

Pennsylvania. Laws, statutes, &c.

LAWS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF PENNSYLVANIA,

PASSED AT THE SESSION OF 1842,

IN THE

SIXTY-SIXTH YEAR OF INDEPENDENCE.



PUBLISHED BY AUTHORITY.

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1842.

shall be in the form of writs of summons, capias, execution, and such other necessary writs as are issued by justices of the peace, in pursuance of the laws of this Commonwealth.

JAMES ROSS SNOWDEN,
Speaker of the House of Representatives.

JOHN STROHM,
Speaker of the Senate.

APPROVED—The eighteenth day of June, Anno Domini eighteen hundred and forty-two.

DAVID R. PORTER.

[No. 100.]

A FURTHER SUPPLEMENT

To an act, entitled "An act to incorporate the town of West Chester into a borough."

SECTION 1. *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 whenever application shall be made by petition to the burgesses and assistant burgesses of the said borough, for curbing and paving of the whole or any part of the footways of any street, lane, court or alley within the said borough, it shall and may be lawful for the said burgesses and assistant burgesses, if they deem such curbing and paving expedient, to require the same to be curbed and paved by the owners of the ground fronting thereon, at their own costs respectively, agreeably to such regulations as may then exist in such manner and at such times, and under such directions, provisions or restrictions as the said burgesses and assistant burgesses may make or adopt.

SECTION 2. If the owner or owners, or person or persons having the charge of any ground, fronting on any footway so as aforesaid, directed to be curbed and paved in whole or in part, shall neglect or refuse to have the footway in front of such ground, so curbed and paved for the space of twenty days after he, she or they shall have been thereunto required by the street commissioner, or other officer of said borough, then it shall and may be lawful for the said street commissioner to

pave and curb such footways, and to recover the amount of the expense thereof, and twenty per cent advance thereon, as a penalty for such refusal or neglect, and the costs of suit by an action in the name of the burgesses and inhabitants of the borough of West Chester, before any justice of the peace having jurisdiction of the amount of such expense and per centage, or in any court of common pleas of this Commonwealth, or to levy the same by distress and sale of the goods and chattels of the tenant, in possession of any such ground, in the same manner as rent is by law recoverable, which tenant is hereby authorized to pay the same, and defalk the amount thereof against the rent which may be then due, or may thereafter become due for such ground, and the same when recovered, shall be paid into the treasury of the said borough for the use thereof: *Provided*, That no owner shall be obliged to pave or curb, or defray the expense of curbing or paving any footway of a greater breadth than five feet in front, of any lot whereon a dwelling house shall not be erected.

Proviso

Penalty for
suffering
pavements &c
to get out of
repair

SECTION 3. If the owner or owners, or person or persons having the charge or possession of any ground fronting on a footway, wholly or partially paved, shall suffer the same to be out of repair, and shall neglect for the space of twenty days after he, she or they shall have been required by the street commissioner or other officer of the said borough, to put the said footway in good repair, then it shall be lawful for the street commissioner to repair such footway, and proceedings similar to those authorized in the second section of this act as to curbing and paving may be had to recover the expense thereof, with per centage and costs aforesaid, and the amount of the expense of paving or repairing any footway, with the per centage as aforesaid, shall be a lien on the ground fronting on such footway: *Provided*, That a statement of the same, certified by the chief or second burgess of said borough, be filed in the office of the prothonotary of said county, within thirty days after the completion of said work: *And provided also*, That the lien take effect only from the time the said statement shall be so filed.

Proviso

Power to
regulate
markets

SECTION 4. It shall and may be lawful for the said burgesses and assistant burgesses to make such regulations for the good government of the markets in the said borough, as to them shall appear useful and expedient, and to purchase and take conveyances of real estate for the purpose of widening or opening streets, or for any purpose connected with the introduction of water into the said borough.

SECTION 5. And whereas in time past divers fences, porches, pumps, wells and other nuisances and obstructions have been long permitted to continue from tenderness to the owners of the adjoining freeholds, partly or wholly in the streets and alleys of the said borough to the increasing inconvenience of the public. *Be it therefore enacted by the authority aforesaid,* That no length of possession of any part of any public street or way as it is now opened and used, or shall be hereafter opened within the said borough so obstructed or encroached upon, shall be available to bar or prevent the removal of any fences, porches, pumps or other obstructions, and the filling up of wells, vaults and cisterns, which shall have been or may hereafter be erected, made or placed, or are within or upon any street, way or alley within the said borough, or to excuse the owners, occupiers or possessors of the lots to which the same may be appurtenant from the payment of such fines or penalties, for the continuance of the same as may be laid or imposed under, and by virtue of any ordinance or ordinances of the said burgesses and assistant burgesses of the said borough.

Nuisances
obstructions
&c how
removed &c

SECTION 6. The burgesses and assistant burgesses of the said borough, shall have power by their ordinance for that purpose, to prohibit any future interments within such parts of the said borough, wherein they shall judge such prohibition necessary.

