

CHAPTER DCXLIV.

AN ACT FOR ERÉCTING A PART OF THE COUNTIES OF LANCASTER, CUMBERLAND, BERKS, NORTHAMPTON AND BEDFORD INTO A SEPARATE COUNTY.

Whereas a great number of the inhabitants of the counties of Berks and Bedford have represented to the assembly of this province the great hardships they lie under from being so remote from the present seat of judicature and the public offices:

For remedying whereof:

[Section I.] Be it enacted by the Honorable Richard Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and John Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all and singular the lands lying and being within the boundaries following, That is to say, beginning at the mouth of Mahontongo Creek on the west side of the river Susquehanna, thence up the south side of said creek by the several counties thereof to the head at Robert Meter's spring, thence west by north to the top of Tussey's Mountain, thence southwesterly along the summit of the mountain to Little Juniata, thence up the northeasterly side of the main branch of Little Juniata to the head thereof, thence north to the line of Berks County, thence northwest along the said line to the extremity of the province, thence east along the north boundary to that part thereof which is due north from the most northern part of the Great Swamp, thence south to the most northern part of the swamp aforesaid, thence with a straight line to the head of the Lehigh or Middle Creek, thence down the said creek so far that a line run west-southwest will strike the forks of Mahontongo Creek where Pine Creek falls into the same at the place called the Spread Eagle, on the east side of Susquehanna, thence down

the southerly side of said creek to the river aforesaid, thence down and across the river to the place of beginning, shall be and the same is hereby erected into a county henceforth to be called Northumberland.

[Section II.] And be it further enacted by the authority aforesaid, That the inhabitants of the said county of Northumberland shall at all times hereafter have and enjoy all and singular the jurisdictions, powers, rights, liberties and privileges whatsoever which the inhabitants of any other county within the said province do, may or ought to enjoy by any charter of privileges or the laws of this province, or by any other ways and means whatsoever, excepting only in the number of representatives to serve in general assembly of this province, in which case it is:

[Section III.] Provided, and further enacted by the authority aforesaid, That the freeholders and inhabitants of each township within the said county qualified by the laws of this province to elect shall meet at some convenient place within their respective townships at the same time the freeholders and inhabitants of the several townships of the other counties shall meet for like purpose and proceed to choose inspectors; and that the freemen and inhabitants of the said county qualified as aforesaid shall meet at or near Fort Augusta at the same time the inhabitants of the other counties shall meet for the like purpose and proceed to elect one representative or delegate to serve them in assembly in the same manner and under the same rules, regulations and penalties as by the charter and laws of this province are directed in respect to other counties; which said representative when so chosen shall be a member of the general assembly of the province of Pennsylvania, and shall sit and act as such as fully and freely as any of the representatives for the other counties within this province do, may, can or ought to do.

[Section IV.] And be it further enacted by the authority aforesaid, That all taxes already laid within the bounds of the said county of Northumberland by virtue of any act of general assembly of this province which are not already paid, shall be collected by the respective collectors within the bounds afore-

said and paid into the hands of the treasurers of the counties of Lancaster, Cumberland, Berks, Northampton and Bedford, respectively; and that all persons concerned in the levying, receiving and paying the said taxes shall have the same power and authority and be under the same penalties and restrictions for collecting and paying the same as by the said acts by which the said taxes were assessed are expressed and directed, until the whole be collected and paid as aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That the justices of the supreme court of this province shall have like powers, jurisdictions and authorities within the said county of Northumberland as by law they are vested with and entitled to in the other counties within the province aforesaid, and are hereby authorized and empowered from time to time to deliver the gaols of the said county of capital or other offenders in like manner as they are authorized to do in other the counties aforesaid.

[Section VI.] And be it further enacted by the authority aforesaid, That there shall be a competent number of justices nominated and authorized by the governor for the time being, by commissioners under the broad seal of the province, which said justices, or any three of them, shall and may hold courts of general quarter sessions of the peace and gaol delivery and county courts for holding of pleas; and shall have all and singular the powers, rights, jurisdictions and authorities, to all intents and purposes, as other the justices of the courts of general quarter sessions and justices of the county courts for holding of pleas in the other counties aforesaid may, can or ought to have in their respective counties, which said courts shall from and after the publication of this act sit and be held for the said county of Northumberland on the fourth Tuesday in the months of May, August, November, and February in every year at Fort Augusta until a court-house shall be built, and when the same is built and erected in the county aforesaid, the said several courts shall then be holden and kept at the said court-house on the days before mentioned; and the election of a representative to serve in general assembly, assessors and all other officers of the said county who are or shall be appointed to be annually elected shall be

made and elected at or near the said court-house at the same time and in the same manner as by the charter of privileges and the laws of the province aforesaid are directed to be done in the other counties within this province. And it shall be lawful for the freemen of the said county for the first year to choose three commissioners for raising county rates and levies for the said county.

