

At a General Assembly begun and holden at Philadelphia, the fourteenth day of October, 1773, and continued by adjournments until the twenty-ninth day of September, A. D. 1774, the following acts were passed:

CHAPTER DCLXXXIX.

AN ACT FOR REGULATING THE BUILDINGS, KEEPING IN REPAIR THE STREETS, LANES, ALLEYS AND HIGHWAYS IN THE BOROUGH OF LANCASTER, AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas the inhabitants of the borough of Lancaster have represented by petition to the assembly that the owners of the lands within the limits of the said borough have laid out many streets, lanes and alleys for the accommodation of its inhabitants, but that many persons have encroached upon and committed nuisances therein; that irregularities and controversies frequently happen in relation to party walls and laying the foundations of buildings within the said borough; that there is a variety of other nuisances and annoyances in the said borough to the great inconvenience and detriment of its inhabitants:

And whereas the great improvements and buildings made and continuing to be made in the said borough with the increase of its inhabitants and the trade carried on therein have rendered the same a principal place of commerce in this province and it is necessary as well for the benefit of its inhabitants as the advantage of all who trade and resort there that the streets, lanes, alleys and roads in the said borough should be kept open, clean and free from encroachments, and that the streets and buildings should be regular and all nuisances prevented:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Governor and Commander in Chief 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 where any buildings have been heretofore erected in the said borough and shall happen to encroach upon any of the said streets, lanes and alleys, such buildings shall not be deemed, held or taken for nuisances or abatable as such.

But to prevent a continuance of such encroachments after such buildings shall be decayed or require rebuilding:

[Section II.] Be it further enacted by the authority aforesaid, That the owners of such buildings shall not at any time rebuild on the street, lane or alley so encroached on, and in case any person or persons shall rebuild on any of the said streets, lanes or alleys so encroached on the same shall be deemed, taken and adjudged a public nuisance and shall be abatable and punishable as such, and the person or persons so rebuilding shall forfeit and pay the sum of twenty pounds to the supervisors of the said streets, lanes and alleys to be applied towards repairing the same, being thereof first legally convicted in any county court of quarter sessions for the county of Lancaster.

Provided always, That nothing herein contained shall deprive or abridge the burgesses, high constable, assistant, freeholders and inhabitants of the said borough of Lancaster of any powers, privileges, jurisdictions or franchises granted them by charter or the laws of this province.

And to the intent that the said streets, lanes and alleys and such others as shall be hereafter laid out may be duly regulated, made and kept in good order:

[Section III.] Be it enacted by the authority aforesaid, That no person or persons whatsoever shall from and after the publication of this act lay the foundation of any party wall or front of any building adjoining the streets, lanes and alleys within the said borough before they have applied to the surveyors or regulators to be appointed by the burgesses and assistants of the said borough, who are hereby empowered as often as there shall be occasion to appoint three discreet persons to be sur-

veyors or regulators of the said streets, lanes and alleys so far as the same are already laid out and built upon, and of such streets, lanes and alleys as shall hereafter from time to time be laid out and opened by the owners of the grounds within the said borough respectively, which said persons so to be appointed shall direct the regulation of the said streets, lanes and alleys and of the foot way on the sides of the streets and fronting the houses and lots in the said borough, with the width or breadth of such foot way, and upon application made to them shall regulate and lay out the proper gutters, channels and conduits for the carrying off the water, and shall and may enter upon the lands of any person or persons in order to set out the foundations and to regulate the walls to be built between party and party as to the breadth and thickness thereof, which foundations shall be equally laid upon the lands of the persons between whom such party wall is to be made; and the first builder shall be reimbursed one moiety of the charge of such party wall, or for so much thereof as the next builder shall have occasion to make use of, before such next builder shall any ways use or break into the said wall, and the charge or value thereof shall be set by the said regulators or any two of them.

[Section IV.] And be it further enacted by the authority aforesaid, That if any person or persons shall begin or lay the foundation of any party wall or building before the place be viewed and directed by the said regulators or any two of them, or otherwise than as the same shall be set out and directed by the said regulators, every such person or persons, as well employers as master-builders, shall forfeit and pay the sum of five pounds to the burgesses of the said borough for the time being, or one of them, for the public use and benefit thereof, being of the said offense first convicted in the county court of quarter sessions of the county of Lancaster.

