

CHAPTER MCCCXV.

AN ACT FOR ERECTING THE TOWN OF YORK IN THE COUNTY OF YORK 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.

(Section I. P. L.) Whereas the inhabitants of the town of York, in the county of York, have by their petition prayed to be incorporated and that the said town and its vicinity should be erected into a borough:

And whereas it is necessary as well for the inhabitants of the said town as those who trade and resort there and for the advantage of the public in general that nuisances, encroachments of all sorts, contentions, annoyances and inconveniences in the said town and commons thereunto belonging should be prevented and for the promoting of industry, rule, order and the better government of the same town.

[Section I.] (Section II. 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 York and the country hereinafter described shall be and the same is hereby erected a borough which shall be called "The Borough of York" forever; the extent of which said borough is and shall be comprised within the following boundaries, to wit: Beginning at a marked white oak near a south bank of Codorus creek in a line of John Hay and William Bailey, Esquires, lands, thence south twenty-seven degrees and a quarter of a degree east one hundred and twenty-nine perches and six-tenths of a perch to a post; thence south sixty-eight degrees and a half degree, east fifty-nine perches and six-tenths of a perch to a post in the center of High street and the road leading from York to Wright's Ferry, thence south two degrees east twenty-six perches to a post; thence south sixteen degrees and an half degree east

seventy-two perches and an half perch to a post on the south side of the road leading from York to Peach Bottom ferry, thence south ten degrees west one hundred and fifteen perches to a post, thence south seventy-seven degrees west seventeen perches to a white oak stump in the line of the town and James Smith, Esquire's land, thence seventy-four degrees and an half degree west one hundred and twenty perches and an half perch across Baltimore road to a post in a line of the town and Kausman's lands, thence north seventy-nine degrees west ninety-two perches to a white oak near the bank of Codorus creek, thence across the said creek north twelve degrees west twenty-eight perches to a hickory, thence north sixty-eight degrees west two hundred and one perches and six-tenths of a perch to a black oak stump, thence north forty-two degrees east one hundred and two perches to a post, thence north fifty-nine degrees east one hundred and eight perches to a stone on a bank of the said Codorus creek; thence across the said creek north forty-five degrees east eighteen perches to a post, thence north fifty-one degrees east sixty-four perches to the new bridge, thence north forty-four degrees east fifty-four perches to a post, and thence north forty-eight degrees east fifty-seven perches to the white oak and place of beginning.

[Section II.] (Section III. P. L.) And be it further enacted by the authority aforesaid, That Henry Miller, Esquire, and David Cantler be and they are hereby appointed the present burgesses, they the said Henry Miller and David Cantler having been unanimously elected and recommended by the freeholders of the town of York at a general town meeting, and the said Henry Miller, Esquire, shall be called the chief burgess within the said borough, and Baltzer Spangler, Michael Dowdle, Christopher Lauman, Peter Mundorf, David Greer, Esquire, and James Smith, Esquire, assistants for advising, aiding and assisting the said burgesses in the execution of the powers and authorities herein given them and Christian Stayer to be high constable and George Lewis Leffler town clerk until the first Monday in May in the year of our Lord one thousand seven hundred and eighty-eight, and from thence until others shall be duly elected and appointed in their place as hereinafter is directed.

[Section III.] (Section IV. P. L.) And be it further enacted by the authority aforesaid, That the said burgesses, freeholders and inhabitants within the said borough 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 York in the County of York," one body corporate and politic in deed and in name are hereby fully created, constituted and confirmed and by the same name of "The Burgesses and Inhabitants of the Borough of York," shall have a perpetual succession and they and their successors by the name of "The Burgesses and Inhabitants of the Borough of York," 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 to 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 forever hereafter be 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 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 York 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 V. P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the burgesses, constables and assistants and freeholders as shall have resided within the same borough for at least one whole year next preceding any such election as is hereinafter directed on the first Monday in May in the year of our Lord one thousand seven hundred and eighty-eight and on that day yearly thereafter forever publicly to meet at the court house