[Section VII.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for William Maclay, Samuel Hunter, John Loudon, Joseph Wallis and Robert Moody, or any three of them, to purchase and take assurance to them and their heirs of a piece of land situate in some convenient place in the said county, to be approved of by the Governor, in trust and for the use of the inhabitants of the said county, and thereon to erect and build a court-house and prison sufficient to accommodate the public service of the said county and for the ease and convenience of the inhabitants.

[Section VIII.] And be it further enacted by the authority aforesaid, That for the defraying the charges of purchasing the land, building and erecting the court-house and prison aforesaid, it shall and may be lawful to and for the commissioners and assessors of the said county, or a majority of them, to assess and levy, and they are hereby required to assess and levy in the manner directed by the act for raising county rates and levies so much money as the said trustees, or any three of them, shall judge necessary for purchasing the land and finishing the said court-house and prison.

Provided always the sum of money so to be raised does not exceed one thousand pounds current money of this province.

[Section IX.] Provided also, and be it further enacted by the authority aforesaid, That no action or suit now commenced or depending in the counties of Lancaster, Cumberland, Berks, Northampton and Bedford, respectively, against any person living within the bounds of the said county of Northumberland or elsewhere, shall be stayed or discontinued by this act or by anything herein contained, but that the same actions already commenced or depending may be prosecuted and judgment thereupon rendered as if this act had not been made. And that it

shall and may be lawful for the justices of the said counties respectively to issue any judicial process, to be directed to the sheriffs of the counties aforesaid respectively, for carrying on and obtaining the effects of their suits, which sheriffs shall be and are hereby obliged to yield obedience in executing the said writs and make due return thereof before the justices of the courts of the said counties respectively, as if the parties lived and resided within the same.

[Section X.] And be it further enacted by the authority aforesaid, That Thomas Lemon of the said county of Northumberland be and is hereby appointed collector of the excise of the said county of Northumberland, who is hereby authorized and empowered by himself or his sufficient deputy, duly constituted and for whom he shall be accountable, to demand, collect, receive and recover the excise appointed to be paid by any act or acts of assembly of this province and also the arrearages thereof, of and from all and every person and persons within the said county retailing or vending any of the liquors by the said acts liable to pay the same, and also to recover and receive all and every the duties, fines and forfeitures laid or imposed or that shall happen to arise or become due for anything done contrary to the intent of the said acts.

[Section XI.] And be it further enacted by the authority aforesaid, That the said collector of excise for the county of Northumberland aforesaid, the better to enable himself to recover the arrearages of excise now due or which shall become due before the publication of this act, shall apply to the collectors of excise for the counties of Lancaster, Cumberland, Berks, Northampton and Bedford for lists, which the said collectors of the same counties, respectively, are hereby enjoined and required to deliver, containing the names of each and every person in arrear for excise within the said counties, respectively, and how much from each of them.

[Section XII.] And be it further enacted by the authority aforesaid, That the collector of the county of Northumberland aforesaid before he enters upon the execution of his said office is hereby required to give bond with two sufficient sureties to the treasurer of this province for the time being in the sum of

two hundred pounds, lawful money of the province aforesaid, for the faithful discharge of his duty and paying all such sums of money as he shall from time to time receive by virtue of this act. And further, the collector of the said county of Northumberland shall in all things govern himself and be subject to the same regulations, restrictions, fines and forfeitures and shall observe like rules, orders and directions as the collectors of other the counties aforesaid by the laws of this province are liable to. And the said collector for the discharge of the duty of the said office within the said county of Northumberland shall have and receive like fees, perquisites and rewards for his services enjoined by this act as other the collectors aforesaid (the collectors of Philadelphia county aforesaid excepted) by the acts aforesaid are entitled unto for the services enjoined them by the acts aforesaid.

[Section XIII.] And be it further enacted by the authority aforesaid, That until a sheriff and coroner shall be chosen in the county of Northumberland in pursuance of this act it shall and may be lawful for the sheriff and coroner of Berks to officiate and act in the discharge of their respective duties as fully and amply as they may or can do in their county of Berks; one of whom or his deputy shall attend and discharge the duty of his office according to the laws of this province at the next election for Berks county aforesaid, and the other of them or his deputy shall attend and discharge the duty of his office in like manner at the first election next to be held in the county of Northumberland aforesaid, in pursuance of the directions of this act.