[Section V.] Provided always, and be it further enacted, That if either party between whom such foundation shall be laid out shall find themselves aggrieved by the order or direction of the said regulators, he, she or they may appeal to the justices at the next court of quarter sessions to be held for the said coun-

ty, who shall finally adjust and settle the same, and the costs of such appeal shall be paid as the same court shall direct.

[Section VI.] And be it further enacted, That the said regulators or surveyors attending the said service for their trouble shall be paid by the party or parties concerned in such foundation or erecting such party wall the sum of five shillings each.

[Section VII.] And be it further enacted by the authority aforesaid, That the said surveyors or regulators or any two of them shall have full power to regulate partition fences within the said borough, and where the adjoining parties do improve or inclose their lots such fences shall be made in the manner generally used and kept in repair at the equal costs of the parties, so that the price for making exceed not fifty shillings for every hundred feet, unless the owners or possessors between whom such fence is or shall be erected do agree otherwise; and if either party between whom such partition fence is or shall be made shall neglect or refuse to pay his part or moiety for the repairing or setting up of such partition fence as aforesaid, that then the party at whose cost the same was so repaired or set up may if above five pounds have his action at law for the said moiety of such costs, and if five pounds or under the same shall be determined before either of the burgesses of the said borough or any justice of the peace of the said county, as in cases of debts not exceeding five pounds.

[Section VIII.] And be it further enacted by the authority aforesaid, That the freeholders and others within the said borough qualified by charter to elect burgesses and assistants shall meet together on the third Saturday in the month of March yearly and every year at the court-house in the said borough, and then and there by tickets in writing between the hours of ten in the morning and four in the afternoon choose two discreet and reputable freeholders in the said borough to be the supervisors of the highways and two to be assessors, which said supervisors and assessors when chosen and returned in writing under the hand of one of the burgesses of the said borough in [to] the office of [the] clerk of the county court of quarter sessions for the said county shall be the assessors of the said borough and the supervisors of the streets, lanes, [alleys], roads and high-

ways thereof for the ensuing year; and if any supervisor or assessor so elected or otherwise appointed by virtue of this act shall refuse to take upon himself the said office he shall for every such offense forfeit and pay any sum not exceeding ten pounds, to be applied towards maintaining, amending, cleansing and repairing the said streets, lanes, alleys and highways.

[Section IX.] And be it further enacted by the authority aforesaid, That the said supervisors of the highways shall at least five days before the [third] Saturday in March yearly and every year give public notice in writing by affixing the same at the court-house in the said borough that the inhabitants and freeholders thereof are to meet on that day to elect assessors and supervisors for the said borough, according to the directions of this act.

[Section X.] And be it further enacted by the authority aforesaid, That it shall and may be lawful [for the said] supervisors, together with the assessors aforesaid for the time being, to lay a rate or rates in any one year not exceeding one shilling in the pound on the clear yearly value of the real and personal estates of all and every the freeholders and inhabitants within the said borough, to be employed for the amending, repairing and keeping clean and in good order the streets, lanes, alleys and highways aforesaid, agreeable to the true intent and meaning of this act.

Provided nevertheless, That the said rate or assessment shall be laid according to the best of their skill and judgment and as near as may be to the county assessment for other purposes laid in pursuance of an act, entitled "An act for raising county rates and levies,"¹ having due regard to every man's estate within the said borough without favor or affection to any person whomsoever. And the said supervisors and assessors and each of them shall before they take on themselves the duties enjoined and required by this act take an oath or affirmation, respectively, to the effect following: That is to say,

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 to the best of their skill and knowledge, and therein shall

¹ Passed March 20, 1724-5, Chapter 280.

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 and supervisors will diligently attend and faithfully execute their said offices, respectively, during the time of their continuance therein, according to the best of their abilities and judgment.

Which oath or affirmation the burgesses of the said borough or any one of them or any justice of the peace of the said county of Lancaster are hereby empowered and required to administer and to certify the same to the clerk of the sessions of the peace of the said county to be by him filed among the records and papers of his office.