within the said borough and then and their to nominate, elect and choose by ballot two able freemen of the inhabitants of the said borough to be burgesses, one to be a constable and one to be town clerk and six freeholders to be assistants within the same for assisting the said burgesses in managing the affairs of the said borough and in keeping the 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 persons 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 if the votes should be equal, the supreme executive council shall determine which shall be chief burgess, and in case it should so happen that the said freeholders shall neglect or refuse to choose burgesses and the said other officers in manner aforesaid, that then it shall and may be lawful for the president or vice-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 as often as occasion shall require.

[Section V.] (Section VI. 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 oaths or affirmations of allegiance and fidelity as by the laws of the commonwealth are in such cases provided, together with the oaths 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 oath or affirmation aforesaid within the time aforesaid (unless disabled by sickness or other lawful and reasonable cause) another chief burgess shall from time to time and as often as occasion shall require be appointed by the president in council in the stead of such person so failing to appear

and qualify himself as aforesaid, which burgess so to be appointed by the president or vice-president in 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 oath or affirmation 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 VI.] (Section VII. P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the burgesses, freeholders and inhabitants of the said borough and their successors to have, hold and keep at the place erected for that purpose 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 and two fairs in the year, the first to begin on the ninth day of June in the year of our Lord one thousand seven hundred and eighty-eight, and the other of said fairs to begin on the second day of November following, and on the same days annually forever thereafter each fair to continue two days, and when either of those days shall happen to fall on Sunday, then the said fairs to be kept the next day or two days following, together with free liberties, customs, profits emolluments to the said market and fairs belonging and in anywise appertaining forever. And there shall be a clerk of the market within 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 Frederick Youce 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 VII.] (Section VIII. 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 burgess elect doth not exceed the sum of ten pounds and the fine of a high constable or assistant elect doth 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 may and shall be lawful for the said inhabitants entitled to vote to proceed to the choice of some other fit person or persons in the stead of such who shall refuse.

[Section VIII.] (Section IX. P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said burgesses, high constables and assistant for the time being to assemble town meetings of the freeholders of the said borough as often as they shall find occasion upon giving public notice at least seven days before each meeting by six or more written advertisements signed by the high constable for the time being and put up at the most public places of the said borough and by sending a public crier through the several streets of the said borough and proclaiming such intended meeting, at which meetings duly notified and conveyed as aforesaid they may make such ordinances and rules not repugnant to or inconsistent with the laws of this commonwealth or this act of assembly as to the greater part of such freeholders seem necessary and convenient to the good government of the said borough, and the same rules and orders to put into execution and the same to revoke, alter and make new as occasion shall require, and also to impose such fines and ameracements upon breakers of such 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 said fines on the submission of the parties.

(Section X. 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 IX.] Be it further enacted by the authority aforesaid, That where any buildings have been heretofore erected within the original plans of the said borough and shall encroach on any of the streets, alleys or squares thereof, 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 building shall be decayed or require re-building.

[Section X.] (Section XI. P. L.) Be it further enacted by the authority aforesaid, That the owner or owners of such buildings shall not at any time re-build on the street, lane, alley or square so encroached on, and in case any person or persons shall re-build on the said street, alley or square, 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 re-building 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 of the same, being thereof legally convicted in any county court of quarter sessions for the county of York.

(Section XII. 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 XI.] 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 on the footway on the sides of the streets and fronting the lots and houses in the said borough with the width or breadth of such footways and upon application made to them shall lay out and regulate the proper gutters, channels and conduits for the carrying off the waters, 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 and 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 XII.] (Section XIII. 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 York.

[Section XIII.] (Section XIV. P. L.) Provided always and be it further enacted by the authority aforesaid, 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 XIV.] (Section XV. 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 two shillings and six pence each.

