

CHAPTER DXXVIII.

AN ACT TO ENABLE THE INHABITANTS OF THE BOROUGH OF LANCASTER, IN THE COUNTY OF LANCASTER, TO RAISE MONEY ON THEMSELVES FOR SUPPORTING A NIGHTLY WATCH IN THE SAID BOROUGH AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas great advantage and benefit would arise to the inhabitants of the borough of Lancaster were they enabled by law to raise a public tax on themselves for supporting a nightly watch in the said borough and for such other public uses as would be of general utility to the inhabitants thereof:

[Section I.] Be it therefore enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the inhabitants and freeholders of the said borough who, by virtue of the charter of the said borough, are qualified to elect or be elected burgesses of the said borough, shall meet at the time and place by the said charter appointed for electing burgesses, assistants, high constable and town clerk for the said borough and then and there by ballot shall or may choose three of the said inhabitants or freeholders to be assessors of the said borough, and when so chosen the high constable of the said borough shall take their names in writing, under the hands and seals of six or more of the said inhabitants and freeholders, and return or certify the same into the office of the clerk of the general quarter sessions of the peace for the county of Lancaster within ten days next after the said election.

[Section II.] And be it further enacted by the authority aforesaid, That the burgesses and at least two of the assistants of the said borough, together with the said assessors, shall, on or before the fifteenth day of November yearly and every year, calculate what sum or sums of money may be needful and necessary

to be raised on the persons and estates aforesaid from time to time for building, repairing or amending any bridges, streets, alleys, watercourses, pumps, and for regulating the nightly watch or for other uses for the public service and benefit of the said borough; and shall also agree and settle from time to time, as occasion may require, what sum or sums of money shall be applied to every particular matter or thing which the said burgesses and a majority of the assistants, with any two of the said assessors, shall agree to be necessary to be raised for the ensuing year, which said respective sums, with the particular uses whereunto they shall be agreed upon to be appropriated as aforesaid, shall be entered in a book to be kept for that purpose by the town clerk of the said borough, who is hereby obliged to make such entry from time to time, for which he shall be allowed what the burgesses, assistants and assessors of said borough, or the majority of them, shall think reasonable; and that the said assessors shall, within six weeks after every such calculation, make or lay a rate or assessment upon themselves and all other persons and estates aforesaid to and for the uses aforesaid by pound rate, according to the manner and method now used in making assessments in this province for raising of county levies.

[Section III.] And be it further enacted by the authority aforesaid, That the said burgesses, two of the assistants and two of the said assessors shall by virtue of this act have power and authority to apply the moneys raised by this act to all or any of the uses and purposes aforesaid as they shall think most advantageous and of the greatest public use and benefit of and to the said borough.

[Section IV.] And be it further enacted by the authority aforesaid, That the said borough shall be and is hereby divided into four wards in manner following: That is to say, all that part of the said borough to the north of King street and to the east of Queen street shall be called King's ward; and all that part of the said borough to the north of King street and to the west of Queen street shall be called Queen's ward; and all that part of the said borough to the south of King street and east of Queen street shall be called Prince's ward; and all that part

of the said borough to the south of King street and west of Queen street shall be called Duke's ward.

[Section V.] And be it further enacted by the authority aforesaid, That the inhabitants and freeholders aforesaid in their respective wards shall, on the day appointed by law for choosing inspectors in this province, meet at some convenient place in each of the said wards, to be appointed by the constable of the said ward, and then and there choose, by ballot, a fit and proper person residing within the said wards respectively to be constable of the said wards respectively in the presence of the constable of each ward for the year ensuing; and in the meantime and until such election shall be made Abraham Myer, John Cross, Henry Dehuff and Frederick Tombaugh are hereby nominated and appointed constables of said wards: That is to say, Abraham Myer for King's ward, John Cross for Queen's ward, Henry Dehuff for Prince's ward and Frederick Tombaugh for Duke's ward, and John Hopson, Christopher Crawford and Caleb Shewart, assessors.

Provided always, That no constable chosen or appointed as aforesaid shall be obliged to serve more than one year during the continuance of this act, anything herein contained to the contrary notwithstanding.

