffer loss or damage in his boat, her sails, tackle, rigging or appurtenances, the master or owner of such ship or vessel shall be liable to pay to such pilot the value of such loss or damage over and besides the said reasonable compensation for his services.

[Section XVIII.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall conceive him or themselves aggrieved by any judgment given by any justice in pursuance of this act, it shall and may be lawful for such person or persons to appeal to the next county court of common pleas to be held for the county where the said judgment shall be given, which said appeal shall be allowed by the said justice upon sufficient security being given for the prosecuting the same to effect and that the proceedings on such appeal shall be prosecuted on the same terms, in the same manner and under the same penalties as are directed by the laws of this commonwealth in cases of appeals from the judgment of any justice of the peace.

[Section XIX.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons whosoever shall take up any anchor and stock or any anchor without a stock or any cable within the bay or river Delaware, every such person or persons shall as soon as conveniently may be bring or cause to be brought every such anchor or anchor and stock or cable to the port of Philadelphia and deliver the same to the master warden for the time being, under the penalty of one hundred pounds to be paid to the wardens for the uses herein mentioned or to the person who shall rightfully own such anchor or anchor and stock or cable and upon the delivery of such anchor or anchor and stock or cable to the master warden for the time being he shall, without delay advertise the said anchor or anchor and stock or cable so delivered three times in some of the public newspapers published in the city of Philadelphia unless the owner there-

of or his factor shall appear and claim the same and shall permit and suffer the said anchor or anchor and stock or cable to be viewed by any person or persons who shall make application to him for that purpose and if any person or persons shall claim and make satisfactory proof of his or their right and property in any such anchor or anchor and stock or cable within the space of three months next after the date of the first advertisement before the master warden for the time being or any board of wardens or of his or their right and property in such anchor or anchor and stock or cable the said cable or cables or anchor and anchor and stock the property whereof shall be so proved shall be restored to such claimants upon he or they paying such salvage for the same as the said board of wardens shall deem reasonable, together with the costs and expenses accruing thereon, but if no person or persons shall within the time aforesaid claim and make proof of his or their property in such cable anchor or anchor and stock then and in such case the said master warden for the time being shall at the end of two months from the date of the first advertisement, expose the said cable or cables, anchor or anchor and stock to sale at public vendue at some public place in the city of Philadelphia, having first given due and timely notice thereof and after deducting the charges and expenses accruing thereon pay the money proceeding from such sale to the person or persons who took up the said cable or anchor or anchor and stock so sold.

And whereas, a light-house has been erected on Cape Henlopen and sundry buoys, beacons and piers have been and are to be fixed in the bay and river Delaware for the more convenient and safe navigation to and from the said port of Philadelphia

[Section XX.] (Section XXI, P. L.) Be it further enacted by the authority aforesaid, That if any person or persons shall after the publication of this act remove and destroy or be aiding and assisting in the removal or destruction of any of the said buoys, beacons or piers or shall burn or otherwise destroy or be aiding and assisting in burning or destroying the said

light house and shall be convicted thereof in any court of quarter sessions for any city or county in this state where he, she or they shall be apprehended or to which he, she or they shall be brought if apprehended in any place out of this state shall forfeit and pay the sum of one thousand pounds, for the use of this commonwealth and shall also be confined at hard labor for any time not exceeding seven years:

And whereas it is expedient and necessary that the said light-house, buoys, beacons, and piers should be duly supported, repaired and maintained and further provision made for the wages, salary, rent and other expenses hereinbefore mentioned:

