

or Luzerne, by the oath or affirmation of one or more credible witnesses, pay a fine not exceeding fifty nor less than five dollars, one half to the use of the poor of the county, and the other half to the informer, and shall moreover remain liable for all damages to the company.

**SECT. 11.** *And be it further enacted by the authority aforesaid,* That if the said company shall not proceed to carry on the said work within three years after the passing of this act, or shall not within five years afterwards complete the same so far as to have conveyed the water within the limits of the said town, in either of these cases, all and singular the rights, liberties and franchises hereby granted to the said company, shall revert to this commonwealth.

Time limited for proceeding in and completing the work.

WILLIAM DAVIDSON, *Speaker*  
of the House of Representatives.

ISAAC WEAVER,  
*Speaker of the Senate.*

APPROVED—the twenty-seventh day of January, one thousand eight hundred and eighteen.

WILLIAM FINDLAY.

## CHAPTER XXIX.

### *AN ACT*

To erect the town of Berwick, in the counties of Columbia and Luzerne, into a Borough.

**SECT. 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 the town of Berwick in the counties of Columbia and Luzerne shall be, and the same is hereby erected into a borough, to be called “The borough of Berwick,” comprised within the limits drawn, purporting to be a town plot of said Berwick, by Evan Owens, made in the year one thousand seven hundred and eighty-six, beginning at the westerly shore of the north-east branch of the river Susquehanna, at the point where the road leading from Salem to Berwick intersects the town line of Berwick at the river; thence north thirty degrees, west to a post three hundred and five perches; thence south sixty degrees, west two hundred and seventy perches to a post; thence south thirty degrees, east to the Susquehanna river; thence up said river to the place of beginning.

The town of Berwick erected into a borough.

Limits thereof.

SECT. 2. *And be it further enacted by the authority aforesaid,* That the inhabitants of the said borough entitled to vote for members of the General Assembly, having resided within the limits of said borough at least one year immediately preceding the election, and within that time paid a borough tax, provided such tax has been assessed, shall have power on the first Tuesday of April next, and on the first Tuesday in April in every year thereafter, to meet at the brick meeting-house in the said borough, (or at such other place as may by the corporation hereafter be appointed) and then and there between the hours of one and six in the afternoon, elect by ballot, one citizen residing therein, who shall be styled the Chief Burgess, one other citizen who shall be styled the Assistant Burgess, and five citizens to be a town council, and shall also elect as aforesaid, one citizen as high constable, all of whom shall be residents of said borough: but previous to the opening of said election, such of the inhabitants as are present at the said brick meeting-house, or at such other place as may hereafter be appointed, shall elect two citizens as judges, one as inspector, and two as clerks of the said election, which shall be regulated and conducted throughout according to the general election laws of this commonwealth, and who shall be subject to the same penalties for mal-practices, as by the said law is imposed; and the said judges, inspectors and clerks before they enter upon the duties of their respective offices, shall take an oath or affirmation, before any justice of the peace of said counties, to perform the same with fidelity, and after the said election shall be closed, shall declare the persons having the greatest number of votes to be duly elected. And in case that any two or more candidates should have an equal number of votes, the preference shall be determined by lot, to be drawn by the two judges, in the presence of the inspector and clerks, whereupon duplicate certificates of said election shall be signed by the said judges, one of which shall be transmitted to each of the persons elected, and the other filed among the records of the corporation. And it shall be the duty of the high constable for the preceding year, to give notice in writing to each of the persons so elected as aforesaid; and in case of the death, resignation, removal or refusal to accept of any of the said officers, the burgess, or in his absence or inability to act, the assistant burgess shall issue his precept, directed to the high constable, to hold an election in manner aforesaid, to supply such vacancy, giving at least eight days notice by six advertisements set up in the most public places in said borough: *Provided,* That no misnomer or failure of the election of officers on the day appointed, shall discontinue or dissolve the said corporation, but the officers respectively for the time being, shall continue in office until a new election shall be made, at such time as the said council may direct.

Qualification of electors.

Time of electing borough officers.

What officers shall be elected.

Two judges, one inspector and two clerks to be chosen for the election.

They shall take an oath or affirmation.

Proceedings in case two or more candidates are equal in votes.

Certificates of the election, how disposed of.

Vacancies, how supplied.

Proviso.

**SECT. 3.** *And be it further enacted by the authority aforesaid,* That from and after the first Tuesday in April next, the chief burgess, assistant burgess and town council duly elected as aforesaid, and their successors, shall be one body politic and corporate by the name and style of "The chief burgess, assistant burgess and town council of the borough of Berwick," and shall have perpetual succession. And the said chief burgess, assistant burgess and town council, and their successors, shall be capable in law to have, get, receive, hold and possess goods and chattels, lands, tenements, rents, liberties, jurisdictions, franchises and hereditaments, to them and their successors in fee simple or otherwise, not exceeding the yearly value of five thousand dollars; and also to grant, sell, let and assign, the same lands, tenements, hereditaments and rents, and by the name and style aforesaid, they shall be capable in law, to sue and be sued, plead and be impleaded, in any of the courts of law of this commonwealth, in any manner of actions whatsoever, and to have and to use one common seal, and the same from time to time at their will to change and alter until it be otherwise directed by law.