[Section VI.] And be it further enacted by the authority aforesaid, That the constables of the said wards respectively shall bring in returns in writing to the said assessors within five days after notice given them of the names and estates of all persons within their wards aforesaid, for which they shall be allowed two pence per pound upon every sum assessed in their respective wards, which assessment being equally and impartially laid and signed by two of the said assessors and allowed and confirmed by the burgesses of the said borough for the time being under their hands and seals, shall be paid by every person and estate so assessed upon demand thereof after the day of appeal hereinafter mentioned by the collector, who shall, by the said assessors, or in case they neglect, then by the burgesses, be appointed to collect the same; and in case of refusal or neglect shall by warrant under the hand and seal of either of the said burgesses be levied by distress and sale of the goods of every

person so assessed and not paying the same within ten days after demand, rendering the overplus, if any, of the amount of sales of the goods so distrained and sold to the owner thereof, deducting the charges of such distress and sale, but for want of distress the said assessment to be levied by imprisonment of the person so refusing [or neglecting] to pay as aforesaid.

Provided always, That no such assessments to be made in one year shall exceed the value of four pence nor be less than three pence in the pound of the clear value of the lands, tenements, hereditaments and personal estate so assessed.

[Section VII.] And be it further enacted by the authority aforesaid, That the said assessors shall appoint a treasurer in the said borough, who shall keep a distinct book containing a particular account of the rates and disbursements made as aforesaid, as also all disbursements and payments which he shall make by order of the said burgesses, two of the said assistants and two of the said assessors, whose order to the said treasurer from time to time shall be sufficient for the payment of such moneys as shall come into his hands from the said collector.

[Section VIII.] And be it further enacted by the authority aforesaid, That the said treasurer shall, on the first Monday of September yearly, or oftener if occasion be, bring in his accounts and settle and make them up before the said burgesses, two of the said assessors and at least two of the said assistants or such as they shall appoint, at the auditing of which accounts all or any of the inhabitants and freeholders that are willing may be present; and the said treasurer shall have for his trouble therein as much as the said burgesses, two of the said assessors and at least two of the said assistants shall agree to allow him; and the said assessors shall be allowed two pence in the pound for all the sums levied and collected by virtue of this act.

[Section IX.] And be it further enacted by the authority aforesaid, That the money gathered and received by the said collector by virtue of this act shall from time to time be duly paid to the treasurer, whose receipts shall be the collector's discharge; and the said treasurer shall from time to time signify in writing to the said assessors how much the collector brings in and pays as aforesaid; and when the said collector is negligent

or refuses to do his duty in the premises the treasurer is hereby required forthwith to signify the same by way of complaint to the assessors aforesaid.

[Section X.] And be it further enacted by the authority aforesaid, That before the said treasurer enters upon the execution of his office, he is hereby required to give a bond, with one or more sufficient sureties, to the burgesses and inhabitants of the borough of Lancaster, in the county of Lancaster, and their successors, in the penalty of three hundred pounds lawful money of this province, with condition to pay all such moneys as shall come into his hands by virtue of this act according to the orders to be given to him as aforesaid from time to time and not otherwise, and for the due performance of his duty in the trust hereby committed to him, and that in case of his death or removal from the said office he, the said treasurer, his executors or administrators, shall and will, within one month after such death or removal, deliver over to the succeeding treasurer all books, accounts and papers belonging to the said office whole, entire and undefaced, and also settle the accounts of his said office and pay to the said succeeding treasurer within the time aforesaid such balance or sums of money as may be due to the said corporation at the time of his death or removal aforesaid.

[Section XI.] And be it further enacted by the authority aforesaid, That if the said treasurer shall refuse or neglect to do his duty as by this act is required, he shall be removed from his said office by the said assessors, with the consent of the said burgesses, and in case of such removal or if the said treasurer shall happen to die, the said assessors and burgesses, or the major part of them, shall appoint another in his place, who shall give security as is hereinbefore directed.

Provided always, That the said collector shall forthwith after every such assessment made as aforesaid give notice to the said freeholders and inhabitants of the said borough or, in their absence, to some one of their families or neighbors of the respective sums they are rated, and acquaint them with the day and place of appeal in case they shall be aggrieved by such assessment, which said appeal shall be heard at some convenient place in the said borough to be appointed by the assessors that laid the

said tax within two weeks after the said assessment is laid, and on the said day of appeal the burgesses shall hear all appeals and thereupon diminish or add to such assessment as to them shall seem just and reasonable, taking notice of such estates as they may find omitted in the said assessments in order to rectify the same.