[Section XI.] And be it further enacted by the authority aforesaid, That if any of the said supervisors or assessors so as aforesaid chosen shall refuse or neglect to take upon him or themselves the said office, respectively, or shall die or remove out of the said borough, or if the freeholders and inhabitants of the borough aforesaid shall neglect or refuse to elect or choose supervisors or assessors as is hereinbefore directed and appointed, then and in every such case it shall and may be lawful to and for the burgesses and assistants of the said borough with one or more of the justices of the peace of the said county and they are hereby enjoined and required to appoint another supervisor or supervisors, assessor or assessors, in the room and stead of every such supervisor or supervisors, assessor or assessors, so refusing, dying or removing as aforesaid, which said supervisor or supervisors, assessor or assessors, so appointed, shall have the same powers and authorities and shall be liable to the same penalties as the supervisors or assessors so chosen by the inhabitants of the said borough in pursuance of the direction of this act, and that the supervisors and assessors shall have and receive for their trouble in rating and assessing the said rate three pence in every pound; and the said supervisors shall have and receive six pence in the pound for collecting the same and four shillings each for every day they shall attend in overseeing, employing and attending the workmen upon the public streets, lanes, alleys and highways within the said borough.

[Section XII.] And be it further enacted by the authority aforesaid, That the said supervisors before they proceed to the

collecting of the said rate shall procure the same to be allowed by the burgesses of the said borough or one of them and one or more of the justices of the peace of the said county of Lancaster, and if any person or persons so rated and assessed shall refuse to pay the sum or sums on him or them charged and shall not enter his or their appeal at the next general court of quarter sessions, that it shall and may be lawful to and for the said supervisor or supervisors (having first obtained a warrant under the hand and seal of one of the said burgesses or one of the justices of the peace aforesaid, who are hereby empowered and required to grant such warrant) to levy the same on the goods and chattels of the person or persons so refusing; and in case such person shall not within three days next after such distress made pay the sum or sums on him or her assessed, together with the charges of such distress, that then the said supervisors or supervisor may proceed to the sale of the goods distrained, rendering to the owner the overplus, if any shall remain on such sale, reasonable charges being first deducted.

Provided nevertheless, That if any person or persons shall find him, her or themselves aggrieved with such rate or assessment, it shall be lawful for the justices of the peace at their next general quarter sessions, upon the petition of the party, to take such order therein as to them shall appear just, and the same shall conclude and bind all parties, and the supervisors in case of such appeal shall forbear making distress until the same be determined in the quarter sessions in the manner herein directed and appointed.

[Section XIII.] And be it further enacted by the authority aforesaid, That the tenant or tenants or other persons residing on or having the care of lands of persons not residing in the said borough, his, her or their goods and chattels, shall be liable to be distrained in manner aforesaid for the payment of the said tax.

[Section XIV.] And be it further enacted by the authority aforesaid, That where any tenant shall before the passing of this act have taken on a lease for one or more years any lands or tenements and shall pay the said rate hereby imposed on the said lands or tenements so leased or shall have his or her goods

and chattels distrained for the same, in such case it shall and may be lawful for the said tenant or tenants or other persons aforesaid to deduct the tax so paid out of the rent due or to become due, or for the tenant or tenants or other persons aforesaid to recover the same from the owner or owners by action of debt, together with costs of suit.

Provided always, That nothing herein contained shall make void or alter any contract heretofore made between any landlord and tenant respecting the payment of the road tax of any usage or custom in respect to the tenant's paying the said tax now subsisting between landlord and tenant.

[Section XV.] And be it further enacted by the authority aforesaid, That the said supervisors shall and they are hereby required and enjoined, as often as the said several streets, lanes, alleys and highways shall be out of repair or want cleansing, to hire and employ a sufficient number of laborers and the necessary carts or wagons to work upon, open, amend, repair and clean the same and to carry off and remove any filth, mud or dirt which shall be therein in the most effectual manner, and shall purchase all materials necessary for that purpose and oversee the said laborers and take care that the said streets, lanes, alleys and highways be effectually opened, amended, repaired and cleaned according to the regulations so made by the said regulators, according to the true intent and meaning of this act.

