

## CHAPTER CVIII.

*An ACT to incorporate the district of Spring Garden.*

SECT. I. *BE it enacted by the senate and house of representatives of the commonwealth of Pennsylvania, in general assembly met, and it is hereby enacted by the authority of the same,* That the inhabitants of that part of Penn township, in the county of Philadelphia, lying between Vine-street and the middle of Hickory lane, and between the middle of Sixth and the middle of Broad-streets, continued to the said lane, he and they and their successors forever, are hereby constituted a body politic, in fact and in law, by the name of, "The Commissioners of the District of Spring Garden," and by the same name shall have perpetual succession, and they and their successors shall, at all times forever, be able and capable in law, to purchase, have, hold, take, receive, possess and enjoy, lands, tenements, hereditaments, liberties, franchises and jurisdictions, goods, chattels and effects, and the same to grant, bargain, sell, alien, convey, mortgage, pledge, charge, and encumber or demise, at their pleasure; and by the name aforesaid, are and forever shall be, 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 courts of record and elsewhere, in all manner of actions, suits, complaints, pleas, causes, and matters whatsoever, and to do and execute, all and singular, other matters and things, that to them as a body politic, and corporate, in law and in fact, shall and may appertain, and to have and use one common seal, and the same to alter, or make anew at their pleasure, and the powers of the said corporation shall be vested in and conducted by a board of commissioners to be elected as hereinafter directed.

Style of corporation.

Powers and privileges.

Powers of corporation vested in a board of commissioners, to be elected.

Qualification of electors.

Where and when the first election to be held.

12 commissioners to be elected who are to be freeholders.

Rotation in their offices.

SECT. II. *And be it further enacted by the authority aforesaid,* That the inhabitants living within the said described district, who are or shall be qualified agreeably to the constitution and laws of this state, to vote for members to serve in the general assembly, shall meet together at the school house belonging to the Spring Garden association, situate within the same, between the hours of ten in the morning and eight in the evening, on the first Monday in May next, and then and there choose by ballot, out of such of the qualified voters residing within the said district, who shall be freeholders within the same, in the manner prescribed for choosing members in the house of representatives of this commonwealth, twelve suitable persons to serve as commissioners in and for the said incorporated district; and the four persons who shall have the greatest number of votes, shall be commissioners for three years next following, the four persons who shall have the next greatest number of votes, shall be com-

missioners for two years next following, and the four persons who shall have the next or third greatest number of votes, shall be commissioners for one year, thence next following; and that on the first Monday in May, annually thereafter, forever, four persons shall be chosen as aforesaid to serve as commissioners in the said district for the term of three years; *provided*, that in all cases wherein the number of votes shall be equal for two or more candidates, the preference shall be decided by lot, to be drawn by one of the judges in the presence of the other judges and inspectors of the election.

When annual election to be held.

Proviso, for deciding elections where there is an equal vote.

SECT. III. *And be it further enacted by the authority aforesaid*, That all elections to be held in pursuance of this act, shall be conducted by two judges and three inspectors, who shall be appointed at the same place where such elections shall be held, within one hour preceding the opening of the same, by the electors then assembled; and each of the judges and inspectors so appointed, shall take an oath or affirmation before some judge or justice of the peace of the said county, before entering on the duties in and by this act enjoined, well and faithfully to discharge the same according to the best of his skill and abilities; and all elections to be held after the first Monday in May next, shall be held at such place as the said commissioners shall appoint, within the said district, of which elections the said commissioners shall give at least ten days previous notice, by hand-bills posted up in at least ten of the most public places within the said district.

Officers for holding the election, to be on oath, &c.

Commissioners to appoint the place for holding elections, of which notice is to be given.

SECT. IV. *And be it further enacted by the authority aforesaid*, That all elections to be held in pursuance of this act, shall be held and conducted, except as by this act is otherwise directed, in like manner as by the laws of this commonwealth is or shall be directed for holding the general elections for persons to serve in the house of representatives, under and subject to the same rules and penalties; and when each election shall be closed, the judges and inspectors of the same, or a majority of them shall, under their respective hands and seals, certify to the board of commissioners, the names of the commissioners elect, with the number of votes in favour of each, and shall within two days after such election, give notice in writing to each of the commissioners elect of their respective elections.

