

CHAPTER MMCMLX.

AN ACT GRANTING CERTAIN POWERS TO THE INHABITANTS OF THE
NORTHERN PART OF THE TOWNSHIP OF MOYAMENSING.

Whereas a part of the township of Moyamensing, within the following bounds, to wit, Beginning at the north end of Passyunk road, and continuing on the west side thereof to Federal street, thence westward along the said Federal street, on the south side thereof, to the boundary line of the township of Passyunk, thence northward along the said township line to Cedar street, thence eastward on the south side thereof, to the place of beginning, has become populous, and is daily becoming more so, and the freeholders thereof are erecting buildings and making improvements, but for want of some public and general regulations, the buildings are irregularly placed, and it has become necessary that the lines of the streets and alleys should be laid out and surveyed, to insure more regularity in future: Therefore,

Section I. (Section I, P. L.) 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 Philip Peltz, John Kessler and John Maitland, be, and are hereby appointed commissioners, who or any two of them, taking to their assistance an able surveyor, shall have full power and authority, and are hereby enjoined and required to survey the streets, lanes, alleys and roads already laid out and within the district before described; and also to lay out such other streets, lanes, alleys and roads, within the said district, as they shall deem necessary for the convenience and accommodation of the inhabitants thereof; and it shall be the duty of the said commissioners, after having made such survey, and laid out such streets, lanes, alleys and roads as they shall deem proper as aforesaid, to make or cause to be made a correct draught or plan thereof, with every explanation necessary for the per-

fect understanding of the same, and return it to the court of quarter session for the county of Philadelphia, and it shall be the duty of the clerk of the said court to receive and file the said draught or plan in his office, for public inspection and examination, and to give public notice in at least two of the daily newspapers published in the city of Philadelphia, 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 of the freeholders residing within the said district, who shall consider themselves aggrieved, and the said court shall at the time appointed, adjudge and determine whether the same shall be fully and finally established, and whether any and what alterations shall be made therein, and shall direct the said draught or plan with such alterations as shall be made, to be recorded, and from thenceforth all the streets, lanes, alleys, and roads, so approved, shall be forever hereafter deemed, adjudged and taken public highways.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That in case of the death, resignation or refusal to serve of any of the said commissioners, the governor shall appoint one or more proper person or persons to supply his or their place or places, from time to time, until the end of this act shall be fully answered, which person or persons so to be appointed, shall have the same powers as if he or they were named in this act.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners shall be allowed the sum of two dollars for each and every day they shall be employed in performing the duties by this act required, and also their reasonable costs and charges in procuring the surveys and draughts hereinbefore directed to be made.

Section IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said commissioners, having first settled their accounts with three of the justices of the peace for the county of Philadelphia, shall be entitled to draw orders on the supervisors of the township of Moyamen-

sing, for their said expenses and allowances, who are hereby required and enjoined to pay the amount of such orders, and the same shall be allowed to the said supervisors in the settlement of their accounts.

Section V. (Section V, P. L.) And whereas the public convenience will be at present answered by the certain knowledge where and in what manner such streets, lanes, alleys and roads will in future run, but it will not be necessary immediately to lay all of them open, in order therefore to provide for the opening of the same from time to time, as the increasing improvements shall require: Be it hereby further enacted by the authority aforesaid, that upon the petition of any number of freeholders of the said district, not less than twenty, whose lands lie near or adjoining to such streets, lanes, alleys and roads, to open any one or more of the said streets, lanes, alleys and roads, it shall and may be lawful, to and for the court of quarter sessions of the county of Philadelphia, after hearing the petitioners and such other freeholders, through whose lands such road or street shall pass, as shall offer objections thereto, to appoint viewers to report whether it be proper at the time to open such street or road, and if they shall be of opinion that the state of improvement in the neighborhood thereof shall require it, they shall issue an order to the supervisors of the roads of the township of Moyamensing, requiring and enjoining them to open such street or road, and to cause the same to be put in order and kept in repair, in the same manner as other streets or roads are by law to be opened, repaired and maintained; and the owner or owners of ground through and over which any of the streets, lanes, alleys or roads shall pass, shall proceed in the same manner to obtain indemnification for any injury they may sustain thereby, as if the said roads, streets, alleys or lanes had been opened in the manner usually pursued for opening roads.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the freemen residing within the limits aforesaid, and who

shall have resided therein immediately preceding the day of election, and who are or shall be otherwise qualified to vote for members of the general assembly, to meet together at the house of John Thompson, for the first election and afterwards at such place within the said district, as the regulators for the time being may appoint, between the hours of two and eight in the afternoon, on the first Monday in the month of May next, and on that day in the same month annually, and then and there choose by ballot out of the inhabitants residing within the said district, qualified to serve if elected in the general assembly of this commonwealth, on the first election, three suitable persons for street regulators, but if any vacancy should happen by death, resignation or otherwise, then such vacancy may be supplied by a special election.