[Section XXI.] (Section XXII, P. L.) Be it therefore enacted by the authority aforesaid, That from and after the publication hereof there shall be laid, raised, collected and paid from every ship or vessel, (except as hereinafter [is] excepted) coming into or going out of any port of this state the following duties of tonnage, that is to say, from every such ship or vessel the property whereof in whole or in part shall be owned by or belonging to any person or persons not being a citizen or citizens of the United States or of some or one of them or of the territories thereunto belonging, one shilling and two pence per ton, upon all and from every such ship or vessel the property whereof shall be wholly in and be owned by or belonging to any person or persons who shall be a citizen or citizens of the United States or of some or one of them or of the territories thereunto belonging, of seven pence per ton, all of which said duties of tonnage shall be accounted, taken and paid according to the measure of every such ship or vessel, to be made and taken by the collector of the said duty of tonnage in the port or place where they shall arrive, enter and clear and the master or owner of every such ship or vessel shall within forty-eight hours after the arrival thereof at the port or place of their discharge or unloading in this state, cause or procure such ship or vessel to be entered in the office of the collector of tonnage, appointed or to be appointed for collecting the said duties of tonnage and at the time of such entry and before he or they shall unload or break bulk shall either pay to the said

collector the sum of money due and payable for the tonnage of all such ships or vessels or shall give good and sufficient security by bond to the said collector to be approved of by him, to pay the said duty of tonnage to the said collector or his successors for the uses aforesaid within the space of six weeks under the penalty of twenty pounds to be paid to the said collectors for the uses in this act mentioned.

[Section XXII.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the master or owners of all ships or other vessels (except as is hereinafter excepted) now building or hereafter to be built within this state shall within forty-eight hours after demand made enter the same ships or other vessels in the said collectors office and pay or secure to be paid the like duties of tonnage according to the rates aforesaid in manner aforesaid under the penalty of twenty pounds to be paid to the collector of tonnage for the uses herein mentioned. Provided always nevertheless, That in order that the commerce of this commonwealth shall be increased and extended by promoting and facilitating a commercial intercourse with the neighboring states whereby the number and quantity of exportable articles may be increased all shallops and other small vessels trading within the river and bay of Delaware and all ships and other vessels not exceeding the burden or measurements of fifty tons passing to or from any port within this state and to or from any other port or ports within the United States of America shall be freed and exempted from the payment of any duty of tonnage whatsoever, and that all other ships and vessels passing in like manner between any port in this state and other port or ports in the said United States shall not be subject to the payment of the said duty or duties more than once in every twelve months during the continuance of any such ship or vessel in such trade without going to any port not within the said United States. And provided further, That any and every ship or vessel employed in the coasting trade between this state and port or ports within the United States and bringing into the port or ports of this state no other goods, wares, or merchandise than those of the

growth, produce and manufacture of the said United States or of some or one of them and such as may be lawfully imported free from duty or impost by the laws of this state shall be subject to the payment of seven shillings and six pence and no more for every entrance and clearance at the naval office, any law, usage or custom to the contrary notwithstanding. And provided likewise, That no ship or vessel shall be exempted from the payment of tonnage duty except such ship or vessel shall be the property of a citizen or citizens of this state or of the United States or some or one of them.

And in order to prevent the owners of vessels subject to the tonnage duty from evading the payment thereof:

[Section XXIII.] (Section XXIV, P. L.) Be it enacted by the authority aforesaid, That from and after the passing of this act the master or owner of every vessel which shall be of the burden of fifty tons or upwards shall within forty-eight hours next after the arrival of such vessel in this port, report the said vessel to the tonnage officer who shall give a certificate of such entry to the person making the same and if the master or owner of such ship or vessel shall neglect or refuse to make such report and entry he shall forfeit and pay the sum of twenty pounds for the use of the commonwealth for every such neglect or refusal, to be sued for and recovered in the same manner as other fines are directed to be by this act.

[Section XXIV.] (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the tonnage officer as often as he shall think necessary to require from the master of any vessel of the burden of fifty tons or upwards who shall claim an exemption from the payment of tonnage duty by reason of such vessel being employed in the coasting trade, an oath or affirmation, which oath or affirmation he is hereby authorized to administer, that the said vessel has been employed in the manner directed by this act and if the master or owner of such vessel shall refuse to make oath or affirmation that such vessel has been so employed during each and every voyage since the last payment of the tonnage duty, every such ship or vessel shall be subject to

the tonnage in the same manner as other vessels are made subject to the payment of the same.

