

notice or notices were served on such creditor or creditors in person.

Passed April 13, 1782. Recorded L. B. No. 1, p. 492, etc. See the Acts of Assembly passed September 13, 1785, Chapter 1179; April 19, 1794, Chapter 1756.

CHAPTER CMLXIX.

AN ACT FOR ERECTING THE TOWN OF CARLISLE, IN THE COUNTY OF CUMBERLAND, INTO A BOROUGH; FOR REGULATING THE BUILDINGS, PREVENTING NUISANCES, AND ENCROACHMENTS ON THE COMMONS, SQUARES, STREETS, LANES AND ALLEYS OF THE SAME, AND FOR OTHER PURPOSES THEREIN MENTIONED.

Whereas the inhabitants of the town of Carlisle have represented by their petition to the assembly that the said town has greatly improved and is yearly increasing in buildings and number of inhabitants; that a good court house and gaol and three churches or houses for public worship are erected, and that the courts of justice for the county are held there; that encroachments and nuisances have been committed in the public squares, streets, lanes, alleys and commons of said town; that contentions happen relative to partition walls and fences, and a variety of other matter to the great annoyance and inconvenience of the inhabitants:

(Section II, P. L.) And whereas it is necessary, as well for the benefit of the inhabitants of the said town as those who trade and resort there, and for the advantage of the public in general, that the encroachments, nuisances, contentions, annoyances and inconveniences in the said town and commons thereto belonging should, for the future, be prevented:

[Section I.] (Section III, P. L.) Be it enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That the said town of Carlisle and commons shall be, and the same is hereby erected into a borough, which shall be called "The Borough of Carlisle" forever;

the extent of which borough is and shall be comprised within the following boundaries, to wit, beginning at a walnut corner tree of land now of Thomas Wilson's heirs, being a post at the corner of the widow McDonald's out-lots, thence by the said land of Thomas Wilson's heirs adjoining the out-lots south twenty-four degrees and one-quarter east two hundred and thirty-three perches to a post on Letort Spring, thence down the said spring the different courses thereof fifty-nine perches to a white oak at the corner of Jonathan Holme's land, thence by the same and adjoining out-lots south twenty-six degrees east one hundred and twenty perches to a post, thence by the same south sixty-one degrees east one hundred and twenty-one perches to a hickory; thence by the same south forty-one degrees east one hundred perches to a white oak stump; thence by number one, of the small tracts of land sold by the late proprietaries to the inhabitants of the town of Carlisle now in the possession or occupancy of James Davis, south forty-nine degrees west ninety perches to a black oak, thence by Charles McClure's land, south forty-nine degrees west one hundred and twenty-nine perches to a black oak, thence by the same north seventy-five degrees west twenty-one perches to a post, and south forty degrees west fifty perches to a black oak, and north seventy-five degrees and an half west one hundred and fifty-four perches to a post on Letort Spring, thence down said spring the different courses thereof forty-four perches to a post on the west side of the spring, thence by the said Charles McClure's land in right (as is said) of Baynton and Wharton south eighty-nine degrees west one hundred and fifty-nine perches and adjoining out-lots, thence by the same adjoining out-lots and commons belonging to the town north eighty-one degrees west one hundred and thirty-five perches to a post, where a hickory tree formerly stood, thence by Ephraim Blaine's land, in right of Hugh Parker, and the late proprietaries (as is said) and by John Smith's and Company's land north one hundred and eighty-one perches to a post, thence by the said John Smith's and Company's land south eighty degrees west one hundred thirty-four perches to a post, thence the same course extending by Ephraim Blaine's land twenty-six perches, thence north eight degrees