[Section XIV.] And be it further enacted by the authority aforesaid, That before any sheriff hereafter to be appointed or commissioned for the said county of Northumberland shall enter upon the duties of his office, he shall become bound in an obligation with two or more sufficient sureties to be approved of by the Governor of this province for the time being, in the sum of one thousand pounds, and with like condition as the sheriffs of the other counties within this province are enjoined and required to become bound, which said obligation shall be taken in the King's name and entered upon record in the office

for recording of deeds in the said county of Northumberland, and shall be only in trust to and for the use and benefit of the person or persons who shall be injured by any breach, neglect or omission of duty in such sheriff, and shall be proceeded on in the same manner as is directed in respect to sheriff's bonds in and by the act of general assembly, entitled "An act for the regulating elections for sheriffs and coroners,"¹ and that the treasurer hereafter to be appointed for said county for receiving the provincial taxes, before he shall enter on the duties of his office, shall give security in like manner as other county treasurers for that purpose are by law directed to give security in the sum of fifteen hundred pounds, and that the treasurer for said county for receiving the county levies shall in like manner give security in the sum of six hundred pounds.

And to the end the boundaries of the said county of Northumberland may be the better ascertained and known:

[Section XV.] Be it further enacted by the authority aforesaid, That it shall and may be lawful to and for Joshua Elder, James Potter, Jesse Lukens and William Scull, or any two of them, and they are hereby required and firmly enjoined, within the space of six months next after the publication of this act to assemble themselves together and run, mark out and distinguish the boundary lines between the said counties of Lancaster, Cumberland, Berks, Northampton, Bedford and Northumberland, or so much thereof as they, or a majority of them, shall judge convenient and necessary, and the charges to arise for the doing thereof shall be defrayed by the said county of Northumberland and to that end levied and raised by the inhabitants thereof in such manner as other public money for the use of the said county by law ought to be raised and levied.

Passed March 21, 1772. Referred for consideration by the King in Council, January 15, 1773, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXX.

As to Section I, see the Acts of Assembly passed September 30, 1779, Chapter 848; March 4, 1785, Chapter 1136; April 8, 1785, Chapter 1164; September 25, 1786, Chapter 1244; December 27, 1786, Chapter 1256; September 29, 1787, Chapter 1323; September 19, 1789, Chapter 1436; April 13, 1795, Chapter 1834; April 17, 1795, Chapter 1848;

¹ Passed January 12, 1705-6, Chapter 161.

February 13, 1800, Chapter 2103; February 16, 1801, Chapter 2182; February 23, 1801, Chapter 2193; March 28, 1808, P. L. 159; March 18, 1811, P. L. 71; (the two Acts of Assembly passed) March 22, 1813, P. L. 146, 150; February 21, 1815, P. L. 38; January 22, 1816, P. L. 6; March 19, 1816, P. L. 242; April 7, 1830, P. L. 341; February 17, 1845, P. L. 41; May 3, 1850, P. L. 658; March 2, 1855, P. L. 537; (the Constitutional Amendment of 1857, incorporated into the Constitution of 1838 as Article XII; the Constitution of 1874, Article III, Section 7;) April 17, 1876, P. L. 42; April 17, 1878, P. L. 17; May 22, 1895, P. L. 97.

As to Sections II and III, see the Constitution of 1776, Plan of Government, Sections 17, 18; and the Acts of Assembly passed March 23, 1776, Chapter 717; September 24, 1779, Chapter 847; September 27, 1786, Chapter 1253; (the Constitution of 1790, Article I, Section IV; Schedule, Section VI;) April 22, 1794, Chapter 1770; April 13, 1795, Chapter 1834; February 13, 1800, Chapter 2003; February 27, 1801, Chapter 2212; March 21, 1808, P. L. 86; (the two Acts of Assembly passed) March 22, 1813, P. L. 146, 150; March 8, 1815, P. L. 93; March 25, 1822, P. L. 74; April 20, 1829, P. L. 212; June 16, 1836, P. L. 794; (the Constitution of 1838, Article I, Section IV;) April 14, 1843, P. L. 247; May 15, 1850, P. L. 777; (the Constitutional Amendment of 1857, incorporated into the Constitution of 1838 as Article I, Section IV;) May 20, 1857, P. L. 619; May 5, 1864, P. L. 258; May 6, 1871, P. L. 252; May 11, 1871, P. L. 259; (the Constitution of 1874, Article II, Sections 17, 18;) May 19, 1874, P. L. 196; May 12, 1887, P. L. 98.