Section VII. (Section VII, P. L.) 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 one clerk who shall be elected in the same manner and in the same place as the regulators, on the Saturday preceding the election of the said regulators, five days previous notice of the time and place of such election being publicly given by the regulators for the time being, and each of the said judges and clerk before entering on the duties in and by this act enjoined, shall take an oath or affirmation well and faithfully to discharge the same, and the said judges shall receive and count the votes and declare and notify the persons that are duly elected.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the regulators so chosen shall, together with the supervisors of the roads of the township of Moyamensing, regulate or cause to be regulated all the streets, lanes, alleys or roads within the bounds before mentioned, that are or shall be of the width of twenty feet or more, but no street, lane or alley so to be regulated, shall be of greater width than fifty feet; and also shall ascertain, fix, alter and regulate the water courses within the said limits; and in case of complaints or dispute between the

owners of adjoining lots, the said regulators shall fix the depth and situation of privies thereon, and fix the depth of privies generally; and if any person or persons shall oppose the said regulators or attempt to prevent them from performing the duties assigned to them by this act, or shall dig and erect and cause to be dug and erected any privy or privies contrary to the directions of the said regulators relative thereto, the person or persons so offending shall, upon conviction before any justice of the peace of the county of Philadelphia, forfeit and pay the sum of twenty dollars.

Section IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That whenever and as often as application shall be made to the regulators in writing by a majority of the freeholders whose lots are improved, residing within the limits described in the first section of this act, stating that in their opinion it would be for the interest of the neighborhood that certain footways should be paved, it shall be the duty of the regulators forthwith to examine the said footways, and if they see fit, cause the said footways and gutters adjacent to be paved with brick or flat stones or gravel as the case may require; and to place posts or curbstones to prevent the same from being injured by carriages: Provided, that the greater part of the space so to be paved, shall be built upon and improved: And provided also, that all and every owner and owners shall have the privilege of paving their own fronts in manner aforesaid, so that they may have the pavement completed in three months after notice given for that purpose by the regulators: And provided further, that no person shall be obliged to pave any footway to a greater breadth than four feet in front of any lot whereon a dwelling house is not erected.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the said regulators previously to paving as aforesaid, shall make an estimate of the expense thereof, and apply by written notice to the several owners of lots and buildings within the space contemplated, to be paid for their respective proportions, and in case any

owner or owners shall neglect or refuse to pay such amount, or to pave his or their own fronts in manner aforesaid, for the space of three months after notice as aforesaid, it shall and may be lawful for the said regulators to make or cause to be made the said pavement; and the owner or owners so refusing shall be liable to the regulators for the expense so incurred in their proper proportions, together with legal interest which may be recovered in an action of debt before any justice of the peace in the county of Philadelphia.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That if the owner or owners of the lots or buildings within the space so contemplated, to be paved as aforesaid, are minors, married women or absent persons, then the like notice may be given to their guardians, trustees or agents, and the like proceedings may be had; and they the said guardians, trustees or agents, shall be liable to the said regulators, in the same manner, and to the same extent, as if they were the actual owners of the said lots and buildings, and shall be allowed the expense of the pavement, in the settlement of their accounts, with their principal or principals.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if any person shall wilfully ride, lead or drive any horse, or shall drive any cart wagon or carriage on or over any of the paved footways of the aforesaid streets, lanes or alleys, every such person shall for every such offense, forfeit and pay the sum of one dollar, to be sued for and recovered as hereinafter directed.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the said regulators, upon application being made to them, shall have power to enter upon the land of any person or persons in order to mark out the foundations and regulate the walls to be built between party and party, as to the breadth or thickness thereof; which foundation shall be equally laid on the lands of the parties between whom such a party wall is to be built; and the first builder shall be reimbursed, one moiety of the charge

of such party wall, or such part thereof as the next builder shall have occasion to occupy before the next builder shall use or break into the said wall; the charge or value whereof to be fixed by the said regulators or by referees mutually chosen by the parties.

Section XIV. (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall begin to lay the foundation of any party wall or building, unless the other party or parties being of full age and unmarried, or if under age or married, their guardians, trustees or agents agree and consent thereto, or if any wall fronting on the streets, lanes or alleys, so as to encroach on lines or limits established by the said regulators and supervisors, or by the said regulators, or proceed otherwise than in the manner directed by the said regulators, every such person or persons whether owner or builder shall forfeit and pay the sum of twenty dollars, to be sued for and recovered as hereinafter directed.