east one hundred and forty-two perches and four-tenths of a perch to James Young's line, including the out-lots, thence by the said James Young's line south forty-three degrees east seventy-four perches to a hickory, and adjoining out-lots, thence by the same north eighty-three and an half east one hundred perches and two-tenths of a perch to a stone corner, thence by the same north twenty-four degrees and one-quarter west fifty-nine perches to a post, thence by the same north eighty-seven degrees east forty perches and an half to a post, thence by the same and Ross Mitchell's line north two degrees and a half west one hundred and seventy-seven perches to a post, thence along the road laid out through Ephraim Blaine's land from said Mitchell's line to said Blaine's mill north eighty-one degrees and a half west two hundred and thirty-two perches to the road leading from Carlisle town to said mill; thence along said Carlisle road south four degrees west twenty-two perches to the place of beginning, including the town of Carlisle, commons and all the out-lots.

[Section II.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That Robert Miller and Samuel Postlethwaite be and they hereby are appointed the present burgesses, and the said Robert Miller shall be called the chief burgess within the said borough, and William Irwin, William Holmes, James Pollock and Casper Cropt assistants for advising, aiding and assisting the said burgesses in the execution of the powers and authorities herein given them; and Robert Smith to be high constable, and John Heap to be town clerk, to continue burgesses, assistants, high constable and town clerk until the first day of May, one thousand seven hundred and eighty-three, and from thence until others shall be duly elected and appointed in their place as hereinafter is directed.

[Section III.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said burgesses, freeholders and inhabitants within the borough aforesaid, and their successors forever hereafter, shall be one body corporate and politic in deed and name, and by the name of "The Burgesses and Inhabitants of the borough of Carlisle," in the county of Cumberland, one body corporate and politic in deed and name

are hereby fully created, constituted and confirmed; and by the same name of "The Burgesses and Inhabitants of the borough of Carlisle," shall have a perpetual succession; and they and their successors, by the name of "The Burgesses and Inhabitants of the borough of Carlisle," shall at all times hereafter be persons able and capable in law to have, get, receive and possess lands, tenements, rents, liberties, jurisdictions, franchises and hereditaments, to them and their successors in fee simple or for term of life, lives, years or otherwise, and also goods and chattels and other things of what nature or kind soever; and also give, grant, let, sell and assign the same lands, tenements, hereditaments, goods and chattels and to do and execute all other things about the same by the name aforesaid; and they shall be forever hereafter persons able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all or any of the courts within this commonwealth or other places and before any judges, justices or other persons whatsoever within this commonwealth in all manner of actions, suits complaints, pleas, causes and matters whatsoever; and that it shall and may be lawful to and for the said burgesses and inhabitants of Carlisle aforesaid, and their successors forever hereafter, to have and use one common seal for the sealing of all business whatsoever touching the said corporation and the same from time to time, at their will, to change and alter.

[Section IV.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the burgesses, constable, assistants and freeholders, together with such inhabitants, housekeepers, within the said borough as shall have resided therein at least for the space of one whole year next preceding any such election, as is hereinafter directed, and hire a house and ground within the said borough of the yearly value of five pounds or upwards, on the first day of May, one thousand seven hundred and eighty-three, and on that day yearly forever thereafter, unless the same shall happen to fall on Sunday, and then on the next day following, publicly to meet in some convenient place within the said borough, to be appointed by the chief constable, and then and there to nominate,

elect and choose by ballot two able men of the inhabitants of the said borough to be burgesses, one to be constable and one to be town clerk, and four to be assistants within the same, for assisting the said burgesses in managing the affairs of the said borough, and in keeping peace and good order therein; which election shall be taken from time to time by the high constable of the year preceding, and the names of the person so elected shall be certified under his seal to the president of the supreme executive council, for the time being, within fifteen days next after such election; and the burgess who shall have the majority of votes shall be called the chief burgess of the said borough. But in case it shall so happen that the said freeholders and inhabitants, housekeepers aforesaid, shall neglect or refuse to choose burgesses and the other officers in manner aforesaid, that then it shall and may be lawful for the president in council to nominate, appoint and commissionate burgesses, constable, town clerk and assistants for that year, to hold and continue in their respective offices until the next time of annual election appointed as aforesaid, and so often as occasion shall require.