As to Section VI, see the Ordinance of the first Constitutional Convention passed September 3, 1776, Chapter 731; the Constitution of 1776, Plan of Government, Sections 9, 17, 26, 30; and the Acts of Assembly passed January 27, 1777, Chapter 737; February 5, 1777, Chapter 739; March 15, 1777, Chapter 749; June 14, 1777, Chapter 757; August 31, 1778, Chapter 805; March 31, 1784, Chapter 1093; September 13, 1785, Chapter 1175; March 4, 1786, Chapter 1205; September 19, 1786, Chapter 1242; February 27, 1788, Chapter 1329; September 26, 1788, Chapter 1361; (the two Acts of Assembly passed) September 7, 1789, Chapters 1426, 1427; (the Constitution of 1790, Article V, Section X; Article VI, Section I; Schedule, Section IV;) April 9, 1791, Chapter 1561; April 13, 1791, Chapter 1575; (the two Acts of Assembly passed) September 30, 1791, Chapters 1590, 1601; September 22, 1794, Chapter 1780; April 1, 1795, Chapter 1822; April 15, 1795, Chapter 1836; March 21, 1797, Chapter 1933; April 4, 1798, Chapter 2005; April 8, 1799, Chapter 2061; March 15, 1800, Chapter 2142; January 2, 1801, Chapter 2157; March 16, 1803, P. L. 371; April 1, 1803, P. L. 586; April 4, 1803, P. L. 659; March 12, 1804, P. L. 267; April 4, 1805, P. L. 255; February 24, 1806, P. L. 334; April 11, 1807, P. L. 268; (the three Acts of Assembly passed) March 28, 1808, P. L. 150, 156, 168; April 9, 1809, P. L. 177; March 20, 1810, P. L. 227; April 1, 1811, P. L. 191; March 30, 1812, P. L. 188; March 14, 1814, P. L. 96; March 13, 1815, P. L. 168; February 20, 1816, P. L. 82; March 15, 1816, P. L. 137; (the two Acts of Assembly passed) March 19, 1816, P. L. 208, 242; March 23, 1818, P. L. 239; March 29, 1819, P. L. 201; March 28, 1820, P. L. 162; (the two Acts of Assembly passed) April 2, 1821, P. L. 247, 303; March 31, 1823, P. L. 238; (the two Acts of Assembly passed) April 11, 1825, P. L. 203, 218; April 10, 1826, P. L. 398;

April 4, 1831, P. L. 480; February 20, 1833, P. L. 47; April 9, 1833, P. L. 457; April 14, 1834, P. L. 333; June 16, 1836, P. L. 784; (the Constitution of 1838, Article V, Sections II, III, V, VII; Article VI, Sections I, III, VII, VIII; Schedule, Sections VII, X, XII;) April 16, 1838, P. L. 593; June 20, 1839, P. L. 1360; June 21, 1839, P. L. 376; July 2, 1839, P. L. 519; (the two Acts of Assembly passed) March 7, 1840, P. L. 72, 90; April 11, 1840, P. L. 294; June 13, 1840, P. L. 689; March 4, 1842, P. L. 43; July 11, 1842, P. L. 321; (the two Acts of Assembly passed) March 7, 1843, P. L. 48, 59; March 18, 1843, P. L. 104; April 4, 1843, P. L. 131; March 9, 1844, P. L. 75; March 14, 1845, P. L. 149; April 16, 1845, P. L. 521; March 9, 1846, P. L. 105; April 21, 1846, P. L. 419; March 16, 1847, P. L. 421; April 5, 1849, P. L. 555; April 9, 1849, P. L. 508; April 10, 1849, P. L. 619; (the Constitutional Amendment of 1850, incorporated into the Constitution of 1838 as Article V, Section II;) April 22, 1850, P. L. 543; April 25, 1850, P. L. 569; February 10, 1851, P. L. 40; March 11, 1851, P. L. 160; April 12, 1851, P. L. 444; April 15, 1851, P. L. 648; April 27, 1852, P. L. 465; February 9, 1853, P. L. 58; February 26, 1853, P. L. 118; March 11, 1853, P. L. 181; April 2, 1853, P. L. (1854) 802; April 18, 1853, P. L. 567; April 20, 1854, P. L. 419; April 21, 1854, P. L. 446; January 16, 1855, P. L. 1; January 31, 1855, P. L. 5; May 7, 1855, P. L. 478; April 26, 1856, P. L. 500; April 2, 1860, P. L. 552; April 17, 1861, P. L. 574; January 19, 1863, P. L. 1; May 5, 1864, P. L. 829; August 25, 1864, P. L. 990; March 30, 1866, P. L. 92; April 17, 1866, P. L. 107; June 4, 1866, P. L. 1107; April 15, 1867, P. L. 86; April 5, 1869, P. L. 710; May 2, 1871, P. L. 247; May 19, 1871, P. L. 958; June 28, 1871, P. L. 1365; December 27, 1871, P. L. (1872) 1392; February 15, 1872, P. L. 111; February 10, 1873, P. L. 40; March 11, 1873, P. L. 160; April 12, 1873, P. L. 444; (the Constitution of 1874, Article II, Sections 17, 18; Article III, Section 7; Article V, Sections 4, 5, 9, 11, 15, 22, 25; Article VIII, Sections 2, 3, 4, 7, 11; Article XIV Sections 2, 3; Schedule, Sections 11, 13, 14, 15, 16;) April 9, 1874, P. L. 54; (the two Acts of Assembly passed) May 15, 1874, P. L. 186, 196; March 4, 1875, P. L. 5; March 18, 1875, P. L. 28; May 18, 1876, P. L. 178; March 22, 1877, P. L. 12; June 10, 1881, P. L. 113; June 13, 1883, P. L. 124; August 7, 1883, P. L. (1885) 323; June 24, 1885, P. L. 149; March 24, 1887, P. L. 14; May 19, 1887, P. L. 126; June 11, 1891, P. L. 296; April 18, 1893, P. L. 107; May 18, 1893, P. L. 106; June 12, 1895, P. L. 190; June 26, 1895, P. L. 377.