[Section XXV.] (Section XXVI, P. L.) 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 keelson 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 the tonnage of such single decked vessel; and in order to find the length of keel, measure the gun deck, from the fore part of the stern post to the fore 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 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 product 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, custom to the contrary notwithstanding.

And whereas from the freedom of commerce and the admission of foreign vessels many ships or vessels may arrive in the river Delaware, the commanders or masters whereof may not be duly informed of the duties enjoined on them by the act entitled "An act to prevent infectious diseases being

brought into the province,¹ and the penalties to which they may be subjected by not conforming to the regulations prescribed in and by the said act:

[Section XXVI.] (Section XXVII, P. L.) Be it therefore enacted by the authority aforesaid, That the master warden for the time being shall cause an abstract of the said act to be made, containing the substance of all such regulations and duties therein made and enjoined as relate to the commanders, masters or persons having charge of ships or vessels bound to the port of Philadelphia, and have a competent number of copies of such abstracts printed and distributed to and among the licensed pilots so as to enable each and every of the said pilots to furnish and deliver one of the said copies to the commander or master of each and every inward bound vessel he shall take charge of.

[Section XXVII.] (Section XXVIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of each and every of the said pilots, and the same is hereby enjoined, to deliver one of the said abstracts or copies to the commander or master of every inward bound ship or vessel he may take charge of as pilot or shall otherwise fully inform such commander or master of the nature and purport of the said regulations and of the duties thereby enjoined, and such pilot shall not presume to conduct such ship or vessel nearer the city of Philadelphia than is consistent with the said regulations on pain of being suspended from exercising the duties and receiving the emoluments of a pilot for twelve months and of forfeiting fifty pounds for every such offence to the said wardens for the uses herein mentioned.

[Section XXVIII.] (Section XXIX, P. L.) And be it further enacted by the authority aforesaid, That the ballast of any ship or vessel judged or deemed to be infectious under the act entitled, "An act to prevent infectious diseases being brought into this province,"¹ shall not be brought up to the city of Philadelphia, the district of Southwark or Northern Liberties, but the same shall be thrown out or discharged at such con-

¹Passed January 22, 1774, Chapter 691.

¹See Ante.

venient and proper place as the health officer may direct and appoint, under the penalty of one hundred pounds to be recovered by the wardens and appropriated as hereinafter is directed.

[Section XXIX.] (Section XXX, P. L.) And be it further enacted by the authority aforesaid, That when and so often as any warrant of survey on vessels and goods [damaged,] or supposed to be damaged by stress of weather, accident at sea, bad stowage or other cause, shall be applied for to the court of admiralty or other competent jurisdiction the same shall be directed to the wardens of the port of Philadelphia for the time being, directing or requiring them or any two of them in the usual form to execute the same, and such warrant shall be so framed as to comprehend all the surveys which may be requisite to be made respecting any one vessel and the various parts or portions of her cargo, under which warrants the said surveyors may nevertheless make and return such and so many separate and distinct reports to the judge of the admiralty as the nature and circumstances of the case may require. And in case the said surveyors shall think the aid and assistance of a ship carpenter or other tradesman necessary to the forming of a proper judgment and report on any such survey they are hereby authorized to call to their aid any such tradesman as they shall choose and who shall be willing to join them in the said business, which tradesman so chosen and called, shall be taken and deemed to be a surveyor for that occasion, as fully and amply to all intents and purposes as if he had been named in the warrant and as a compensation to the said surveyors for performing the said duties they shall be allowed and paid by the parties respectively demanding or requiring any such survey as follows, to wit, to each of the two wardens who shall perform the service and also to the carpenter or other tradesmen so called to their assistance, ten shillings for every survey and return on a ship or other vessel and ten shillings each for every separate shipment or invoice of goods they shall so survey and report upon.