Elections to be conducted in a manner similar to the general elections.

Result of election to be certified to commissioners, and notice given to the persons elect.

SECT. V. *And be it further enacted by the authority aforesaid*, That the commissioners who shall be elected on the first Monday in May next, as aforesaid, shall meet together at the said school-house, between the hours of nine and eleven in the forenoon, on the fourth day after the said election, and after being qualified as hereinafter directed, shall fix upon some place for their future meetings, which may be altered by the said commissioners from time to time as they shall deem the same necessary, and that on the fourth day after every succeeding election the commissioners elected at the

Place of first meeting of commissioners, and how future meetings to be regulated.

When to proceed to transact business.

time, shall, together with those whose period of service shall not have expired, meet at the place appointed for holding such meeting, and shall, after the said commissioners elect shall be qualified as hereinafter directed, proceed to the business of the said corporation.

Commissioners to take an official oath.

SECT. VI. *And be it further enacted by the authority aforesaid,* That each commissioner elected and returned as aforesaid, shall before he enters on the duties of his said office, take an oath or affirmation before some judge or justice of the peace of the county of Philadelphia, well and faithfully to execute the office of a commissioner of the said district, and shall thereupon, without any further or other commission enter upon the duties thereof.

Liable to be removed for misbehaviour.

SECT. VII. *And be it further enacted by the authority aforesaid,* That if any commissioner of the said district shall misbehave in his said office, or shall neglect to discharge the duties thereof, it shall and may be lawful for any number, not less than eight of the said commissioners, on the petition and complaint in writing of thirty freeholders residing in the said district, to remove in a summary way any such commissioner from his said office; *provided,* that such petition and complaint shall state all the causes assigned for such removal, and no other causes whatever shall be assigned, heard or enquired into; and that a copy of the said petition and complaint, with a notice of the time and place appointed for hearing and enquiring into the same, shall be served on such commissioner at least ten days before any such hearing or enquiry shall be made.

Proviso. Complaints to be specific.

Copy of specifications to be delivered to person charged, &c.

Mode of supplying vacancies.

SECT. VIII. *And be it further enacted by the authority aforesaid,* That in case two or more vacancies shall happen by death, resignation, removal or otherwise, the said commissioners shall appoint special elections for supplying such vacancies; and the persons so chosen, shall be commissioners for the remainder of the time that the commissioners in whose places they were elected had been elected for.

Majority of commissioners to constitute a quorum, except in certain cases.

SECT. IX. *And be it further enacted by the authority aforesaid,* That a majority of the whole number of the said commissioners shall be a quorum for transacting all business, except for the purchase or sale of real estate, or for mortgaging or incumbering of the same, or for borrowing money as aforesaid, for which purposes the concurrence of eight members shall be necessary, and the said commissioners shall receive no compensation for their services.

Commissioners to serve gratis.

Power of making by-laws.

SECT. X. *And be it further enacted by the authority aforesaid,* That the said commissioners shall have full power and authority to make, ordain and establish, such laws, ordinances and regulations not inconsistent with the constitution and laws of this commonwealth, as they shall deem necessary for the good order and government of the said district, and the same to alter or annul at their pleasure.

SECT. XI. *And be it further enacted by the authority aforesaid,*

That the court of quarter sessions of the peace for the county of Philadelphia, shall have, and they are hereby vested with full power and authority, to enquire of, hear, try and determine, all offences which shall be committed within the said incorporated district, contrary to this act, or against any of the laws, ordinances or regulations that shall be made, ordained and established, in pursuance of this act, and punish the offender or offenders as by the said laws, ordinances or regulations, shall be prescribed or directed, except where the fines, penalties or forfeitures shall not exceed the sum of one hundred dollars, which shall be recoverable before any justice of the peace of the said county: *provided always*, that if any person or persons shall think him, her or themselves aggrieved by any judgment to be given by any justice as aforesaid, it shall and may be lawful for such person or persons at any time within six days next following the date of such judgment, to appeal therefrom to the next court of quarter sessions of the said county, he, she or they first entering into recognizance with at least one sufficient security, in double the amount of such judgment, to prosecute the said appeal with effect, and to abide the order of the court.