[Section V.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the said burgesses for the time being shall be and are hereby empowered and authorized to be conservators of the peace within the said borough, and shall have powers by themselves and upon their own view, or in other lawful manner, to remove all nuisances in the said streets, lanes, alleys, squares and commons, within the borough aforesaid, as they shall see occasion, with power also to arrest, imprison and punish rioters and other breakers of the peace or good behavior; award process, bind to the peace or behavior, commit to prison and make calendars of the prisoners by them committed and the same to return, together with such recognizance and examination as shall be by them taken, to the next court of quarter sessions of the county of Cumberland, there to be proceeded on as occasion shall require, and to do all and singular other matters and things within the said borough as fully and effectually to all intents and purposes as

justices of the peace in their respective counties may or can lawfully do.

[Section VI.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That before any of the said burgesses, constable, town clerk or other officers shall take upon them their respective offices they shall take and subscribe such oath or affirmation of allegiance and fidelity as by the laws of the commonwealth are in such cases provided, together with the oath or affirmation for the due execution of their respective offices; and every chief burgess so elected or appointed from year to year as aforesaid shall, within ten days immediately after his election, take the oath or affirmation aforesaid, before a justice of the peace for the county aforesaid, and that on his failure to take the oaths or affirmations aforesaid, within the time aforesaid (unless disabled by sickness or other reasonable cause) another chief burgess shall, from time to time and as often as occasion shall require, be appointed in the stead of such person so failing to appear and qualify himself as aforesaid, which burgess so to be appointed by the president and council, shall and may hold and enjoy his office until the day of election next ensuing the day of his appointment; and the chief burgess having qualified himself in manner aforesaid, shall enter upon his office, and the other burgess, constable, town clerk or other officers shall and may qualify themselves for their respective offices by taking and subscribing the oaths or affirmations aforesaid, before the said chief burgess, or before one of the justices of the peace of the said county, who are hereby authorized and empowered to administer the same.

[Section VII.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the burgesses, freeholders and inhabitants, housekeepers aforesaid, and their successors, to have, hold and keep, within the said borough, two markets in each week, that is to say, one market on Wednesday and one market on Saturday in every week of the year forever, in the center square of the said borough; and two fairs in the year, the first to begin on the thirteenth day of May, one thousand seven hundred and eighty-three, and the other of said fairs to begin on the thirteenth day

of November following, each fair to continue two days, and when either of those days shall happen to fall on Sunday, then the said fairs to be keep [kept] [sic] the next day or two days following, together with free liberties, customs, profits and emoluments to the said markets and fairs belonging and in any-wise appertaining forever. And that there shall be a clerk of the market of the said borough who shall have the assize of bread, wine, beer, wood and all other provisions brought for the use of the inhabitants, and who shall and may perform all things belonging to the office of a clerk of the market within the said borough; and that Samuel Laird shall be the present clerk of the market, who shall be removable, for any malfeasance in his office, by the burgesses and assistants aforesaid and another from time to time appointed and removed as they shall find necessary.

[Section VIII.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That if any of the inhabitants of the said borough shall hereafter be elected to the office of burgesses, high constable, or assistants and having notice of his or their election shall refuse to undertake and execute that office to which he is chosen it shall and may be lawful for the burgesses, high constable and assistants then acting to impose such moderate fines on the person or persons so refusing, as to them shall seem meet, so always that a fine imposed on a burges elect do not exceed the sum of ten pounds, and the fine of a high constable or assistant elect, do not exceed the sum of five pounds, each to be levied by distress and sale of the goods of the party refusing, by warrant under the hand and seal of one of the said burgesses, or by any other lawful ways or means whatsoever, for the use of the said corporation; and in any such case, it shall and may be lawful for the said inhabitants to proceed to the choice of some other fit person or persons in the stead of such who shall so refuse.