[Section XXX.] (Section XXXI, P. L.) And be it further en-

acted by the authority aforesaid, That if the collector of tonnage, or his deputy or deputies lawfully appointed, 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 special matter in evidence for their justification and if upon trial thereof a verdict shall be given against the plaintiff or he shall become non-suit 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 shall be commenced within six months next after the pretended or supposed injury shall be done or committed.

[Section XXXI.] (Section XXXII, P. L.) And be it further enacted by the authority aforesaid, That the collector of tonnage appointed or to be appointed 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 master warden for the time being and to any board of wardens and shall also lay the same before the comptroller-general for the purposes herein after mentioned and the said collector shall deduct and retain out of all moneys which he shall receive in pursuance of this act for his trouble in executing the duties hereby enjoined him six pounds for every hundred pounds and so in proportion for any greater or lesser sum, for measuring, receiving and paying as aforesaid, and the said state treasurer shall have and receive for his trouble in receiving and paying the conveys coming into his hands by virtue of this act the sum of ten shillings for every hundred pounds and so in proportion for any greater or less sum and no more.

[Section XXXII.] (Section XXXII. P. L.) [sic] 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 to

the president or vice-president of the supreme executive council of this Commonwealth in the sum of five hundred pounds with one or more sufficient sureties conditioned for the true and faithful execution of his said office.

[Section XXXIII.] (Section XXXIII. P. L.) And be it further enacted by the authority aforesaid, That the said wardens or such of them as shall attend at any or every of their monthly meetings aforesaid, shall nominate and appoint a careful and reputable person to be the keeper of the said light-house, who shall carefully and diligently attend his duty in kindling and keeping burning the lights from sun setting to the rising thereof and in placing the said lights so as they may be best seen by persons on board vessels coming into or going out of the said bay of Delaware and shall be allowed by the said wardens a reasonable compensation therefor. 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, one half thereof to him who shall sue or prosecute for the same by bill, plaint or information and the other half for the uses in and by this act declared. Provided always, That the said keeper before he enters upon the duties of his said office or takes charge of the said light house shall give one or more good and sufficient [sureties] to the president of the supreme executive council for the true and faithful performance and discharge of his duty in any sum not exceeding two hundred and fifty pounds.

[Section XXXIV.] (Section XXXV. P. L.) And be it further enacted by the authority aforesaid, That the said wardens shall repair and maintain in good order the said buoys, piers, beacons, and lighthouse and keep up the lights in the said house at all proper times or cause the same to be done and for [those] purposes shall draw orders on the State treasurer who shall discharge the same out of the moneys paid into his hands in pursuance of this act.

[Section XXXV.] (Section XXXVI. P. L.) And be it further enacted by the authority aforesaid, That all forfeitures,

penalties, sum and sums of money in this act mentioned and not otherwise directed and appropriated shall be payable, sued for, recovered and applied in manner and form following, that is to say, all the said forfeitures, penalties, sum and sums of money in and by this act made payable to the wardens or to the master warden for the time being shall be sued for and recovered by the said wardens and all such forfeitures, penalties, sum and sums of money as are by this act made payable to the collector of tonnage shall be sued for and recovered by the said collector of tonnage and that all the said forfeitures, penalties, sum and sums of money so as aforesaid payable to the said wardens or to the master warden for the time being or to the collector of tonnage which are under ten pounds shall be sued for and recovered with costs of suit before any justice of the peace of any city or county within this State in like manner as other debts under ten pounds are by the laws of this Commonwealth recoverable before any justice of the peace and subject to the like appeal, security, trial and costs and that all such forfeitures, penalties, sum and sums of money as amount to ten pounds or upwards shall be sued for and recovered, with costs of suit by action of debt, case, bill, plaint or information in any court of record within this State or otherwise and that all the fines, forfeitures, penalties, sum and sums of money by this act made payable to the said collector of tonnage or to the wardens or to the master warden thereof for the time being shall (where it is not herein otherwise directed) be by them respectively paid to the State treasurer once in every three months, for the special use and purpose of paying off the salvage, rent, salaries, wages and other incidental expenses arising from the due execution of this act and all other expenses, costs and charges which have accrued by the execution of the several acts appointing or in anywise respecting, wardens for the port of Philadelphia and also for the use and purpose of keeping and maintaining the said light house, piers, beacons and buoys and such other piers, beacons and buoys as any board of wardens shall think it necessary to erect, sink or fix, in good order and repair and to this end all the said fines, forfeitures.