[Section XII.] And be it further enacted by the authority aforesaid, That from and immediately after the said appeals have been heard and considered as aforesaid, it shall and may be lawful for the said collector and he is hereby required to proceed in collecting and levying the said rates and assessments, for the collecting whereof he shall retain and keep in his hands six pence in the pound of all such money as he shall so collect and no more; and if the said collector shall refuse or neglect to collect the said assessments respectively, or any part thereof, and pay the same unto the treasurer within two months after the said appeals have been heard and considered as aforesaid, every collector so refusing or neglecting shall forfeit and pay to the said treasurer for the use of the said borough the sum of five pounds, and shall also pay all the arrearages of such assessments which he was appointed to collect, which shall be levied by warrant under the hands of the burgesses for the time being and the seal of the said borough, directed to the sheriff, who is hereby empowered and obliged to execute such warrant upon the goods and chattels of the party so offending and make sale thereof; and in case goods and chattels sufficient to make satisfaction cannot be found, then to imprison such offender until payment be made, and every collector being so distrained on and having made full satisfaction as aforesaid is hereby empowered, without any other warrant, to distrain for his own use upon all such as shall refuse or neglect to pay the said arrearages.

[Section XIII.] And be it further enacted by the authority aforesaid, That the said assessors, before entering on the execution of their office, shall take the following oath or affirmation, to wit:

“That they will well and truly cause the rates and sums of money by this act imposed to be duly and equally assessed and laid out, to the best of their skill and knowledge, and therein

will spare no person for favor or affection nor grieve any for hatred or ill-will; and that they and each of them, the said assessors, will diligently attend and faithfully execute the said office during the term of their continuance therein according to the best of their abilities and judgment."

And that the said constables, before entering on their said offices, shall take the following oath or affirmation, viz.:

"That they will well and truly execute the office of constable for ——— ward, in the borough of Lancaster, for the ensuing year or until they shall be legally discharged, to the best of their abilities and judgment."

Which qualifications any of the said burgesses have power and are hereby enjoined to administer when required.

[Section XIV.] And be it further enacted by the authority aforesaid, That if at any time the freeholders and inhabitants aforesaid of the said borough shall neglect to choose assessors or constables as aforesaid, or if, when chosen, they do not attend their respective offices above directed, then the burgesses and assistants for the time being may and shall nominate and appoint assessors and constables, who may and shall perform the respective offices and duties of the said assessors and constables as fully and amply as assessors and constables are hereinbefore empowered and directed to do.

[Section XV.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the burgesses, assistants and assessors of the said borough, or the majority of them, as soon as they shall think proper, to erect, put up and fix lamps in such parts and places of the said borough as to them shall seem meet and expedient, and to contract with any person or persons for the lighting, trimming, snuffing, supplying, maintaining and repairing them; and shall likewise order, appoint, hire and employ what number of watchmen they shall judge necessary and proper from the time of their first meeting together after the publication of this act for one whole year, and shall or may then and there direct and order what wages shall be paid them; and if any of the said watchmen so by them hired and appointed shall happen to die within the time for which they were appointed or shall be negligent in his or their duty or be guilty of any misbehavior, it shall and may be lawful for the

burgesses, assistants and assessors aforesaid, or a majority of them, at any intermediate time of the year, to remove any of the said watchmen so appointed and to employ, hire and appoint one or more person or persons fitly qualified in the room and stead of him or them so dying, neglecting or misbehaving as aforesaid.

[Section XVI.] And be it further enacted by the authority aforesaid, That the burgesses and assistants of the said borough, together with the said assessors to be elected or appointed by virtue of this act, or a majority of the whole, shall, as soon as conveniently they can, direct and set down in writing at what stands it is fit for the said watchmen to be placed, how often they shall go the rounds, and also appoint the bounds each watchman is to go and order what constable of the borough shall watch each night, and shall from time to time make such further orders and regulations for the better government of the said constables and watchmen as the nature of each particular service shall seem to require.