[Section IX.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said burgesses, high constable and assistants for the time being, to assemble town meetings as often as they shall find occasion, at which meetings they may make such ordi-

nances and rules, not repugnant to or inconsistent with the laws of the commonwealth, as to the greatest part of the inhabitants shall seem necessary and convenient, for the good government of the said borough, and the same rules and orders to put in execution, and the same to revoke, alter and make anew as occasion shall require. And also to impose such rules and amercements upon breakers of the said ordinances as to the makers thereof shall be thought reasonable, to be levied as above is directed in case of fines for the use of the said borough; and also at the said meetings to mitigate or release the said fines on the submission of the parties.

[Section XII, P. L.] And for the better preventing all encroachments, nuisances, contentions, annoyances and inconveniences whatsoever, within the bounds and limits of the said borough:

[Section X.] Be it further enacted by the authority aforesaid, That where any buildings have been heretofore erected within the original plan of said borough (other than such as have been erected unjustly on the commons thereof), and shall happen to encroach on any of the said streets and alleys or squares, such buildings shall not be deemed, held or taken for nuisances or abateable as such. But (to prevent a continuance of such encroachments) after such buildings shall be decayed or require rebuilding:

[Section XI.] Be it further enacted by the authority aforesaid, That the owner of such buildings shall not at any time rebuild on the street, lane, alley or square so encroached on: And in case any person or persons shall rebuild on the said street, alley or square so encroached on, the same shall be deemed, taken and adjudged a public nuisance, and shall be abateable 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, alleys and squares, to be applied towards repairing the same, being thereof first legally convicted in any county court of quarter sessions for the county of Cumberland.

(Section XIII, P. L.) And to the intent that the said streets,

lanes, alleys and such others as shall be hereafter laid out, may be duly regulated, made and kept in good order:

[Section XII.] 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 surveyors 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 ground 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 footway on the sides of the streets and fronting the houses and lots in the said borough with the width or breadth of such footway; 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 XIII.] (Section XIV, P. L.) 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 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 Cumberland.

[Section XIV.] (Section XV, P. L.) 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 county, who shall finally adjust and settle the same and the costs of such appeal shall be paid as the same court shall direct.

[Section XV.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, 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 XVI.] (Section XVII, P. L.) 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 enclose their lots, such fences shall be made in the manner generally used, and kept in repair at the equal cost 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 XVII.] (Section XVIII, P. L.) 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, one thousand seven hundred and eighty-three, and every year thereafter on the same [day] 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 of 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, into 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 highways thereof, for the ensuing year; and if any supervisor or assessor so elected, or otherwise appointed by virtue of this act, shall refuse to make 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 XVIII.] (Section XIX, P. L.) 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 XIX.] (Section XX, P. L.) 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 afore-

said, 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 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 Cumberland 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 XX.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That if any of the said supervisors or assessors, 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

¹ Passed March 20, 1724-5, Chapter 284.

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 XXI.] (Section XXII, P. L.) 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 Cumberland; 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 court of general 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 XXII.] (Section XXIII, P. L.) 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, or her or their goods and chattels shall be liable to be distrained in manner aforesaid for the payment of the said tax.

[Section XXIII.] (Section XXIV, P. L.) 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, or any usage or custom in respect to the tenant's paying the said tax, now subsisting between landlord and tenant.

[Section XXIV.] (Section XXV, P. L.) 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 neces-

sary 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 agreeable to the regulations so made by the said regulators according to the true intent and meaning of this act.