penalties, sum and sums of money so as aforesaid to be paid to the said treasurer in pursuance of this act shall at all times remain in the hands of the said treasurer, specially appropriated for the purpose and subject to the drafts of the said master warden of the board of wardens for all or any of the purposes aforesaid and for no other use or purpose whatsoever and to the end and intent that fair and just accounts shall be kept and settlements made by the said wardens and collectors of tonnage of all their transactions in pursuance of this act, they and every of them are hereby enjoined and required to exhibit just and true accounts of all their proceedings in pursuance of this act once in every three months to the comptroller-general who is hereby authorized and required to settle and adjust the same in like manner as other accounts are settled by him agreeable to the laws of this commonwealth subject to the like appeal, security and trial and costs as are in other cases of appeal from any settlement made before him and in like manner to proceed and recover such balance or balances as on such settlement or settlements shall be found due from them or any of them.

[Section XXXVI.] (Section XXXVI, P. L.) And be it further enacted by the authority aforesaid, That all and singular the sums of money which shall be paid to the collector of the tonnage by virtue of this act for one fourth part of the pilotage of all ships and vessels brought or navigated up to the port of Philadelphia or carried from thence without a pilot and all fines to be recovered from pilots for any breach of this act shall be kept as a fund by the said collector for the use of distressed and decayed pilots, their widows and children, to be distributed by a society of pilots, to be formed for that purpose, and that as soon as a society shall be formed by the said pilots consisting of two-thirds of the whole number of first rate certificate pilots at least and having a board of managers, treasurer and clerk, the said collector shall pay to them or their orders, all the said moneys to be by them kept, managed and distributed as aforesaid and so shall, once in every half year, pay over to the said managers for the use aforesaid all the moneys by him to be re-

ceived from time to time or such one fourth part pilotages and the fines which may be recovered from pilots by virtue of this act.

And to the end and intent that the navigation of the river Delaware may not be injured by the extension of wharves to an improper distance into the channel thereof within the port of Philadelphia or by obstructions or encroachments of any other kind.

[Section XXXVII.] (Section XXXVII, P. L.) Be it further enacted by the authority aforesaid, That when and so often as any person shall be desirous to extend any wharf or other building into the tide-way of the river Delaware from any part of the city or liberties of Philadelphia, such person shall make application to the said board of wardens at any of their monthly meetings aforesaid, stating in writing the nature, extent and plan of such intended wharf or building and if it shall appear to the board of wardens or a majority of them that such plan and design may be lawfully executed and that the same will not improperly encroach upon or injure the said channel and harbor the board of wardens at any of their stated monthly meetings, or when specially convened in manner aforesaid, shall give their assent and license for erecting and extending such wharf or building and cause the same to be recorded in their office but if the said board of wardens shall deem it improper to give such assent and license and the party applying shall think himself aggrieved by their resolutions he may make such application to the supreme executive council who, after hearing the reasons which induced the wardens to refuse their assent, shall finally determine and award thereon as they may think right and proper and if any person or persons after the publication of this act shall extend any wharf or building within the city or liberties of Philadelphia into the river Delaware beyond low water mark without license first had and obtained from the wardens as aforesaid, or in case of their refusal from the supreme executive council, he or they shall, on conviction thereof, in the manner in and by this act directed forfeit and pay to the said board of wardens the sum of one thousand

pounds to be by them recovered and applied in such manner as other fines, forfeitures or sums of money by this act made payable to them are directed to be recovered and applied.

And whereas it sometimes happens that vessels are injuriously impeded in the landing or discharging of their cargoes by being refused admittance to a wharf, although divers wharves or parts thereof may be unoccupied by any other vessel or occupied by such only as might, without material injury, be removed to some other situation.