Section XV. (Section XV, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said regulators to raise the sum of two hundred dollars annually, by laying a rate or rates not exceeding ten cents in the one hundred dollars, on the value of the real and personal estates of the freeholders and inhabitants within the limits of Passyunk road, Cedar street and Eighth street, agreeably to the last assessment for raising county rates and levies, and the money thereby raised shall be applied by the said regulators to defray the expenses of sinking and mending pumps within the last described limits, and of doing other acts and things necessary thereto. And the sum so assessed shall be collected by the persons appointed to collect the county tax, and who shall reside within the township of Moyamensing, in the same manner and under like penalties, and with the same right of appeal as in the case of the county tax; and the warrant of the said regulators shall be a sufficient authority to the said collectors to collect the same.

Section XVI. (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall lay or cause to be laid any materials for building or other lumber, in any part of the streets, lanes or alleys included in the limits described in the fifteenth section of this act, without having first obtained the permission of the regulators and one supervisor or any two of them for that purpose, he or they shall forfeit and pay the sum of four dollars, to be sued for and recovered as hereinafter directed.

Section XVII. (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That if the chimney of any person or persons within the limits described in the fifteenth section of this act, shall take fire and blaze out at the top, the same not having been swept within the space of one calendar month next, before the time of such fire, every person or persons shall forfeit and pay the sum of three dollars to be sued for and recovered as hereinafter directed.

Section XVIII. (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That the several fines and forfeitures which may accrue by virtue of this act, may be sued for and recovered by action of debt, before any justice of the peace in the county, the moiety whereof shall be retained by the said justice, and by him paid over to the said regulators, and the other moiety shall go to the benefit of the poor of the township, saving however to either party, the right of appeal.

Section XIX. (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That the said regulators shall be allowed the sum of two dollars per day, when they shall be employed in ascertaining and regulating the foundation of any party wall or front wall, to be paid by the party employing them, and the sum of twenty dollars per year for a clerk or secretary to assist them in managing and transcribing their proceedings in the business aforesaid, and their reasonable costs and charges in procuring the surveys, and draughts therein necessary, and the said regulators shall receive no other compensation than is before specified for any other services.

Section XX. (Section XX, P. L.) And be it further enacted by the authority aforesaid, That the regulators on the first Monday in May, in each and every year shall produce a full and fair statement of the monies which have come into their hands, and the expenses which they have incurred to the auditors elected to examine the accounts of the supervisors of the roads of the said township, who after adjusting the same shall publish them in one of the newspapers published in the city of Philadelphia.

Section XXI. (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That any person or persons who shall wilfully and maliciously break and carry away the handles of any of the public pumps within the said limits, or otherwise injure and damage the same, and shall be thereof legally convicted before any justice of the peace, shall forfeit and pay not less than one nor more than ten dollars for each and every pump so broken and damaged.

Section XXII. (Section XXII, P. L.) And be it further enacted by the authority aforesaid, That one of the overseers of the poor who shall be nominated and appointed, and shall take upon themselves the duties of the said office within the said township of Moyamensing, on the twenty-fifth day of March next or afterwards, as immediate successors of the present overseers of the poor, shall not continue in office longer than six calendar months, to be determined by lot, and the other overseers shall continue in office until the third Monday of March, one thousand eight hundred and nine, and that on the third Monday of September next, or within ten days after the justices of the peace for the county of Philadelphia, or any three or more of them, shall meet at the county court house in the city of Philadelphia, and then and there appoint and constitute a successor to serve for one year in the stead of him, who shall be appointed as aforesaid for six months; and so every third Monday of March, and every third Monday of September yearly, the said justices shall meet at the said court house, and shall then and there appoint and constitute one of the said overseers in order that there may

be always some experienced person in office; and if any person who shall be appointed an overseer of the poor in pursuance of this act, shall refuse or neglect to serve in the said office, he shall be fined in like sum, and the said fine shall be levied in like manner, and go to the same uses as if such person had been appointed on the twenty-fifth day of March, and had refused or neglected to serve thereupon.

Section XXIII. (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the powers and duties of the supervisors of the highways and overseers of the poor, of the township of Moyamensing shall not be affected or altered by anything contained in this act, except that the time of election of supervisors, constables and auditors, shall for the future open as usual and continue till eight o'clock. The auditors shall settle the accounts of the overseers of the poor every six months.

Approved March 26, 1808. Recorded in L. B. No. 11, p. 220.

CHAPTER MMCLXI.

AN ACT SUPPLEMENTARY TO AN ACT PASSED THE SECOND DAY OF MARCH, ONE THOUSAND EIGHT HUNDRED AND FIVE, ENTITLED "AN ACT TO ORGANIZE THE PROVISIONAL COUNTY OF ARMSTRONG."
(⁴).

Section I. (Section I, P. L.) 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 actions of trespass and ejectment for trial of titles to land, actions of trespass quare clausum fregit, for entry into any land or tenements within the county of Armstrong, which may have been commenced in the county of Allegheny, prior to the first Monday in November, one thousand eight hundred and five, and are yet pending and undetermined, shall be transferred to the court of common pleas, and circuit courts of Armstrong county;