And in order to enable the said supervisors the more effectually to discharge their duty:

[Section XVI.] Be it enacted by the authority aforesaid, That it shall and may be lawful for the supervisors aforesaid or any other person or persons by his or their order and direction to enter upon any lots or lands adjoining to or lying near the said streets, lanes, alleys and highways, and to cut or open such drains or ditches through the same as he or they shall judge necessary completely to carry off and drain the water from such streets, lanes, alleys and highways, provided the same be done with as little injury and damage as may be to the owner of such lot or land, which drains and ditches so cut and opened shall be kept open by the said supervisors if necessary for amending and keeping clean and in good order the said streets, lanes, alleys

and highways or any or either of them, and shall not be stopped or filled up by the owner or owners of such lot or land or any other person or persons whatsoever under the penalty of five pounds for every such offense, to be paid and applied for and towards keeping in good order and repair the said streets, lanes, alleys and highways.

[Section XVII.] And be it further enacted by the authority aforesaid, That all and every supervisor or supervisors aforesaid who shall refuse or neglect to do and perform his or their duty as directed by this act (not otherwise particularly provided for) shall be fined and pay the sum of three pounds for every such offense, to be recovered in a summary way before either of the burgesses of the said borough or any justice of the peace of the county residing in the said borough, and to be applied towards repairing and keeping clean and in good order the said streets, lanes, alleys and highways.

Provided always, That if any such supervisor or supervisors shall conceive him or themselves aggrieved by the judgment of such burgess or justice, he may appeal to the next county court of quarter sessions, who shall on the petition of the party take such order therein as to them shall appear just and reasonable, and the same shall be conclusive to all parties.

[Section XVIII.] And be it further enacted by the authority aforesaid, That the person or persons who shall have served the office of supervisor or supervisors the preceding year shall on the twenty-fifth day of March yearly or within six days after make up and produce to the said burgesses and assistants fair and just accounts of all such sums of money by him or them expended on the said streets, lanes, alleys and highways, and of all sums of money by him or them received by virtue of any assessments, and of all fines and penalties which have come to their hands, which accounts shall be entered in a book to be provided for that purpose and shall be attested on oath or affirmation by such supervisor or supervisors if required by any three or more of the freeholders or inhabitants of the said borough; and the said burgesses and assistants or any four of them, of which four a burgess shall be one, shall have full power to adjust and settle the said accounts and to allow of such charges and sums

only as they shall think just and reasonable, and if there shall appear to be any money remaining in the hands of the said supervisor or supervisors they shall by order in writing signed by them direct the same to be paid to the succeeding supervisor or supervisors, but in case the said supervisor or supervisors shall be found in advance for moneys expended and shall have carefully collected the sums of money assessed and imposed by virtue of this act then the said burgesses and assistants shall in like manner order the succeeding supervisors to repay and reimburse the same as soon as a sufficient sum of money shall come to their hands; and if such supervisor or supervisors shall neglect or refuse to make up and produce fair and just accounts as aforesaid, or having made up and produced such accounts shall neglect or refuse forthwith to pay the moneys which he or they shall be ordered as aforesaid to pay, or shall not deliver up the book wherein such accounts shall be entered to their successors, it shall and may be lawful for either of the burgesses of the said borough or any justice of the peace on complaint to him made by any two of the said assistants to commit such delinquent or delinquents to the county gaol until the same shall be done.

Provided always, That if any supervisor shall think himself aggrieved by the settlement of his accounts as aforesaid, he may (having first paid over to his successor or successors the balance found in his hands) appeal to the next court of quarter sessions, who shall on the petition of the party take such order therein and give such relief as to them shall seem just and reasonable, and the same shall conclude and bind all parties.

[Section XIX.] And be it enacted by the authority aforesaid, That the said borough of Lancaster according to the extent, bounds and limits thereof by charter shall henceforth be deemed and taken and is hereby declared to be one distinct district in the said county of Lancaster, and that two overseers of the poor shall be appointed, one assessor who shall have the same power as the assessor of any of the townships have, and one inspector, to serve at the general election in and for the said county of Lancaster, shall be elected in and for the said borough in the same manner as they are by law directed to be appointed and

chosen in and for the several townships within this province, which said overseers so nominated and assessors and inspectors so elected shall have, use and exercise all and every the powers, rights and privileges and be subject to the same penalties and forfeitures within the said borough, respectively, which are lawfully used, had and exercised and which are to be suffered by or imposed on the several overseers, assessors and inspectors of the several townships aforesaid, to all intents and purposes as if they were respectively nominated and chosen overseers of the poor, assessors and inspectors of any of the townships aforesaid, in pursuance of the laws of this province in such cases made and provided.