Interments

SECTION 7. If any person or persons shall hereafter throw, cast or wilfully suffer to fall into any spring or stream of water flowing into the lower basin of the West Chester water works, or into either of the basins or reservoirs of said works, any dead animal or any putrid or corrupt thing whatsoever, or any noxious or offensive matter of any kind, or if any person shall go into to swim or bathe in either of the said basins or reservoirs, or shall entice, throw, lead or conduct any dog or animal therein, every such person shall forfeit and pay for each and every such offence, a sum not less than five dollars, nor more than fifty dollars, (at the discretion of the officer before whom the suit may be brought,) to be sued for and recovered with costs of suit, before any justice of the peace, of the Commonwealth, or the chief burgess of the said borough, for the use of the said borough.

Penalty for
putrifying or
corrupting
water in
reservoirs

SECTION 8. If any person or persons shall hereafter cut, deface, mutilate or otherwise injure any part of the buildings, machinery, stone work, or work forming a part of the said water works or property of "the burgesses and inhabitants of the borough of West Chester" aforesaid, every such person shall forfeit and pay a like sum of money, to be recovered in like manner with costs of suit, as is provided in the seventh

Penalty for
defacing
water works

section of this act for the uses aforesaid: *Provided always*, That the burgesses and inhabitants of the borough of West Chester, shall be entitled notwithstanding any such recovery, to recover damages to the full extent of any such injury against the person or persons committing or doing the same.

collecting of
water tax

SECTION 9. In collecting the water tax which the said burgesses and assistant burgesses, are by law authorized to levy and assess, the said burgesses and assistant burgesses shall have full power to authorize the collector of taxes, to credit the water tax to be paid by any citizen or inhabitant, with such part of the amount that such citizen or inhabitant shall pay as water rents, for the use of the said water, as they by general ordinance from time to time shall direct.

Ordinances
&c

SECTION 10. The burgesses and assistant burgesses of the said borough, shall be and are hereby empowered to pass, ordain, and establish such and so many laws, ordinances, resolutions and regulations as may from time to time be expedient for carrying into effect the provisions of this act.

Suits how
commenced
and prosecuted

SECTION 11. All suits which may be commenced or brought, for the fine or penalty laid or imposed by any ordinance of the burgesses and assistant burgesses, or for the enforcement of any manner of such ordinance, may be commenced and prosecuted in the name of the Commonwealth, by warrant, or by writ of summons or capias, before the chief or second burgess of the said borough, who shall proceed to give judgment, and award execution for the amount of such judgment, interest and costs, in the same manner as justices of the peace are now by law authorized to do in causes within their jurisdiction, and who shall be entitled to take and receive for whatever services they may perform, a like amount of costs and fees as such justices are for similar services: *Provided nevertheless*, That in all cases in which judgment shall be given for a larger amount than five dollars and thirty four cents exclusive of costs, the defendant shall be entitled to appeal from the judgment of said burgess, to the court of common pleas, of the said county, which said court may hear and determine the cause between the said parties, or upon the request of either party may direct an issue, to try whether or not the defendant or defendants are guilty of the matter alleged against them, and if he or they shall be found guilty of such matter, then the said court shall give judgment against the said defendant or defendants for such amount, as to them shall appear right and just, with costs of suit, but if not guilty the said court shall give judgment against the plaintiff for costs, which costs shall be paid by said borough: *Provided*, That the appellant prior to the appeal, shall pay all costs that may have

Proviso

Appeal

accrued in such suit, and file an affidavit stating the grounds of his defence, and that the appeal is not intended for delay, and shall enter into recognisance with good security, in a sum sufficient to cover the maximum amount of the penalty authorized to be imposed by such ordinance, with the costs likely to accrue in the further prosecution of the suit, with the same condition as that required in appeals from judgments of justices of the peace: *And provided also*, That such appeal be entered and filed in said court, within twenty days of the date of said judgment, and also, that such issue be requested on or before the first day of the term of the court, next after the said appeal shall be entered.

SECTION 12. And to the further end that there may not be a failure of justice, by reason of any person who may be charged with having committed an offence against the provisions of this act, or any ordinance of the said burgess and assistant burgess, having escaped beyond the limits of said borough: *Be it further enacted*, That it shall and may be lawful for any constable or constables to whom any warrant, capias or summons, under the hand and seal of the said chief or second burgess, shall be delivered to execute the same, at any place within the county of Chester. Jurisdiction

SECTION 13. It shall and may be lawful for the said chief or second burgess, before whom any complaint, plea, matter or thing within his jurisdiction, shall be made or pending to issue his subpoena to any person or persons within the said county, commanding him or them to appear and give evidence therein, and every person to whom the same shall be directed, and upon whom service thereof shall be duly made, shall attend accordingly and give evidence, under such pains and penalties as are by law incurred, by any person or persons refusing to attend and give evidence in a court of law when duly subpoenaed for that purpose, and all executions and processes of any kind issued by the said chief or second burgess in pursuance of his authority, may be executed at any place within the limits of the said county, with like effect as if the same had been issued by a justice of the peace. Subpœna
Executions
&c

JAMES ROSS SNOWDEN,
Speaker of the House of Representatives.

JOHN STROHM,
Speaker of the Senate.

APPROVED—The eighteenth day of June, eighteen hundred and forty-two.

DAVID R. PORTER.