[Section XV.] (Section XVI. 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 repairing or setting up such partition fence as aforesaid, that then the party at whose cost the same was so repaired or set up may have his action at law for the said moiety of such costs.

[Section XVI.] (Section XVII. P. L.) And be it further enacted by the authority aforesaid, That the freeholders and freemen within the said borough shall meet together on the third Monday in March, one thousand seven hundred and eighty-eight, 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 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 main-

taining, amending, cleansing and repairing the said streets, lanes, alleys and highways.

[Section XVII.] (Section XVIII. 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 Monday 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 freeholders and freemen thereof are to meet on that day to elect assessors and supervisors for the said borough according to the directions of this act.

[Section XVIII.] (Section XIX. 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 aforesaid, agreeably 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 whatsoever. 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

¹ Passed March 20, 1724, Chapter 284.

abilities and judgment." Which oath or affirmation the burgesses of the said borough or any of them or any of the justices of the peace of the said county of York are hereby empowered and required to administer and certify the same to the clerks of the sessions of the peace of the said county to be filed among the records and papers of his office.

[Section XIX.] (Section XX. P. L.) And be it further enacted by the authority aforesaid, That if any of the 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 or inhabitants of the said 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 said 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 directions of this act, and that the supervisors and assessors shall have and receive for their trouble in raising and assessing the said rate three pence in every pound and the said supervisors shall have and receive six pence in every 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 XX.] (Section XXI. 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 York, and if any person and 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 burghesses 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 them assessed, together with the charges of such distress, that then the said supervisor or supervisors 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 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 XXI.] (Section XXII. 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 or tenements 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 XXII.] (Section XXIII. 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 rates 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 XXIII.] (Section XXIV. 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 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 agreeable to the regulations so made by the said regulators according to the true intent and meaning of this act.

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

[Section XXIV.] , 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 or highways, provided the same be done with as little injury and damage as may be to the owners of such lots or lands; 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 or 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 XXV.] (Section XXVI. 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 said burgesses of the said borough or any justice of the peace of the said county residing in the said borough and to be applied towards repairing and keeping clean and in good order the 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 upon 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 XXVI.] (Section XXVII. 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 preceeding 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 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 into 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 XXVII.] (Section XXVIII. P..L.) And be it further enacted by the authority aforesaid, That the said borough of York according to the extent, bounds and limits thereof by charter shall henceforth be deemed and taken and is hereby declared to be one district in the said county of York, and that two overseers of the poor shall be appointed and one inspector to serve at the general election in and for the county of York, 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 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 XXIX. 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 XXVIII.] 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 York 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 offices as justice or justices of the peace so far as the same relates to the laws for the relief, maintainance, and settlement of poor persons for passing and punishment of vagrants, for opening, amending and repairing the streets, lanes, alleys and highways or to any other laws concerning taxes, levies or rates notwithstanding any such justice or justices is or are rated or charged with the taxes, levies or rates within the same borough.

[Section XXIX.] (Section XXX. P. L.) Provided always and be it 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 York from any order, matter or things relating to the same borough, anything herein contained to the contrary in anywise notwithstanding.

(Section XXXI. 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 the buildings into the streets, lanes, alleys and highways

of the said borough and by suffering the same to remain there, have rendered the streets, lanes, alleys and highways impassable.

[Section XXX.] Be it therefore enacted by the authority aforesaid, That if any person or persons in digging or making 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, clay, stone or other matter into any public 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 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 county aforesaid shall forfeit and pay for every such offense the sum of forty shillings, and shall pay the costs of removing the same.

[Section XXXI.] (Section XXXII. 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, ever such person and persons so offending and being thereof convicted before either of the said burgesses of the said borough or before any justice of the county aforesaid, shall forfeit and pay for every such offense the sum of twenty shilling and shall pay the costs 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 after the publication of this act, shall 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 supervisors aforesaid, or any three of

them, every such person and persons 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 XXXIII.] (Section XXXIV. 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, 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, 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 three pounds, together with the costs of prosecution.