And whereas doubts have arisen whether according to the laws now in force His Majesty's justices of the peace residing within the said borough and who are chargeable with or rated to the taxes, levies or rates within the same may lawfully act in any case relating to the said borough:

[Section XX.] Be it therefore enacted by the authority aforesaid, That it shall and may be lawful to and for the magistrates of the said borough and all and every the justice or justices of the peace of the county of Lancaster aforesaid residing or being in the same to make, do and execute all and every act or acts, matter or matters, thing or things appertaining to their office as justice or justices of the peace so far as the same relates to the laws for the relief, maintenance and settlement of poor persons, for passing and punishing of vagrants, for opening, amending and repairing the streets, lanes, alleys or highways, or to any other laws concerning taxes, levies or rates, notwithstanding any such magistrate or magistrates, justice or justices is or are rated or chargeable with the taxes, levies or rates within the same borough.

[Section XXI.] Provided always, and be it further enacted by the authority aforesaid, That this act or [any] thing herein contained shall not authorize or empower any magistrate, justice or justices of the peace for or within the said borough or who are any ways chargeable with the taxes, rates or levies within the said borough to act in the determination of any appeal to the quarter sessions of the peace for the said county of

Lancaster from any order, matter or thing relating to the same borough, anything herein contained to the contrary in any wise notwithstanding.

And whereas it hath frequently happened that persons in digging cellars and building houses have thrown the clay and dirt from their cellars and the rubbish from their buildings into the streets, lanes, alleys and highways of the said borough and by suffering the same to remain there have rendered the said streets, lanes and alleys impassable:

[Section XXII.] Be it therefore enacted by the authority aforesaid, That if any person or persons in digging or making of cellars, foundations and buildings, vaults, wells, sinks, drains or other works or improvements, shall after the publication of this act cast or throw any dirt, earth, clay, stone or other matter into any public street, lane, alley or highway within the said borough, and shall keep or suffer such dirt, earth, clay, stone or other matter to remain upon such street, lane or alley or highway so as unnecessarily to incommode or annoy the inhabitants of the said borough and shall not remove the same upon notice given to him, her or them for that purpose by, or by order of the burgesses of the said borough or either of them, or by the regulators aforesaid or any two of them, every such person and persons so offending and being thereof convicted before either of the burgesses of the said borough or any justice of the peace of the county aforesaid shall forfeit for every such offense the sum of thirty shillings and shall pay the costs of removing the same.

[Section XXIII.] And be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall cast or lay or cause to be cast or laid any shavings, mud, ashes, dung, or other filth or annoyance on any pavement, street, lane or alley within the said borough and shall not remove the same on notice given to him, her or them by the burgesses of the said borough or either of them or by the regulators aforesaid or any two of them, every such person and persons so offending and being thereof convicted before either of the burgesses of the said borough or before any justice of the peace of the county aforesaid shall forfeit for every such offense the sum of twenty shillings, and pay the costs of removing the same.

[Section XXIV.] And be it further enacted by the authority aforesaid, That if any person or persons shall after the publication of this act cast or throw out of any cart, wagon or other carriage any rubbish, dirt or earth in any public street, lane or alley of the said borough, save only in such parts and places as shall be appointed and agreed on by the said regulators and the supervisors aforesaid or any three of them, every such person and persons so offending and being thereof convicted before the burgesses of the said borough or either of them or before any justice of the peace of the said county shall forfeit for every such offense the sum of ten shillings, and shall pay the costs of removing the same.

[Section XXV.] And be it further enacted by the authority aforesaid, That if any distiller, soap-boiler or tallow-chandler within the said borough shall discharge any foul or nauseous liquor from any still-house or work-shop so that such liquor shall pass into or along any [of] the said streets, lanes or alleys, or if any soap-boiler or tallow-chandler shall keep, collect or use or cause to be kept, collected or used in any of the built parts of the said borough any stale, putrid or stinking fat, grease or other matter, or if any butcher shall keep at or near his slaughter-house any garbage or filth whatsoever so as to annoy any neighbor or any other person whatsoever, he, she or they so offending and being thereof convicted before the burgesses of the said borough or either of them or before any justice of the peace of the said county shall forfeit and pay for every such offense the sum of thirty shillings.