Court of quarter sessions to have jurisdiction of offences committed within the district, contrary to this act, &c.

Exceptions.

Proviso...right of appeal.

Under certain restrictions.

SECT. XII. *And be it further enacted by the authority aforesaid,*

That no law, ordinance or regulation, of the said commissioners shall go into operation, until the same shall be published in one or more of the public newspapers published in the said district, or in the city of Philadelphia, and in handbills posted up in not less than ten of the most public places in the district aforesaid, and also recorded in the office of the recorder of deeds for the city and county of Philadelphia, who shall be allowed and paid for recording thereof, at the same rate as is allowed to him for recording other instruments of writing; and that before any of the said laws, ordinances or regulations, shall be recorded as aforesaid, the publication thereof respectively shall be proved by the oath or affirmation of some credible person, which oath or affirmation shall be recorded therewith, and at all times be deemed and taken as sufficient evidence of the time and manner of such publications.

Laws to be published before going into operation.

And be recorded, &c.

Publication to be proven, before recording.

SECT. XIII. *And be it further enacted by the authority aforesaid,*

That the said commissioners shall have full power and authority to limit the depth and distance from the line of the adjoining neighbour's ground, of all vaults or sinks hereafter to be dug within the said district, for privies or necessaries, and if any person or persons shall dig or cause to be dug any such vault or sink, for a privy or necessary, of any greater depth, or nearer the adjoining neighbour's line than shall be limited as aforesaid, every person so offending, and being thereof convicted, shall forfeit and pay the sum of one

Powers of commissioners in certain cases.

Penalty for disobeying orders of commissioners.

hundred dollars, to be appropriated towards defraying the contingent expenses of the said corporation; and the said vault or sink shall be filled up at the expense of the owner or owners thereof,

SECT. XIV. *And be it further enacted by the authority aforesaid,*

Commissioners to appoint regulators, &c.

That the said commissioners be and they hereby are authorized and enjoined to appoint a sufficient number of skilful persons as regulators of the said incorporated district, and the said regulators or any one or more of them, shall have full power and authority, with or without his or their assistant or assistants, to enter upon the land of any person or persons, for the purpose of regulating and marking the lines or boundaries of

Penalty for erecting buildings previously to having applied to regulators to mark lines, &c.

any lot or lots of ground required to be regulated; and if any person or persons shall erect any building or buildings adjoining to or upon any street, road, lane, court, or alley, or the line of his, her or their neighbour's ground, without first applying to and having the line or lines thereof regulated and marked as aforesaid, shall deviate therefrom by extending his, her or their building or buildings, beyond any or either of the lines or boundaries marked as aforesaid, unless determined otherwise, on an appeal, every person employed, as well as the owner and master builder, shall severally forfeit and pay the sum of fifty dollars, to be recovered in the same manner as debts of the same amount are now or hereafter may

Appropriation of the fines.

be by law recoverable, one half thereof to be appropriated to the use of the commissioners aforesaid, for the purpose of defraying the contingent expenses of the said corporation, and the other half to the use of the person or persons suing for the same; *provided*, that the same shall not be recoverable unless prosecuted within one year after the offence be committed: and if any person or persons shall enclose or fence in, any lot or lots of ground without first having the lines or boundaries thereof regulated and marked as aforesaid; or if after having the lines or boundaries regulated and marked as aforesaid, shall deviate therefrom so as to enclose part of his, her or their neighbour's ground, unless so determined on an appeal, every such person, as well the owner as the person or persons making such fence, shall forfeit and pay the sum of twenty dollars, to be recovered and appropriated in the manner hereinbefore directed in respect to buildings: and that the said regulators or some one or more of them shall enter in a book, to be prepared by, and kept at such place as the said commissioners shall provide, and direct all regulations orders or awards by him or them made in pursuance of this act, and all such regulations, orders or awards, if made with reasonable notice to the parties interested, shall be conclusive unless the same be set aside on an appeal: and that all appeals hereafter to be made from the regulation, order or award of the said regulators, or any one or more of them as aforesaid, shall be

Proviso, limitation of time for bringing suits.

Penalty for erecting inclosures without lines being marked, &c.