[Section XXXIV.] (Section XXXV. P. L.) 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 any 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 said 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 three pounds 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 XXXV.] (Section XXXVI. P. L.) And be it further enacted by the authority aforesaid, That if any person or per-

sons 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 shillings and shall pay the cost of removing such obstruction.

[Section XXXVI.] (Section XXXVII. 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 and 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 is 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 a 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 burghesses 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 and 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 XXXVII.] (Section XXXVIII. P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall hereafter make or set up or cause to be made and set up in any street of sixteen feet wide or upwards within the said borough any porch, cellar door or step which shall extend beyond the distance of five feet two inches into such street or a proportionate distance into any narrow street, lane or alley, except in high street where the steps shall not exceed six feet two inches 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 incumbrance whatsoever whereby any 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 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 no 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 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 XXXVIII.] (Section XXXIX. 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 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 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 and amend the same.

[Section XXXIX.] (Section XL. P. L.) And be it further 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 may or shall hereafter be 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 or 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 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, conduits or cisterns in good order and repair.

(Section XLI. P. L.) And whereas it hath been found 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 XL.] 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, 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 XLII. P. L.) And whereas several persons without any right or legal authority, have built on and fenced in several parts of the commons as well on the south side of the said borough as on the west side of the Codorus creek which by this act and charter of incorporation are included in and made part of the said borough, which commons ought not to be only beneficial and convenient for the inhabitants as an outlet and pasture ground for their cattle in the meantime, but in time to come may be appropriated for the further extension and increase of the buildings of the said borough.

[Section XLI.] Be it therefore enacted by the authority aforesaid, That all such fences or other erections whatsoever already

made or erected by any person or persons whatsoever on those parts of the said commons which are situated on the east side of Codorus creek and lie south of High street or on those parts of the said commons which are situated on the west side of the said creek shall be deemed and held and taken for nuisances and 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 a majority of them with the consent and approbation of the chief burgess to abate, prostrate, throw down and remove all such fences and erections as are now erected and built or that may hereafter be erected and built or made upon the said commons situate and described as last aforesaid and in case the said burgesses, assistants, regulators and supervisors or a majority of them as aforesaid, with the consent of the chief burgess shall be opposed in abating, prostrating or throwing down the said fences or erections, that then it shall and may be lawful for the burgesses, assistants, regulators and supervisors, or a 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 fences and erections by this act declared nuisances as aforesaid.

[Section XLII.] (Section XLIII. 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 erections whatsoever on the said commons in the last forgoing section particularly described, that then the said buildings, fences or other erections shall be abated, prostrated, thrown down and removed as aforesaid, and 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 is hereinbefore directed in case of fines.

[Section XLIII.] (Section XLIV. 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 burgesses and assistants not exceeding twenty pounds.

[Section XLIV.] (Section XLV. 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 ten 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 York, 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 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 ten pounds, then to be recovered by action of debt, bill, plaint or information in any county court within this state, wherein no ession, 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 XLV.] (Section XLVI. P. L.) Provided neverthe-

less and be it further enacted by the authority aforesaid, That the party who may be dissatisfied with the judgment of any burgess and assistants or justice of the peace of the county aforesaid in pursuance of this act may appeal therefrom to the next court of general quarter sessions of the peace for the said county of York within ten days after he, she or they shall have notice of such judgment and not afterwards, and the party so appealing as aforesaid shall within the three first days of the next ensuing term cause an entry of such appeal to be made with the prothonotary of the said court and the said court shall proceed thereon as nearly as may be after the manner in which the said courts are directed to proceed in appeals from the judgment of justices of the peace in cases of debts and demands.

[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,"² 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 September 24, 1787. Recorded L. B. No. 3, p. 269, etc.

² Chapter 653.