[Section XXVI.] And be it further enacted by the authority aforesaid, That if any person or persons shall after the publication hereof presume to cast, carry, draw out or lay any dead carcass or any excrement or filth from vaults, privies or necessary houses and shall leave such carcass or filth without burying the same a sufficient depth in any uninclosed grounds within the limits of the said borough or on or near any of the streets, lanes, alleys or highways aforesaid, every person or persons so offending and being thereof convicted before either of the burgesses of the said borough or before any justice of the peace of the said county shall forfeit for every such offense the sum of thirty shil-

lings, and shall pay the costs of removing and burying such carcass, excrement or filth in such place and manner as the burgesses of the said borough or either of them or the said regulators or supervisors or any two of them shall direct or appoint.

[Section XXVII.] And be it further enacted by the authority aforesaid, That if any person or persons whatsoever shall willfully stop up or obstruct the passage of the waters of any of the common sewers lately made and being in King street, Queen street or Water street in the said borough [or of any of the common sewers hereafter to be made within the said borough], he or they so offending shall forfeit for every such offence any sum not exceeding twenty pounds, and shall pay the costs of removing such obstruction.

[Section XXVIII.] And be it further enacted by the authority aforesaid, That if any person or persons shall make any pavement or footway before their houses or lots in the said borough of a greater width or breadth or height than allowed or directed by the surveyors or regulators to be appointed by virtue of this act or contrary to the directions of the said regulators or any two of them, or shall set up posts in the streets, lanes or alleys aforesaid or any of them otherwise than as allowed and directed by the said regulators or any two of them, and shall refuse or neglect to take up, remove or place the same in such manner as the said regulators shall direct and order after two days' notice to him, her or them for that purpose given by order of the burgesses of the said borough or either of them or by order of the said regulators or any two of them, every such person so offending and being thereof convicted before either of the burgesses of the said borough or before any justice of the peace of the county aforesaid shall forfeit and pay the sum of thirty shillings for every such offense, and the said regulators or any two of them shall and may take up, regulate, pull down, remove and replace such pavement and posts in such manner [as] they shall think proper, and the costs of taking up, regulating, pulling down, removing and replacing such pavements and posts shall be paid by the party or parties so offending in the premises.

[Section XXIX.] And be it further enacted by the authority aforesaid, That if any person or persons shall hereafter make

and set up or shall cause to be made and set up in any street of fifty feet wide or upwards within the said borough any porch, cellar-door or step which shall extend beyond the distance of four feet and three inches into such street or a proportionate distance into any narrower street, and if any person or persons shall hereafter make and set up or cause to be made and set up any bulk, jut-window or encumbrance whatsoever whereby the passage of any street, lane or alley shall be obstructed, or shall place or cause to be placed any spout or gutter whereby the passage of any street, lane or alley shall be incommoded, every person so offending and being thereof convicted before the burgesses of the said borough or either of them or before any justice of the peace of the county aforesaid shall for every such offense forfeit and pay the sum of thirty shillings, and shall forthwith remove the said nuisance or cause the same to be removed, and on failure thereof by the space of three days next after notice to him or them for that purpose given by order of the burgesses of the said borough or by the said regulators or any two of them, then and in that case the regulators aforesaid or any of them shall and may remove the same or cause the same to be removed, and the costs and expenses attending such removal shall be paid by the party or parties so offending.

[Section XXX.] And be it further enacted by the authority aforesaid, That the owner or owners of every house within the said borough having at the publication hereof any porch, cellar-door or step extending into any street beyond the limits aforesaid, or having fixed or fastened to such house any bulk, jut-window or other encumbrance whatsoever, shall yearly and every year pay to the supervisors of the said streets, lanes, alleys and highways to be applied towards repairing and amending the same such sum or sums of money as the said burgesses and assistants shall assess, until such porch, cellar-door or step to him, her or them respectively belonging shall be reduced to the limits aforesaid, or such bulk, jut-window or other encumbrance shall be removed and taken away, and every owner or owners of any house or houses whereunto any spouts or gutters shall at the time of the publication hereof be so fixed or placed that the waters thereby discharged may incommode persons

passing in the said streets, lanes or alleys, shall and they are hereby enjoined and required forthwith to remove or effectually to alter and amend the same.