And whereas it is just and proper that the owner or possessor of a wharf, though extended into the river beyond low water mark, should enjoy a reasonable right of preoccupancy thereof:

[Section XXXVIII.] (Section XXXVIII, P. L.) Be it enacted by the authority aforesaid, That no ship or vessel subject to the duties of tonnage shall be permitted to moor at or otherwise to occupy any wharf within the city or liberties of Philadelphia without leave first had and obtained from the owner or possessor thereof, Provided always, That if such leave be duly applied for by the owner, agent, master or other person having charge of such ship or vessel and refused by the owner or possessor of any wharf within the limits aforesaid, being vacant in the whole or in such part as may reasonably accommodate the ship or vessel [so applied for and such vacancies shall remain unoccupied by some ship or vessel] in which the owner or possessor of the wharf hath an immediate interest, for twenty-four hours after such application and refusal, it shall then and in such cases be lawful for the ship or vessel first applied for to be moored at and occupy such wharf for so long time as shall be requisite for the dispatch of her business, subject nevertheless to the control and direction of the master warden for the time being as hereinafter is mentioned.

[Section XXXIX.] (Section XXXIX, P. L.) And be it further enacted by the authority aforesaid, That when any ship or vessel subject to the duties of tonnage shall be moored at and occupy such wharf or end or side thereof within the said city or liberties affording proper convenience for such vessel to discharge and receive goods either with or without the leave and consent of the owner or possessor of such wharf and without

any agreement being made for the rate or price of such wharfage, it shall and may be lawful for the owner or possessor of such wharf to demand and receive for such wharfage any sum not exceeding the rate of five shillings per day for so long time as such vessel shall so occupy such wharf or part thereof, and for an outside berth the second vessel from a wharf shall pay not exceeding the rate of two shillings per day and the third vessel from a wharf shall pay not exceeding the rate of one shilling per day.

And whereas vessels being out of repair or for some other reason remaining unemployed or nearly so frequently occupy for an unreasonable length of time the wharves and situations best adapted for the dispatch of business to the great hindrance and obstruction of others:

[Section XL.] (Section XL, P. L.) Be it enacted by the authority aforesaid, That the master warden of the said board of wardens for the time being or any board of wardens be and they are hereby severally authorized and required on application to him or them made for the removal or any such ship or vessel to be removed to such other place or situation as the owner, master or other person having charge thereof shall choose and the said master warden or board of wardens shall approve and in case such owner or other person shall refuse or neglect to choose such other place or situation as shall be so approved or to make such removal of the vessel and the said master warden or the board of wardens shall direct within twenty-four hours after due notice given for that purpose such owner, master or other person having charge of such ship or vessel shall forfeit and pay to the said wardens the sum of five pounds per day for every day such ship or vessel shall afterwards remain unremoved as aforesaid, unless prevented by stress of weather or other reasonable cause of which the said master warden for the time being or board of wardens shall be the judge or judges, which forfeitures shall be recovered with costs of suit, by action of debt or by attachment of the said ship or vessel and her appurtenances at the suit of the said wardens as seamen's wages are recoverable and applied as is herein directed.

And in order to prevent the city of Philadelphia from being unnecessarily exposed to danger from fire:

[Section XLI.] (Section XLI, P. L.) Be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall from and after the passing of this act burn or bream or caused to be burned or breamed any ship or other vessel or any part thereof at or near any wharf or wharves of this city or between South and Vine streets of the said city, he or they shall for every such offense forfeit and pay to the said wardens the sum of fifty pounds to be by them recovered and applied in such manner and to such uses as other fines, forfeitures and sums of money by this act made payable to them are directed to be recovered and applied.