[Section XVII.] And be it further enacted by the authority aforesaid, That the constables and watchmen respectively shall be furnished with true copies of all orders and regulations which shall from time to time be made as aforesaid for the better direction and government of the said constables and watchmen, fairly written or printed, and signed by the said burgesses, two assistants and two assessors.

[Section XVIII.] And be it further enacted by the authority aforesaid, That one constable or watchman shall attend at the court house of the said borough and shall keep watch and ward in manner following: That is to say, from the tenth day of the month called March to the tenth day of September in every year from the hours of ten in the evening until four the next morning, and from the tenth day of September to the tenth day of March in every year from nine in the evening until six in the morning; and the said constables and watchmen shall, in their several turns and courses of watching, use their best endeavors to prevent fires, murders, burglaries, robberies and other outrages and disorders within the said borough; and they are hereby empowered and required in their several stations during the time

of their keeping watch and ward as aforesaid to apprehend all night walkers, malefactors, rogues, vagabonds and disorderly persons whom they shall find disturbing the public peace or shall have just cause to suspect of any evil design and negroes absent from their master's or mistresses' houses and to take the person or persons so apprehended as soon as conveniently may be before one of the burgesses or any justice of the peace of the county residing in the said borough to be examined and dealt with according to law; and the constable and watchmen aforesaid shall be at their respective stands to be appointed as aforesaid and shall keep watch and ward at the hours and during the time hereinbefore mentioned and shall observe, perform and execute all such matters and things as by the rules, orders and regulations of the burgesses, assistants and assessors aforesaid shall be from time to time made and enjoined them upon and concerning the matters aforesaid according to the directions of this act; and in case of any fire breaking out or other great necessity shall immediately alarm each other and the inhabitants in their respective bounds, which, when done, they shall repair to their respective stands the better to discover any other fire that may happen, as well as to prevent any burglaries, robberies, outrages and disorders, and to apprehend any suspected persons who, in such times of confusion, may be feloniously carrying away the goods and effects of others.

[Section XIX.] And be it further enacted by the authority aforesaid, That if any person or persons shall and do after the publication of this act willfully or maliciously break, throw down or extinguish any lamp that is or shall be hung up or set up to light the streets and alleys in the said borough or shall willfully damage the post, iron or furniture thereof or any sentry box, every person so offending therein and being convicted by the lawful testimony of one or more witnesses before any one of the burgesses or justices of the peace residing in the said borough shall forfeit and pay the sum of forty shillings for each lamp so broken, thrown down, extinguished or otherwise damaged, or for each post, iron or other furniture thereof or sentry box so damaged or broken; and if any person or persons shall accidentally break, throw down or extinguish any of the

lamps or posts, iron or furniture or sentry box as aforesaid, and, having so done, shall fail of giving notice thereof to one of the burgesses or justices aforesaid within four-and-twenty hours from the time of the damage, every person so failing to give notice shall be liable to the same fine and forfeiture as if the offense was willful or malicious; but if timely notice be by him, her or them given as aforesaid, he, she or they shall only pay such costs and damages as in the judgment of two of the assessors will fully repay the damage done, anything herein contained to the contrary notwithstanding.

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

[Section XX.] Be it further enacted by the authority aforesaid, That the burgesses, assistants and assessors to be chosen or appointed as aforesaid are hereby authorized and empowered to dig wells and therein fix pumps in such convenient places as to them shall appear necessary in the streets or public alleys within the said borough, and dig, support and maintain them out of the moneys arising by virtue of this act.

And to prevent the pumps in the streets of the said borough being neglected and suffered to lie out of repair by their respective owners, the said burgesses, assistants and assessors, or a majority of them, are hereby further authorized and empowered, when they shall think proper, to agree with the owner or owners for all or any of such pump or pumps as are already fixed in the streets or alleys within the said borough and after such agreement made with the respective owner or owners thereof, such pump or pumps shall forever after become the property of and belong to the corporation to be maintained and kept in repair at the public charge.