(Section XXVI, P. L.) And in order to enable the said supervisors the more effectually to discharge their duty:

[Section XXV.] 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 directions, 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 owners 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 or highways, or any or either of them, and shall not be stopped or filled up by the owner or owners of such lot of land, or any other person or persons whatsoever under the penalty of three 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 XXVI.] (Section XXVII, P. L.) 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 general 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 XXVII.] (Section XXVIII, P. L.) 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 first day of May 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 books 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 XXVIII.] (Section XXIX, P. L.) And be it enacted by the authority aforesaid, That the said borough of Carlisle, 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 Cumberland; and that two overseers of the poor shall be appointed, and one inspector to serve at the general election in and for the said county of Cumberland 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 commonwealth, which said overseers so nominated 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 and imposed on the several overseers and inspectors of the several townships aforesaid, to all intents and purposes as if they were respectively nominated and chosen overseers of the poor, and inspector of any of the townships aforesaid in pursuance of the laws of this commonwealth in such cases made and provided.

(Section XXX, P. L.) And whereas, doubts have arisen whether, according to the laws now in force, the 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 XXIX.] Be it therefore enacted by the authority

aforesaid, That it shall and may be lawful to and for the justices of the peace of the said borough and all and every the justice or justices of the peace of the county of Cumberland 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 justice or justices is or are rated or chargeable with the taxes, levies or rates within the same borough.

[Section XXX.] (Section XXXI, P. L.) Provided always, and be it further enacted by the authority aforesaid, That this act, or anything herein contained, shall not authorize or empower any justice or justices of the peace for or within the said borough to act in the determination of any appeal to the quarter sessions of the peace for the said county of Cumberland, from any order, matter or thing relating to the same borough, anything herein contained to the contrary in anywise notwithstanding.

(Section XXXII, P. L.) 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 XXXI.] 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, 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, 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 cost of removing the same.

[Section XXXII.] (Section XXXIII, P. L.) 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 [and pay] for every such offense the sum of twenty shillings, and shall pay the cost of removing the same.

[Section XXXIII.] (Section XXXIV, P. L.) 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 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 ten shillings, and shall pay the cost of removing the same.

[Section XXXIV.] (Section XXXV, P. L.) 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, stinking or putrid 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, together with the costs of the prosecution.

[Section XXXV.] (Section XXXVI, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall, after the publication thereof, 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 unenclosed 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 said county, shall forfeit for every such offense the sum of thirty shillings, and shall pay the cost 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 XXXVI.] (Section XXXVII, P. L.) And be it further enacted by the authority aforesaid, That if any person or person whatsoever shall wilfully stop or obstruct the passage of the waters of any of the common sewers hereafter to be made within the said borough, he or they so offending shall forfeit, for every such offense, any sum not exceeding twenty pounds, and shall pay the costs of removing such obstruction.

[Section XXXVII.] (Section XXXVIII, P. L.) 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, or any two of them, shall direct or 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 XXXVIII.] (Section XXXIX, P. L.) 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 any 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, her 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 XXXIX.] (Section XL, P. L.) 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 streets, lanes or alleys shall and they are hereby enjoined and required forthwith to remove or effectually to alter or amend the same.

[Section XL.] (Section XLI, P. L.) And be it enacted by the authority aforesaid, That if any person or persons, after the publication of this act, shall wilfully or maliciously remove, misplace or injure any pipes or trunks already fixed or placed, or that shall be hereafter fixed or placed by direction of the burgesses and assistants of the said borough, for conveying water to, from or through any part of the said borough, or if any person or persons shall wilfully and maliciously, 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 any such trunks, pipes or conduits, as are 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 water, every person so offending and being thereof legally convicted before the burgesses of the said borough, or either of them, or before any justice of the peace for 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.

(Section XLII, P. L.) 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 XLI.] Be it therefore enacted by the authority aforesaid, That no person or persons whatsoever within the limits of 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, which shall be kept in the highest story of the house, at any one time, unless it be at least fifty yards from any dwelling house, under the penalty of ten pounds.