And whereas inconveniences and mischiefs frequently happen for want of order and regularity in the placing, anchoring and mooring of vessels in the stream as well as at the wharves and docks:

[Section XLII.] (Section XLII, P. L.) Be it enacted by the authority aforesaid, That it shall and may be lawful for the said master warden or any board of wardens and he or they is and are hereby authorized and required to form and establish such rules and orders as they on due deliberation and advisement shall from time to time think requisite and proper for guarding against such inconveniences and mischiefs, which rules and orders shall be recorded in the office of the said wardens, and shall be printed and published for the information of all whom it may concern. And if any owner, master or other person having the charge or command of any ship or vessel within the harbor of Philadelphia shall wilfully or negligently disobey or refuse or neglect to comply with such rules and orders, after due notice thereof or neglect or refuse to comply with any reasonable order or directions of the said master wardens, for the time being or any of the wardens as aforesaid, respecting the placing, mooring or removing such ship or vessel within the said harbor, such owner, master or other person shall forfeit and pay to the wardens for the uses in this act mentioned the sum of five pounds for every such

time the same or a similar offense shall be repeated, for which offense for the first time and ten pounds for each and every forfeitures [and] fines such vessel and her appurtenances shall be liable, as well as the person and effects of the offender or offenders and the owners and all others concerned in any such vessels shall be moreover debarred from recovering any compensation for any damages she may sustain in the mean- [time], by any other vessel running foul of or injuring the same or the tackle or apparel thereof, which said forfeiture shall be and they are hereby made recoverable as hereinbefore is directed for the recovery of other forfeitures, penalties and sums of money.

[Section XLIII.] (Section XLIII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall think himself or themselves aggrieved by any order or sentence made by the master warden of the wardens for the time being as aforesaid, it shall and may be lawful for such person or persons to appeal therefrom to the board of wardens on giving bond to the master warden of the wardens, with sufficient surety, to abide and perform the final determination of the board thereon, of the sufficiency of which security the master warden of the wardens for the time being shall judge and determine, which bond shall be executed and tendered within twenty-four hours after notice of such order or sentence and the party appellant shall prosecute such appeal to effect before the board at their next meeting, or otherwise the appeal shall be dismissed unless a satisfactory cause for a further continuance be shown to the board and if either of the parties shall require it and the master warden for the time being shall think it proper, a special meeting of the board shall be called for the hearing of such appeal as early as may be and if upon such hearing of such appeal, either at a stated or special meeting, the original order of sentence shall be affirmed, the board shall award such reasonable costs to be paid by the appellant as they shall adjudge to be adequate to the expenses occasioned by the appeal, including the established pay of the war-

dens and their clerks for so long time as they shall have attended on the said business.

And whereas injuries frequently happen by vessels accidentally or negligently running foul of each other and it is expedient that a summary and expeditious mode should be established for ascertaining such damages and awarding payment thereof by the party or parties who ought of right to pay the same:

Therefore:

[Section XLIV.] (Section XLIV, P. L.) Be it enacted by the authority aforesaid, That the party injured by such accident or negligence and claiming redress shall and may apply to the master warden for the time being, stating his claim of redress and pointing out the person or persons from whom the same is demanded, which master warden is authorized and required to appoint a time and place for the hearing and determination of such claim, of which notice shall be given in writing by the party claiming to the adverse party at least twenty-four hours before the time so appointed and the said master warden after due information by examination of witnesses, inspection, surveys or such other proper means as the case may require, shall adjudge and award such recompense for the damages sustained, as he shall think just and reasonable, to be paid by one party to the other for the same, together with such reasonable expenses as may have been incurred in obtaining such information and [the] award, certified under the hands of the said master warden shall be final and conclusive to the parties unless appealed from as aforesaid and shall be taken and deemed to be sufficient evidence of a debt incurred to maintain and support an action before any justice of the peace or in any court of record where the same may be cognizable, agreeably to the directions of this act and the party injured may prosecute thereon accordingly by summons or *capias* as the case may require or by attachment of the vessel which occasioned such damages at his option.