Regulators to keep a record of their proceedings.

Time of entering appeal limited.

made and lie to the next court of common pleas, to be holden for the county or Philadelphia, within six days from and next after the time of making such regulation, order or award, appealed from, and upon security being entered by the party appealing for the payment of all costs, in case he, she or they shall not prevail in his, her or their appeal, the said court shall try the matter in dispute by jury according to law; *provided*, that no person or persons under age, non compos mentis, feme covert, imprisoned, or out of the United States, shall be affected by any regulation, order or award as aforesaid, until the expiration of twelve months, notice thereof, in writing, after coming to full age, sound mind, discoverture, being at large, or returning into the United States, within which period, his her or their appeal may be entered and prosecuted as aforesaid.

Appeal to be tried by jury.

Proviso, in favour of minors, &c.

SECT. XV. *And be it further enacted by the authority aforesaid*, That it shall be lawful to place the centre of all party walls hereafter to be erected between party and party, within the said district, on the line of the ground of the parties between whom such party walls shall be erected, provided that such party wall or walls shall not be of a greater or less thickness than shall be necessary for a good substantial dwelling house, of which thickness the said regulators shall judge; and the first builder shall be reimbursed one moiety of the value of such party wall, or so much thereof as the next builder shall have occasion to make use of before the next builder shall use or break into the said wall or walls, the value thereof to be fixed by any one or more of the said regulators, or by arbitrators mutually chosen.

Party walls to be on the line.

Regulation as to thickness of walls, &c.

SECT. XVI. *And be it further enacted by the authority aforesaid*, That the said commissioners be and they hereby are authorized and enjoined to appoint a treasurer of the said corporation, who shall not at the same time be a commissioner, and who before he enters on the duties of his office shall give bond with two sufficient sureties, to the said commissioners, in such penalty as they may deem sufficient, conditioned that he will, well and faithfully execute his office under the direction of the said commissioners, and that he will once in every year or oftener, if required, render and settle his accounts with the said commissioners, and that upon his death or the appointment of another treasurer in his room, which the said commissioners are hereby authorized to do whenever they see cause, he, or his executors or administrators, shall settle and adjust all his accounts with the said commissioners, and pay the remaining balance in his hands to his successor in office, charging for his trouble such commissions only as shall have been fixed by the said commissioners at the time of his appointment, and all elections and appointments held and made by the said commissioners, shall be viva voce, and not otherwise.

Commissioners to appoint treasurer, not of their own body.

To render his accounts annually, &c.

Commissioners to vote viva voce.

**SECT. XVII.** *And be it further enacted by the authority aforesaid,* That the act, entitled, "An act to authorize the inhabitants of the Northern Liberties within a certain described part thereof, to regulate the streets, lanes, and alleys within the same, and for other purposes therein mentioned," passed the seventeenth day of April, one thousand seven hundred and ninety-five, so far as the same respects any part of this incorporated district, be and the same is hereby repealed; but that the survey and regulation so far as the same has been made within the said district in pursuance of the said act hereby repealed, and returned into the office of the clerk of the court of quarter sessions of the county of Philadelphia, shall be and remain fixed and unalterable.

**SECT. XVIII.** *And be it further enacted by the authority aforesaid,* That the said commissioners are hereby authorized and required to appoint one or more surveyors, who are hereby enjoined and required, as soon as conveniently may be, to survey and mark the lines of all the streets, roads, lanes, courts and alleys, now open or intended to be opened for public use, within the said district, which have not been surveyed and returned as aforesaid, and also to survey and lay out such other new streets, roads, lanes, courts and alleys, and common sewers within the said district as he or they shall deem necessary for a regular and convenient town plan, and for the more equal distribution and ready discharge of the waters thereof, and to regulate the height of the streets and gutters, and the width of the foot-ways thereof, and for that purpose the said surveyor or surveyors shall have full power and authority, with or without his or their assistant or assistants, to enter upon the land of any person or persons within the said district; and when the said survey and regulation shall be completed, the said surveyor or surveyors shall make or cause to be made, two draughts or plans thereof, with every explanation necessary for a full understanding of the same, and one of the said draughts or plans shall be returned to the said commissioners, who shall keep the same in such place as they shall fix upon, and the other of the said draughts or plans shall be returned to the clerk of the court of quarter sessions of the county of Philadelphia, to be filed in his office for public inspection and examination: and it shall be the duty of the said commissioners to give at least thirty days previous notice in at least two of the public newspapers published in the city of Philadelphia, and by hand-bills posted up in at least ten of the most public places in the said district, that on a certain day to be appointed by the court, the said court will hear any objections that may be made thereto by any freeholder of the said district, and where the said draughts or plans are deposited for inspection. And the said court shall at the time appointed, adjudge and determine whether any and what alteration shall be made therein, and shall direct the said draught or plan