(Section XLIII, P. L.) And whereas, several persons, without right or legal authority, have built on and fenced in many parts of the said commons which, by this act, are included in and made part of the said borough, which commons ought to be not only beneficial and convenient for the inhabitants for an outlet for their cattle in the meantime, but in time to come may be appropriated for the further extention and increase of the buildings in the said borough:

[Section XLII.] Be it therefore enacted by the authority aforesaid, That all such buildings, fences or other erections whatsoever already made or erected, or which shall or may hereafter be so made or erected by any person or persons whatsoever, on any part of the said commons, shall be deemed,

held and taken for nuisances, and as such may be abated, prostrated, thrown down and removed, and that it shall and may be lawful for the burgesses, assistants, regulators and supervisors aforesaid, for the time being, or the majority of them, with the consent and approbation of the chief burgess, to abate, prostrate, throw down and remove all such buildings, fences and erections, as are now erected and built, or that hereafter may be erected and built on the same commons. And in case the said burgesses, assistants, regulators and supervisors, or the majority of them as aforesaid, with the consent and approbation of the chief burgess, shall be opposed in abating, prostrating, throwing down and removing the said buildings, fences or other erections, that then it shall and may be lawful for the said burgesses, assistants, regulators and supervisors, or the majority of them as aforesaid, to call to their assistance all or any of the inhabitants of the said borough, who are hereby enjoined and required to be aiding and assisting to the burgesses, assistants, regulators and supervisors, or the majority of them, as aforesaid, in abating, prostrating, throwing down and removing all such buildings, fences and erections by this act declared nuisances as aforesaid.

[Section XLIII.] (Section XLIV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall, at any time after the publication of this act, presume to erect or build any buildings, fences or other erection whatsoever on the said commons, that then the said buildings, fences or other erections shall be abated, prostrated, thrown down and removed as aforesaid; and that the offender or offenders being thereof duly convicted before the said burgesses, or any one of them, shall pay a fine in the discretion of the said burgesses, or any one of them, not exceeding one hundred pounds, to be levied by distress and sale of the offender's goods as hereinbefore is directed in case of fines.

[Section XLIV.] (Section XLV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall dig any hole, pit or quarry on the commons aforesaid, without having first obtained leave, in writing, from the burgesses and assistants, regulators and supervisors as aforesaid,

or shall neglect or refuse to fill up and level such hole, pit or quarry, after one month's notice given by the burgesses, assistants, regulators or supervisors aforesaid, or any two of them, that then the said regulators and supervisors, or any two of them, shall cause the said holes, pits or quarries to be filled up, and the party or parties so offending shall be at the charge and expense of such filling up, and, moreover, pay a fine at the discretion of the said burgess and assistants, not exceeding twenty pounds.

[Section XLV.] (Section XLVI, P. L.) And be it further enacted by the 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 Cumberland, and shall be levied by warrant under the hand and seal of such burgess or justice, directed to any constable of 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 so 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 state, 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, alleys and highways, to be employed in mending and repairing the same.

[Section XLVI.] (Section XLVII, P. L.) And be it enacted by the authority aforesaid, That nothing in a certain act of assembly passed in the year of our Lord one thousand seven hundred and seventy-two, 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 respects or relates to said borough, and no further is hereby declared to be repealed.

[Section XLVII.] (Section XLVIII, P. L.) 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 prosecutor become non-suit or suffer a discontinuance, or 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 April 13, 1782. Recorded L. B. No. 1, p. 493, etc.
See the Acts of Assembly passed September 13, 1785, Chapter 1179; April 19, 1794, Chapter 1756.

CHAPTER CMLXX.

AN ACT FOR METHODIZING THE DEPARTMENT OF ACCOUNTS OF THIS COMMONWEALTH AND FOR THE MORE EFFECTUAL SETTLEMENT OF THE SAME.

(Section I, P. L.) Whereas, the methods heretofore practised for the settlement of the accounts of this state have, by experience, been found not to answer the good purposes intended thereby:

For remedy whereof:

[Section I.] Be it enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That an office shall be instituted in this commonwealth for auditing, liquidating

¹Passed March 21, 1772, Chapter 653.