And whereas keeping up and maintaining, victualling and providing for the sloop commonly called the state sloop belonging to this commonwealth is found to be attended with a

very heavy expense far exceeding the benefits arising therefrom:

Therefore:

[Section XLV.] (Section XLV, P. L.) Be it further enacted by the authority aforesaid, That the master warden of the wardens for the time being shall with all convenient dispatch from and after the passing of this act sell or cause to be sold the said sloop with her tackle, apparel and furniture for the best price that can be got for the same at public vendue at the coffee house or at some other public place in the city of Philadelphia after having given public notice of such intended sale and of the time and place thereof at least five days in one or more of the public newspapers printed in the city and to pay the moneys arising from such sale (after having first paid off and discharged all the wages due to the officers and crew belonging to the said sloop for their services on board of her, and such other costs and expenses as she may have incurred) to the state treasurer for the uses and purposes in this act mentioned as to fines, forfeitures, penalties and sums of money and subject to the like drafts and for no other use or purpose whatsoever.

[Section XLVI.] (Section XLVI, P. L.) And be it further enacted by the authority aforesaid, That the act of general assembly entitled, "An act appointing wardens for the port of Philadelphia and for other purposes therein mentioned,"¹ and one other act entitled "A supplement to an act entitled 'An act appointing wardens for the port of Philadelphia,'"² and to an act entitled, "An act to prevent infectious diseases being brought into this province"³ and one other act entitled "An act for the further regulation of the port of Philadelphia and enlarging the power of the wardens thereof"⁴ and one other act entitled, "A supplement to an act entitled 'An act for the further regulation of the port of Philadelphia and for enlarging the powers of the wardens thereof'"⁵ and every

¹See Ante.

²Passed March 18, 1775, Chapter 708.

³See Ante.

⁴Passed April 1, 1784, Chapter 1095.

⁵Passed Septemehr 23, 1784, Chapter 1115.

clause, matter or thing in them or any of them contained shall be and they are hereby repealed.

Passed October 4, 1788. Recorded L. B. No. 3, p. 385. See the Acts of Assembly passed March 27, 1789, Chapter 1417; September 29, 1789, Chapter 1461; April 13, Chapter 1572; April 11, 1793, Chapter 1698.

CHAPTER MCCCLVI.

AN ACT TO APPOINT COMMISSIONERS TO SETTLE THE ACCOUNTS OF CERTAIN COMMISSIONERS WHO BY A CERTAIN ACT OF ASSEMBLY PASSED THE NINTH DAY OF MARCH ONE THOUSAND SEVEN HUNDRED AND SEVENTY-ONE WERE APPOINTED TO SETTLE THE ACCOUNTS OF CERTAIN OTHER COMMISSIONERS WHO BY A CERTAIN ACT OF ASSEMBLY PASSED THE TWENTIETH DAY OF SEPTEMBER ONE THOUAND SEVEN HUNDRED AND SIXTY-FIVE² WERE APPOINTED TO SETTLE THE ACCOUNTS OF THE MANAGERS OF A LOTTERY WHICH HAD BEEN SET UP AND DRAWN FOR THE PURPOSE OF ERECTING A BRIDGE OVER SKIPPACK CREEK IN THE THEN COUNTY OF PHILADELPHIA (NOW MONTGOMERY) AND TO RECEIVE VOLUNTARY DONATIONS AND SUBSCRIPTIONS FOR PERFECTING SAID BRIDGE.

(Section I, P. L.) Whereas in and by the above recited act passed the twentieth day of September one thousand seven hundred and sixty-five, William Dewees, Michael Hillegas and Benjamin Davis were appointed commissioners for the purpose of erecting a bridge over said Skippack creek and in order to enable them to perform that duty they were empowered to settle with, sue for and recover from the managers of said lottery all such sums of money as they or either of them had received on account of said lottery or otherwise, for the purpose of erecting said bridge:

And whereas in and by the above recited act passed the ninth day of March one thousand seven hundred and seventy-one, Benjamin Jacobs, Jacob Umstat and John Kestar were appointed commissioners for building a bridge over said Skippack creek and for calling upon the first mentioned commissioners and compelling them to account for such sum or sums of money as they or any or either of them had received for the purpose of erecting said bridge: