

[No. 163.]

A FURTHER SUPPLEMENT

To the act, entitled "An Act to incorporate the district of Southwark."

Debts how
recovered in
certain cases

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 in all actions, whether by *scire facias* or otherwise, now pending or which may hereafter be brought by the commissioners and inhabitants of the incorporated districts of Philadelphia county, for the recovery of any sum claimed for water, pipe, curbing, paving, work done and materials furnished, and for which the said district now by law have a lien, it shall only be required to be proved by said district, to entitle them to recover on the same, that the said work was done or the materials furnished, and the just value thereof; and upon any such trial, it shall only be lawful for the defendant to deny that the said work was done or materials furnished, or prove that the price charged therefor is greater than the value thereof, or that the amount claimed has been paid or released.

Unseated
lands

SECTION 2. That certified extracts from the assessment books of unseated lands, and certified by the clerk of the commissioners, under the county seal, to be a true copy of the taxes assessed upon such tract or tracts; taken from the assessment remaining in the commissioner's office, shall be received in evidence in all the courts of the commonwealth: *Provided,* That it shall be lawful for the sheriff of Luzerne county to complete all process in his hands against any citizens of Wyoming county, and to make and acknowledge all deeds for lands in said Wyoming county, in the same manner and with like effect as if the said county of Wyoming had not been erected.

Luzerne co
sheriffPhiladelphia
tax

SECTION 3. That from and after the twentieth day of April, in each and every year, no allowances or abatements in the assessments made of real estate for purposes of taxation, in the city and county of Philadelphia, shall be made by the commissioners of the said county.

Berks and
Dauphin
turnpike road
company

SECTION 4. That so much of the act, entitled "An Act authorizing the governor to incorporate a company to make an artificial road from the river Schuylkill, at Reading, in the county of Berks, to or near Hummelstown, in the county of

Dauphin," known as the Berks and Dauphin turnpike road company, as requires the said company to keep said road in good repair to the width of sixty feet, be and the same is hereby repealed, and the said company shall hereafter keep said road in good repair to the width of fifty feet and no more.

WHEREAS, Charles Wharton did, by his last will and testament, and sundry codicils thereto, duly proved before the register of wills, et cetera, for the city and county of Philadelphia, on the twenty-first of March, one thousand eight hundred and thirty eight, and remaining of record in his office, devise sundry real estate unto his sons, William Wharton and Charles Wharton, junior, their heirs and assigns, in trust, inter alia, to pay over one-half the nett income and the profits thereof to his son-in-law, William Craig, during his natural life; and as to the remaining moiety of said income and profits, to pay the same, during the life-time of the said William Craig, to the children of the testator's deceased daughter, Sarah R. Craig; and from and after the decease of the said William Craig, that then the said William Wharton and Charles Wharton, junior, should hold the said devised premises to the use of the children of the said Sarah R. Craig, their several and respective heirs and assigns forever, part and share alike, as tenants in common, and not as joint tenants: *And whereas*, By virtue of the powers contained in said will, and a certain act of assembly, in such case made and provided, passed on the ninth day of April, one thousand eight hundred and forty, parts of said devised premises have been converted into ground rents, held upon the said trusts and uses as the said devised estate: *And whereas*, The exigencies of the said family require that partition should be made of said devised property and ground rents, so that the life income of said William Craig should issue from and be taken out of one moiety in severalty of said devised premises and ground rents, and so that each of the said children should have and hold in severalty, not only his or her share of said property, of which he or she has the present enjoyment, but also that of which he or she will be entitled to the enjoyment upon the decease of the said William Craig; now, therefore;

SECTION 5. *Be it enacted*, That the orphans' court for the city and county of Philadelphia, may entertain a petition or petitions for the partition of all or any part of the said devised premises, which may be in the city or county of Philadelphia, and of the said ground rents which may issue out of real estate lying in the city or county of Philadelphia, and proceed therein as in the cases of petitions for partition of intestate estates, and award an inquest to make partition of said devised

real estate and ground rents, which inquest shall divide the said real estate and ground rents, so as to assign one moiety thereof in severalty, to be held by the said trustees, or the trustees or trustee for the time being, in trust, to pay the rents, income and profits thereof, to the said William Craig, during his natural life, and shall divide this moiety, (subject to the life interest of the said William Craig,) and also the other moiety among the children of the said Sarah R. Craig, in such manner that they may hold their respective shares in severalty: *Provided, however,* That nothing herein contained shall be construed to authorize a sale by the said orphans' court, in case any portion of said real estate or ground rents should be incapable of partition, nor any charge for owelty of partition; but in case any part of said property should be incapable of partition, or if assigned to one of said children, the said estate will afford no equivalent to be given to the others, then such part of said property shall remain and continue as though this act had not been passed.