And whereas divers inhabitants of the said borough have lately at their private expense erected and do support lamps in the public streets of the said borough, which are found very beneficial to the inhabitants and others who have occasion to pass and repass in and through the same:

[Section XXXI.] Be it enacted by the authority aforesaid, That if any person or persons shall from and after the publication of this act willfully or maliciously break, throw down or extinguish any lamp that is or shall be set up to light the streets, lanes or alleys of the said borough, or shall willfully or maliciously damage the posts, iron or other furniture thereof, every person so offending (the owners of such lamps and persons employed by them only excepted), being thereof convicted in any court of quarter sessions in and for the county aforesaid, shall forfeit and pay the sum of ten pounds for each lamp so broken, thrown down or extinguished and for each post, iron or other furniture so damaged; and if any person or persons shall accidentally or undesignedly break, thrown down or extinguish any of the lamps aforesaid or damage any of the said posts, iron or furniture, and having so done shall fail of giving notice thereof to one of the burgesses or assistants of the said borough within twelve hours from the time of the said damage being done, every person so failing to give notice as aforesaid, being thereof legally convicted as aforesaid, shall forfeit and pay any sum not exceeding forty shillings, which said fine shall be paid into the hands of the regulators of the streets, lanes and alleys of the said borough or one of them, and shall be by him or them applied, so far as is necessary, in supplying and making good the damage, and the residue, if any, paid to the supervisors of the said streets, lanes, alleys and highways and applied towards amending and repairing the same; but if such notice shall be given as aforesaid the person or persons so giving the same shall only pay such costs as in the judgment of the regulators aforesaid will fully repair the damage done.

And whereas in digging of wells in the said borough it is fre-

quently found very difficult and expensive to procure water, and by reason of such difficulties and expense the said borough is in most parts but badly supplied in case of accidents by fire, and some attempts having lately been made with success towards conducting the water from certain springs in the said borough by pipes into King street, so that a constant stream of spring water is now conveyed in and along Water street (with the consent and direction of the burgesses and assistants of the said borough) in such manner as to discharge itself into King street and be of great use to the inhabitants, and it is purposed by the burgesses, assistants and inhabitants of the said borough to sink and fix cisterns at the place aforesaid and in other parts of the said borough for the reception and collection of water in large quantities for immediate use in cases of fire, and to attempt the introduction of the waters of other adjacent springs into the more central parts of the same:

[Section XXXII.] Be it therefore enacted by the authority aforesaid, That if any person or persons after the publication of this act shall willfully or maliciously remove, misplace or injure any of the pipes or trunks already fixed or placed, or that hereafter shall be fixed or placed by direction of the burgesses and assistants of the said borough for conveying the waters of any spring which they shall agree for and have liberty from the owner or proprietor of the same to convey into any part of the said borough, or if any person or persons shall willfully and maliciously and without the consent and direction of the burgesses and assistants aforesaid by any ways or means whatsoever obstruct or prevent the course of such waters in or through such trunks, pipes or conduits as are already placed or shall or may be placed as aforesaid, or shall spoil or injure any cistern which shall or may be placed for the reception of such waters as aforesaid, every such person so offending and being thereof convicted before the burgesses of the said borough or either of them or before any justice of the peace of the county aforesaid shall forfeit and pay the sum of five pounds for every such offense, and shall pay the costs of repairing and putting such trunks, pipes, conduits or cisterns in good order and repair.

And whereas it hath been usual for the merchants and traders

within the said borough to keep large quantities of gunpowder in their dwelling houses and shops, to the manifest danger of the inhabitants:

[Section XXXIII.] Be it therefore enacted by the authority aforesaid, That no person or persons whatsoever within the limits of the said borough shall from and after the publication of this act keep in any house, shop, cellar, store or other place within the said borough any more or greater quantity than twenty-five pounds' weight of gunpowder, to be kept in the highest story of the house at any one time, unless it be fifty yards distant from any dwelling house, under the penalty of ten pounds.