[Section XXI.] And be it further enacted by the authority aforesaid, That the burgesses and assessors shall and they are hereby authorized and enjoined to inquire into the condition and take care of the repair of the several pumps within the streets or public alleys of the said borough, and if, after due inquiry, it shall appear to them on the evidence of two or more witnesses

that any of the said pumps have been out of repair for the space of three months next after notice thereof given by one of the burgesses to the owner or owners of the said pumps, then and in such case every such pump or pumps shall forever after become and be the property of the corporation, to be maintained at the public charge; and every such owner or owners of such pump or pumps within the said borough as shall duly maintain and keep them in good order and repair to the satisfaction of one of the burgesses and two of the assessors shall be allowed the sum of six shillings yearly, to be paid them, the said owners, out of the moneys arising by this act; and if any person or persons shall and do, after publication of this act, willfully and maliciously break or carry away the handles of any of the pumps within the said borough or otherwise injure and damage the same, every person so offending and being thereof convicted by the lawful testimony of one or more witnesses before one of the burgesses or justices aforesaid shall, for every offense, forfeit and pay the sum of five pounds for each pump so broken or damaged.

[Section XXII.] And be it further enacted by the authority aforesaid, That if any of the said constables or others so as aforesaid elected or appointed shall refuse to serve or after taking on themselves the office, shall willfully neglect his duty as aforesaid or shall depart from the duty hereinbefore enjoined him by virtue of this act, in each and every of the said cases the person or persons so offending shall respectively forfeit the sum of five pounds for every such offense.

[Section XXIII.] And be it further enacted by the authority aforesaid, That all the penalties (except where particular provision is by this act made for the recovery thereof) shall be recovered before one of the burgesses of the said borough or any justice of the peace for the said county residing within the said borough, under the hand and seal of such burgess or justice, to any constable of the said borough directed, who is hereby empowered and required to execute the same by distress and sale of the goods of the party or parties so offending, and where goods and chattels cannot be found sufficient the offender shall

be committed to the county gaol, there to remain until payment be made.

[Section XXIV.] And be it further enacted by the authority aforesaid, That if any negro slave be convicted of incurring any of the fines and penalties mentioned in this act, he, she or they shall, for the first offense, be whipped on the [bare] back with twenty-one lashes at the public whipping post and kept at hard labor in the house of correction three days, and for the second and every other offense shall receive thirty-one lashes and be kept six days at hard labor as aforesaid, unless the master or mistress of such slave will pay the fine or fines hereby inflicted.

[Section XXV.] And be it further enacted by the authority aforesaid, That if any minor, bound servant or apprentice be convicted of incurring any of the penalties or damages mentioned in this act, every such minor, bound servant or apprentice shall be committed to the house of correction and kept to hard labor for any space of time not exceeding ten days, unless the parent, guardian, master or mistress of such offender or offenders will pay the damages or penalties aforesaid.

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

[Section XXVI.] And be it further enacted by the authority aforesaid, That in case there shall be any deficiency in any one year's rate or assessment so to be made as aforesaid, so that all the wages to watchmen and other debts made and contracted for the purposes in this act mentioned with the incident charges cannot be fully paid and satisfied in that year, then and in that case the deficiency so happening shall be paid out of the next succeeding year's rate and assessment; and if there shall not be then sufficient, then the next year's and so from year to year until it shall be paid. And if there shall be any surplus money collected by such rate and assessment in one year, such surplus shall be carried on to the credit of the account of the next year's rate and assessment, to be applied to such use and in such manner as the rates and assessments to be collected as aforesaid

are by this act directed and permitted to be laid out and applied.

[Section XXVII.] And be it further enacted by the authority aforesaid, That this act shall continue for the space of three years and from thence to the end of the next sitting of assembly and no longer.

Passed September 20, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII. Repealed by the act of Assembly passed February 8, 1766, Chapter 541.

CHAPTER DXXIX.

AN ACT FOR THE MORE EASY RECOVERY OF LEGACIES.

Forasmuch as the laws of this province relating to the recovery of legacies are some time since expired, and as the said laws when in force were found necessary and beneficial:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act it shall and may be lawful for any person or persons to whom any legacy or bequest of any sum or sums of money or other goods or chattels have been or may be made by the last will and testament of any other person or persons legally made, to commence, sue and prosecute an action of debt, detinue or account render, as the case may require, for such legacy after it becomes due in any of the county courts for holding of pleas in any of the counties within this province; and if it shall appear that the legacy or legacies is or are due and there be sufficient assets in the hands of the ex-