Proviso

Penn Town-
ship commis-
sioners

Surveyors

Boundaries

Streets lanes
&c

Drafts

SECTION 6. That James Markee, Andrew D. Cash, William Esher, Jacob Heyberger and Edward T. Tyson, be, and they are hereby constituted a board of commissioners, with full power and authority to elect and appoint one or two competent surveyor or surveyors, (as they may be deemed needful,) to be surveyor and regulator or surveyors and regulators of that part of Penn Township, in the county of Philadelphia, lying between the north boundary line of the district of Spring Garden, and a line parallel with, and at the distance of one hundred feet north of Susquehanna avenue, and between the middle of Delaware Sixth street and the river Schuylkill, whose duty it shall be to give the necessary attention to all such regulations and other matters within the above described limits, as pertain to the office and duty of surveyor within the district of Spring Garden; and also to employ said surveyor or surveyors to make a general survey of all that part of said township above described, to lay out and mark the lines of all such streets, lanes, courts, alleys and common sewers therein, as he or they, together with the said commissioners, shall deem necessary for a regular and convenient town plot or plan, and for the more equal distribution and ready discharge of the waters thereof; and to regulate the height of all such streets, lanes, courts and alleys, and the gutters, and the width of the footways thereof; and for that purpose the said surveyor or surveyors shall have full power and authority, with or without his or their assistant or assistants, to enter upon the lands of any person or persons within the said limits; and when the said survey and regulation shall be completed, the said surveyor or surveyors shall make or cause to be made duplicate drafts or plans of the

whole, or of such sections as they may deem proper to divide the whole into, with every explanation necessary for a full understanding of the same; and one copy thereof shall be returned to the said commissioners, who shall keep the same in such place as they shall fix upon, and the other copy or copies shall be returned to the clerk of the court of quarter sessions of the county of Philadelphia, to be filed in his office for public inspection and examination; and it shall be the duty of the said commissioners to give at least thirty days previous notice, in at least two of the public newspapers published in the city of Philadelphia, and by hand bills, posted up in at least ten of the most public places in that part of said township, so surveyed and regulated, that on a certain day, to be appointed by the said court, the said court will hear any objection that may be made thereto by any citizen or holder of real property within the limits of such survey; and the said court shall, at the time appointed, adjudge and determine whether any, and what alteration shall be made therein, and shall direct the said drafts or plans, with such alterations as shall be made, if any, to be recorded in the office for recording of deeds in and for the city and county of Philadelphia, and thenceforth all the said streets, roads, lanes, courts and alleys, shall be forever deemed, adjudged and taken to be public highways; and the survey and regulations so returned and recorded, shall be and remain unalterable, and inasmuch as the public convenience will be for the present answered by the certain knowledge of how and in what manner such streets, roads, lanes, courts and alleys will in future run; but as it may not be necessary immediately to lay all of them open, and in order to provide for the opening of the same from time to time, as the increasing improvements may require, the court of quarter sessions is hereby empowered with similar jurisdiction, in relation thereto, as is now vested in it in relation to the opening of streets, roads, lanes, courts and alleys in the district of Spring Garden, under the act of incorporation of that district and supplements thereto.

SECTION 7. That the said commissioners hereby appointed, be and they are hereby invested with like and similar powers, for pitching, curbing and paving the streets so opened, as is vested in the commissioners of the district of Spring Garden, for like purposes, by the act of incorporation of that district, with similar powers also, for charging upon and collecting from the owners of property, fronting on any street, road, lane, court or alley, so paved, the full amount of the cost and expense thereof, as is likewise vested in the said commissioners of the district of Spring Garden, in similar matters, with regard to the pitching, curbing and paving the streets within that district.

Alterations

Surveys recorded

Quarter sessions

Comms powers pitching curbing &c

Tax SECTION 8. That the said commissioners appointed by this act, shall have full power and authority to lay, annually, a tax on the value, agreeably to the county assessment, of all the real and personal estate within the limits of said township, hereby authorized to be surveyed and regulated, sufficient to defray all the necessary expense of carrying this act into execution: *Provided*, That such tax shall not exceed three mills in the dollar on such valuation, and also to have the like power to collect the same, as is exercised in collecting the county tax within this commonwealth.

Proviso

Vacancies SECTION 9. That the court of quarter sessions be and it is hereby authorized to supply any and all vacancies that may occur in said board of commissioners created by this act: *Provided*, That the Girard college, and the grounds attached thereto, be exempt from any taxation by the passage of this act: *Provided, also*, That it shall be lawful for any twenty taxable inhabitants, residing within the proposed district, who shall be aggrieved by any act of the said commissioners, to petition the court of quarter sessions for the removal of all such commissioners, and upon the hearing of the case, if it shall appear that the application is well founded, the said writ shall remove every such commissioner, and appoint others to fill all such vacancies, who shall be residents within the said district: *And provided further*, That all commissioners appointed under the provisions of this act, shall be required to give such security, for the faithful performance of their duties and the application of all moneys which come into their hands, as the said court shall require.

Proviso

HENDRICK B. WRIGHT,

Speaker of the House of Representatives.

WILLIAM BIGLER,

Speaker of the Senate.

APPROVED—The nineteenth day of April, one thousand eight hundred and forty-three.

DAVID R. PORTER.