As to Sections VII and VIII, see the Acts of Assembly passed July 23, 1774, Chapter 697; February 28, 1780, Chapter 874; April 18, 1794, Chapter 1745; April 1, 1803, P. L. 579; April 15, 1834, P. L. 537; March 21, 1866, P. L. 267; April 9, 1868, P. L. 73; April 4, 1878, P. L. 10; April 24, 1879, P. L. 32; June 1, 1883, P. L. 58; April 26, 1889, P. L. 55; April 19, 1895, P. L. 38.

As to Sections X-XII, see the notes to the Acts of Assembly passed May 26, 1744, Chapter 360; June 24, 1746, Chapter 370; September 21, 1756, Chapter 412; and see the Act of Assembly passed March 21, 1772, Chapter 656.

As to Section XIV, see the Acts of Assembly passed September 29, 1789, Chapter 1452; March 5, 1790, Chapter 1488; April 11, 1799, Chapter 2095; March 28, 1803, P. L. 497; March 30, 1811, P. L. 145; April 2, 1821, P. L. 245; April 8, 1826, P. L. 260; April 16, 1827, P. L.

471; April 15, 1828, P. L. 491; April 15, 1834, P. L. 537; April 1, 1835, P. L. 101; June 11, 1840, P. L. 612; May 27, 1841, P. L. 400; May 7, 1855, P. L. 495; April 13, 1859, P. L. 607; April 3, 1860, P. L. 650; April 21, 1876, P. L. 46; June 8, 1881, P. L. 81; June 27, 1883, P. L. 163; May 24, 1887, P. L. 185.

CHAPTER DCXLV.

AN ACT FOR THE SALE OF GOODS DISTRAINED FOR RENT AND TO SECURE SUCH GOODS TO THE PERSONS DISTRAINING THE SAME, FOR THE BETTER SECURITY OF RENTS AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas the most ordinary and ready way for recovery of arrears of rent is by distress; and no provision hath yet been made by the laws of this province that such distresses may be sold; and by the common law the same may be only detained as pledges for enforcing the payment of such rent, and the persons distraining have little benefit thereby:

For the remedying whereof:

[Section I.] Be it enacted by the Honorable Richard Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and John Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act, where any goods or chattels shall be distrained for any rent reserved and due upon any demise, lease or contract whatsoever, and the tenant or owner of the goods so distrained shall not within five days next after such distress taken and notice thereof with the cause of such taking, left at the mansion house or other most notorious place on the premises charged with the rent distrained for, replevy the same with sufficient security to be given to the sheriff according to law, that then and in such case after such distress and notice as aforesaid and expiration of the said five days the person distraining shall and may, with the sheriff,