Part of former act repealed.

Exceptions.

Commissioners to appoint surveyors to lay out streets, alleys, &c.

Regulation of streets gutters, &c.

Surveyors to make draughts, &c.

One draught to be deposited with the clerk of the sessions.

Notice to be given of the time of the courts having objections, &c.

Court authorized to alter draughts or plans, &c.

Alterations to be recorded.

with such alterations as shall be made, to be recorded in the office for recording of deeds for the city and county of Philadelphia; and thenceforth all the streets, roads, lanes, courts and alleys, shall be forever deemed, adjudged and taken, public highways; and the survey and regulations so returned and recorded shall be and remain unalterable: and inasmuch as the public convenience will be for the present answered by the certain knowledge where and in what manner such streets, roads, lanes, courts and alleys, will in future run, but as it may not be necessary immediately to lay all of them open, and in order to provide for the opening of the same from time to time, as the increasing improvement of the district may require, it shall and may be lawful for any number of freeholders of the said district, not less than seven, whose lands lie near or adjoining to such street, road, lane, court or alley, to apply by petition to the court of quarter sessions of the county of Philadelphia, who, after hearing the petitioners and such other freeholders through whose lands such street road, lane, court or alley may pass, as shall offer objections thereto, to determine whether it be proper at the time, to direct the opening of the same, and if the court shall be of opinion, that the state of improvement in the neighbourhood is such, as to require the opening thereof, they shall issue their warrant, directed to the superintendant of the streets, roads, lanes, &c. in the said district, enjoining and requiring him to open such street, road, lane, court or alley, according to the plan or draught of the same: *provided always*, that no such street, road, lane, court or alley, so laid out, shall be opened and appropriated to public use until the owner or owners of the ground through and over which the same may pass, shall have been compensated for any damage, he or they may sustain thereby, which compensation shall be ascertained and paid agreeable to the provisions of an act, entitled, A supplement to the act, entitled, "An act for laying out and keeping in repair the public highways within this commonwealth, and for laying out private roads passed the third day of April, one thousand eight hundred and four.

Court upon application of a certain number of petitioners may direct the opening of streets, &c.

Provido, for compensating the owners of lands through which streets, &c. may pass.

SECT. XIX. *And be it further enacted by the authority aforesaid*, That the said commissioners shall, whenever required as the said survey and regulation shall progress, draw orders on their treasurer for the pay and incidental expenses of the said surveyor or surveyors, who is hereby enjoined and required to pay the amount of such order or orders out of the first money in his hands arising from their general corporation tax.

Commissioners to draw warrants on their treasurer to defray incidental expenses, &c.

SECT. XX. *And be it further enacted by the authority aforesaid*, That the said commissioners shall take under their charge and care, the highways within the said district, and open and keep the same in repair in the same manner as the supervisors of the public roads and highways within the several townships in

Roads to be kept in repair.



Power of commissioners for that purpose.

Pumps to be kept in repair.

Pitching and paving the streets, &c.

Proviso.

Power of commissioners relative to footways, gutters, &c.

Owners of property may pave their footways, &c. in front of their own property.

Power of commissioners relative to lighting and watching, &c.

May assess property for the expense, &c.

May appoint officers, &c.

May make by-laws.

May lay a tax of one per cent.

How to be applied.

this commonwealth, and for that purpose shall have the same power and authority, and be under and subject to the same penalties as the said supervisors and also to keep in repair all pumps erected, and which may hereafter be erected in the public highways within the said district, by the inhabitants thereof.

