

PHILADELPHIA - STREETS - WHARVES AND FENCES ALONG RIVER

Act of Mar. 25, 1805, P.L. 160, No. 57

Cl. 11

Section 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That the court of quarter-sessions of the county of Philadelphia, on being petitioned to grant a view of or for opening any street, lane or alley, within the city of Philadelphia, shall have power, and by virtue of this act are directed and required, as often as they judge it useful, in open court, to order and appoint twelve discreet and disinterested freeholders, neither of whom shall reside or own real estate in the city aforesaid, who, being first sworn or affirmed, shall, together with the commissioners of the county for the time being, or a majority of them, view the ground proposed for opening such street, lane or alley, and if they, or any ten of them, view the said ground, and any seven of the actual viewers, exclusive of the county commissioners, agree that there is occasion for such street, lane or alley to be opened, they shall proceed to lay out the same, as agreeably to the desire of the petitioners as may be, in such manner as to do the least injury to private property, and shall make report thereof, stating particularly, whether they judge the same necessary, together with a plot or draft thereof, to the next court of quarter-sessions; and if then and there the court aforesaid shall approve of the same, it shall, at the next court thereafter, be entered on record, and thenceforth shall be taken, deemed and allowed to be a public street, lane or alley, compensation being first made to the owner of the ground or other property, as herein-after directed: Provided, That no street, lane or alley, so opened, shall, in any case exceed, fifty feet in breadth.

Section 2. And be it further enacted by the authority aforesaid, That on the return of the viewers reporting in favour of opening any street, lane or alley, as aforesaid, and the same being approved of by the court, at their next session thereafter to which the report is returned, the court shall appoint twelve discreet and disinterested freeholders, neither of whom shall reside or own real estate within the city aforesaid, who, being first sworn or affirmed, shall enquire what damages the owner or owners of lands, house, houses or other property shall or may sustain by reason of the same being taken, used and appropriated for the purpose aforesaid: Provided always, That it shall be the duty of the said freeholders in assessing damages, to consider the advantages which may accrue to the owner or owners of such lands, house, houses or other property by reason of opening such street, lane or alley.

Section 3. And be it further enacted by the authority aforesaid, That upon the return of valuation and assessment of damages, as aforesaid, for ground or other property taken and appropriated for public streets, lane or alleys, within the city aforesaid, and the court of quarter-sessions of the county of Philadelphia having approved the same, the amount of damages awarded, as aforesaid, shall be paid by the treasurer of the

said county, and so soon as the said damages are paid, the mayor of the said city shall cause such street or other passage to be opened, agreeably, to the direction of the court: Provided always, That unless the same shall be paid within one year next after the return made by the viewers, all such proceedings as aforesaid shall be void and of no effect whatever.

Section 4. And be it further enacted by the authority aforesaid, That all streets, alleys, courts and lanes which have been heretofore laid out, opened and appropriated to public use by private persons within the city of Philadelphia, and all those streets, courts and other passages which shall be laid out and opened by order of the inspectors of the jail, on any of the city lots granted by the Commonwealth, by an act, entitled, an act to direct the sale of certain unimproved lots, the property of this Commonwealth, in the city of Philadelphia, and to appropriate the proceeds thereof towards the erection of a building for the purpose of more completely carrying into effect the penal laws of this state; and also all those streets, alleys, courts and lanes which shall hereafter be laid out, opened and appropriated to public use by private persons: Provided the same be not less than twenty feet wide, shall, to all intents and purposes, be held, deemed, taken and be highways, as fully and completely, according to their extent, as any highways laid out by order of the court of quarter-sessions of any county within this Commonwealth.

Section 5. Laying with broken stone or graveling streets; owner's duties respecting footways

The select and common councils of the said city shall be authorized to make all ordinances which they shall judge useful or necessary for the forming, laying with broken stone or graveling any of the streets, alleys, courts or lanes within the said city, which shall at any time by them be judged improper to order to be paved, and whenever the cart way of any such street, court or other passage shall be regulated, shaped and formed or when so formed and laid with gravel or other hard substances, in either of those cases the owners of the several lots which are bounded upon or adjoining any such street, court or other passage shall be obliged for form or shape, or lay with hard substances or gravel, the respective footways opposite to their several lots, in such manner, at such time and under such penalties as shall be directed by the said ordinances. 1805, March 25, p.l. 160, 4 sm. L. 232, sec. 5.

Section 6. Powers, etc. , as to street ends extending into Schuylkill

The corporation of the said city shall be invested with all and singular the powers and authorities, jurisdictions, rights and immunities in, to and over the ends of each and every public street or alley, which extends to or into the river Schuylkill, as fully to all intents and purposes, and to the like uses, as by the said charter, or any law of this Commonwealth, is or are granted to the former or present corporation of the said city, respecting the east ends of the several streets, which extend to or into the River Delaware. 1805, March 25, p.l. 160, 4 sm. L. 232, sec. 6.

Section 7. Port warden to determine extent to which wharves

may be built into River Schuylkill

The wardens of the Port of Philadelphia Jurisdiction now vested in the department of wharves, docks and ferries shall be authorized and empowered to fix and determine the extent of distance which any person or persons or body or bodies, politic or corporate, who are the owner or owners of lots of ground extending to the said River Schuylkill, on either of its shores, from the lower falls thereof to its junction with the River Delaware, may build wharves therein. 1805, March 25, P.L. 160, 4 sm. L. 232, sec. 7.

Section 8. Penalty for building without license

That if any owner or owners of any lot or lots of ground extending into the River Schuylkill, from the lower falls thereof to its junction with the River Delaware, shall build any wharf, house, store or other building, further into the said river than to common low-water mark, without license first had and obtained from the said wardens, or further into the said river than may be permitted by such license, he, she, or they being legally convicted of the same shall pay a fine of one thousand dollars, to be recovered with costs as debts of the same amount are or may be by law recoverable; one-half of which fine shall be paid to the guardians or Overseers of the poor of the city, district, or township where such wharf or building shall be erected, and the other half to the person or persons who shall sue for and recover the same. 1805, March 25, P.L. 160, 4 sm. l. 232, sec. 8.

Section 9. Building fences beyond certain point prohibited; penalty

If any person or persons shall erect or make any fence beyond the common low-water mark into the said river, without license first had and obtained from the said wardens, he, she, or they being legally convicted of the same, shall for every such offense forfeit and pay a fine not exceeding twenty dollars, to be recovered with costs as debts of the same amount are or may be by law recoverable; one-half of which fine shall be paid to the Overseers or guardians of the poor of the city, district, or township as aforesaid, and the other half to the person or persons who shall sue for and recover the same. 1805, March 25, P.L. 160, 4 sm.l. 232, sec. 9.