[Section XXXIV.] And be it further enacted by authority aforesaid, That all the penalties, fines and forfeitures hereinbefore imposed by this act, the manner of levying and recovering of which is not before directed, not exceeding the sum of five pounds, shall be recovered before one of the burgesses of the said borough or before one of the justices of the peace of and for the said county of Lancaster, and shall be levied by warrant under the hand and seal of such burgess or justice, directed to any constable of the said borough or county, who is hereby empowered and required to execute the same, by distress and sale of the goods and chattels of the offender, and where goods and chattels sufficient cannot be found, then the party or parties offending shall be committed to the common gaol of the said county, there to remain until payment made or until discharged by due course of law; and if such penalties, fines and forfeitures shall exceed the sum of five pounds, then to be recovered by action of debt, bill, plaint or information in any county court within this province, wherein no essoin, protection or wager of law nor more than one imparlance shall be allowed; and all fines and forfeitures arising by this act not hereinbefore appropriated shall be paid to the supervisors of the streets, lanes, alleys and highways, to be applied in amending and repairing the same.

[Section XXXV.] And be it enacted by the authority aforesaid, That nothing in a certain act of assembly passed in the twelfth year of His Majesty's reign, entitled "An act for opening [and better amending] and keeping in repair the public

roads and highways within this province,"¹ shall be deemed, construed or taken to extend to the public roads, streets, lanes or alleys within the said borough, or to the assessing the inhabitants thereof for the purposes therein mentioned, or to any other matter or thing to be done or performed therein, but the said act, so far as it relates to or respects the said borough and no further, is hereby declared to be repealed to all intents and purposes.

[Section XXXVI.] And be it also enacted by the authority aforesaid, That if any person or persons be sued or prosecuted for anything done in pursuance of this act, he, she or they may plead the general issue and give this act and the special matter in evidence for their justification, and if the plaintiff or prosecutors become nonsuit or suffer a discontinuance or if a verdict pass against him, the defendant shall have treble costs, to be recovered as in cases where costs by law are given to defendants.

Passed January 22, 1774. Referred for consideration by the King in Council, August 12, 1774, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXXI, and the notes to the Acts of Assembly passed May 10, 1729, Chapter 306; March 21, 1772, Chapter 653; and the Acts of Assembly passed April 4, 1792, Chapter 1628; March 9, 1797, Chapter 1927; February 20, 1804, P. L. 122; March 20, 1818, P. L. 207; March 18, 1822, P. L. 61; February 25, 1825, P. L. 40; April 12, 1828, P. L. 362; April 14, 1828, P. L. 461; (the resolutions of Assembly passed) February 7, 1832, P. L. 623; April 24, 1832, P. L. 640; March 25, 1833, P. L. 491; February 15, 1834, P. L. 54; March 21, 1836, P. L. 134; April 1, 1837, P. L. 125; (the two Acts of Assembly passed) April 16, 1838, P. L. 466, 626; February 4, 1846, P. L. 27; March 15, 1847, P. L. 366; February 14, 1848, P. L. 54; March 6, 1848, P. L. 104; March 8, 1848, P. L. 119; March 18, 1848, P. L. 209; March 24, 1848, P. L. 235; April 5, 1848, P. L. 337; February 19, 1849, P. L. 74; April 5, 1849, P. L. 424; April 6, 1850, P. L. 400; May 8, 1850, P. L. 749; April 12, 1851, P. L. 454; April 6, 1852, P. L. 265; April 18, 1853, P. L. 565; April 13, 1854, P. L. 352; May 5, 1854, P. L. 534; March 15, 1855, P. L. 81; March 16, 1855, P. L. 92; May 7, 1855, P. L. 473; February 12, 1856, P. L. 40; January 31, 1857, P. L. 9; April 7, 1858, P. L. 220; March 26, 1860, P. L. 270; March 31, 1860, P. L. 475; April 5, 1867, P. L. 783; February 21, 1868, P. L. 199; March 20, 1869, P. L. 462; March 28, 1872, P. L. 616; March 19, 1873, P. L. 315; April 10, 1873, P. L. 734; April 18, 1873, P. L. 811.

¹ Passed March 21, 1772, Chapter 653.