SECT. XXI. *And be it further enacted by the authority aforesaid,* That the said commissioners shall have full power and authority, and they are hereby directed upon the application of a majority of the freeholders holding property on any street, road, lane, court or alley, surveyed and regulated as aforesaid, within the said district, to pitch and pave the cart-ways thereof, agreeably to the said regulation; *provided*, that not more than two squares shall be included in any one application; and to tax the owners of the lots of ground bounding thereon, to defray the expenses thereof in proportion to the extent of their respective fronts therein.

SECT. XXII. *And be it further enacted by the authority aforesaid,* That the said commissioners shall have full power and authority to pave, or cause to be paved agreeably to the regulations made and to be made, and established as aforesaid, the footways and gutters within the said district, when and in such manner as they may direct; and shall assess the freeholders in front of whose ground such footways and gutters shall be paved, and for keeping the same in repair in front of their respective lots; but every owner of property shall have the privilege of paving the foot-way and gutter in front of his or her own property, so that the same shall be completed within thirty days after being notified by the said commissioners so to do; and also to cause the said district, or such part or parts thereof as they may from time to time think proper to be lighted and watched, in such manner as they may direct, and to assess the inhabitants and estates within the part or parts so lighted and watched, agreeably to the county rates and levies for the expenses of such lighting and watching; and to appoint all officers and other persons, under such qualifications and securities as they may think proper, and fix their compensations, and to do all other acts, and pass all by-laws, orders and regulations, for the good order and government of the said district, not inconsistent with the laws and constitution of this commonwealth.

SECT. XXIII. *And be it further enacted by the authority aforesaid,* That the said commissioners shall have full power and authority to lay annually any tax not exceeding one per cent. on the value, agreeably to the county assessment, of all the real and personal estates within the said district, and also on all persons residing within the same, and their occupations to be applied to the purposes of defraying the expenses of the general survey and regulation aforesaid, of opening and repairing the public highways, and paving the intersections

thereof, keeping the public pumps in repair and all other expenses not herein before provided for, necessary for carrying this act into execution ; and to have the like power to collect the same and the other taxes herein before mentioned, as is exercised in collecting the county tax within this commonwealth, and all taxes when collected shall be paid to the treasurer for the use of the said corporation.

Power to collect the tax.

SECT. XXIV. *And be it further enacted by the authority aforesaid,* That the said commissioners shall cause all accounts of receipts and expenditures of money, to be published up to the thirty-first day of December inclusive, in each and every year, within three months thereafter, and the vouchers may be viewed at any reasonable hours, by any taxable inhabitant residing within the bounds of the corporation who may demand the inspection thereof ; and the said commissioners shall also keep regular minutes of their proceedings, which may be examined by like persons and like times as the accounts aforesaid, *provided,* that no inspection thereof shall be permitted until three months after making such minutes respectively, unless six commissioners, the names of whom shall be entered on the minutes, consent thereto.

Accounts of receipts and expenditures to be published annually.

To keep minutes of their proceedings, which to be open to inspection.

Proviso.

SECT. XXV. *And be it further enacted by the authority aforesaid,* That no misnomer of the said corporation, *provided,* the intent of the party or parties sufficiently appear, shall defeat or annul any act or intention of such party or parties ; nor shall any non-user or neglect of the rights, liberties privileges, jurisdictions and authorities, hereby granted to the said corporation or any of them, create or cause a forfeiture thereof.

Misnomer not to defeat a bequest.

Nor non user work a forfeiture.

SECT. XXVI. *And be it further enacted by the authority aforesaid,* That any inhabitant of the said district, if otherwise qualified, may be a witness in all controversies arising under this act.

Any inhabitant may be a witness.

SECT. XXVII. *And be it further enacted by the authority aforesaid,* That so much of any act or acts of assembly as are hereby altered or supplied, be and the same are hereby repealed, so far as respects this district, saving the right of collection of any taxes heretofore laid and uncollected, under any such act or acts.

Parts of former acts repealed.

JOHN TOD, *Speaker*  
*of the House of Representatives.*

P. C. LANE, *Speaker of the Senate.*

APPROVED—the twenty-second day of March, one thousand eight hundred and thirteen:

SIMON SNYDER.