**SECT. 4.** *And be it further enacted by the authority aforesaid,* That if any person duly elected as chief burgess, assistant burgess, member of the town council, or high constable as aforesaid, and having received notice thereof, as directed by this act, shall refuse or neglect to take upon himself the execution of the said office to which he shall have been elected, or having taken upon himself the duties of said office, shall neglect to discharge the same according to law, every person so refusing or neglecting, shall, for every such offence, forfeit and pay the sum of ten dollars, which fine, and all other fines and forfeitures incurred and made payable in pursuance of this act, or of any of the bye-laws and ordinances of the town council, shall be for the use of the said corporation, and shall be recovered before any justice of the peace, of the counties of Columbia or Luzerne, as the case may be, in the same manner as debts not exceeding one hundred dollars are or may hereafter be by law recoverable, and when so recovered, shall be forthwith paid to the treasurer of the borough; and it shall be the duty of the officers of said borough, on receiving any money belonging to the corporation, to pay the same to the treasurer forthwith: *Provided,* That no person elected as aforesaid, shall be liable to a fine for refusing or neglecting to serve more than once in four years.

**SECT. 5.** *And be it further enacted by the authority aforesaid,* That the chief burgess, assistant burgess, town council and high constable, and each of them, before entering upon the duties of their respective offices, shall take and subscribe an oath or affirmation, before any justice of the peace of said counties, to support the constitution of the United States and of this state, and to perform the duties of their respective offices with fidelity, and the certificates of such oaths and affir-

Style and title of the corporation.

Their powers and privileges.

Penalty for refusing or neglecting a borough office.

Fines and forfeitures, for whose use, and how to be recovered.

Proviso.

Officers to take an oath or affirmation.

mations, shall be filed among the records of the said corporation.

**SECT. 6.** *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said town council, three of whom shall be a quorum, to hold quarterly meetings on the third Monday in April, July, October and January, in each year, and oftener if occasion requires, at which meetings they shall have power to revise, repeal, or amend, all such bye-laws and ordinances as have been theretofore made in said borough, and enact such other bye-laws, and make such rules, regulations and ordinances, as shall be determined by a majority of them, necessary to promote the peace, good order, benefit and advantages of the said borough, particularly of providing for the regulation of the markets, making anew, improving and repairing and keeping in order, the streets, lanes, alleys and highways, ascertaining the depth of vaults, sinks, pits for necessary houses, and making permanent rules relative to the foundations of buildings, party walls and fences. They shall have power to assess, apportion and appropriate such taxes as shall be determined by a majority of them necessary for carrying the said rules and ordinances, from time to time, into complete effect; and also to appoint a town clerk, treasurer, two persons to act as street and road supervisors, a clerk of the market and a collector annually, and such other officers as may be deemed necessary from time to time, and the same officers from time to time, to remove for misdemeanor in office; which meetings of the said town council, shall be held at the house of Samuel Headley, in said borough, or at such place as the town council may direct, until a town-house is erected: *Provided,* That no bye-law, rule or ordinance of the said corporation, shall be repugnant to the constitution or laws of the United States, or of this commonwealth; and that no person shall be punished for a breach of a bye-law or ordinance made as aforesaid, until ten days have expired after the promulgation thereof, by at least four advertisements, set up in the most public places in said borough: *And provided also,* That in assessing such tax, due regard shall be had to the valuation of taxable property, taken for the purpose of raising county rates and levies, so that the said tax shall not in any one year exceed one cent in the dollar of such valuation, unless some object of general utility shall be thought necessary, in which case a majority of the taxable inhabitants of said borough, shall approve of and certify the same in writing, under their hands, to the town council, who shall proceed to assess the same accordingly.

**SECT. 7.** *And be it further enacted by the authority aforesaid,* That the chief burgess, elected and qualified agreeably to this act, or in his absence or inability to act, the assistant burgess is hereby authorised to issue his precept, as often as occasion may require, directed to the collector, commanding him to collect all taxes so assessed, and the same to pay over

Three, a quorum.  
Time of meeting.

May make bye-laws.

Regulate markets, streets, &c.

Assess taxes.

Appoint and remove a town clerk, treasurer, street and road supervisors, clerk of the market, collector, &c.  
Meetings where held.  
Proviso.

2d proviso.

Chief burgess, &c. to issue his precept to collect taxes.

to the treasurer. And the said chief burgess, or in his absence or inability to act, the assistant burgess is hereby authorised to carry into effect all bye-laws and ordinances enacted by the town council, and whatsoever else shall be enjoined upon him or them, for the well-ordering and governing said borough.

Town clerk,  
his duty.

SECT. 8. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the town clerk to attend all meetings of the town council, when assembled upon business of the corporation, and perform the duty of clerk thereto, and keep and preserve the common seal and records of the corporation, and be answerable for the same, and also for the faithful discharge of all the duties which may be enjoined upon him by virtue of this act, or of the acts of the corporation, whose attestation, with the seal of the corporation, shall be good evidence of the act or thing so certified.

Treasurer to  
give security.

SECT. 9. *And be it further enacted by the authority aforesaid,* That the treasurer shall give sufficient security, for the faithful discharge of the duties of his office, and for the safe delivery of all monies, books and accounts appertaining thereto, into the hands of his successor upon demand made for that purpose.

Accounts to  
be rendered  
annually and  
published.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the street supervisors, treasurer, high constable, clerk of the market and collector, as well as other officers which may be appointed by the corporation or council, shall, at the quarterly meeting of the council, in the month of April yearly, render their accounts to the said council for settlement; and the said accounts, being so adjusted and settled accordingly, shall be forthwith published by said council, shewing particularly the amount of taxes laid and collected, and of all monies paid into the treasury, and the amount of expenditures.

Court of ap-  
peal.

Proviso.

SECT. 11. *And be it further enacted by the authority aforesaid,* That the chief burgess, assistant burgess and president of the council, or any two of them, shall constitute a court of appeal, and prior to the collection of any borough tax, the collector shall inform each inhabitant of the amount of his tax, and of the time and place of appeal: *Provided nevertheless,* That the said court of appeal shall have no other power as such, than to determine the justness of the apportionment of said tax, and to remedy any grievance that may occur in imposing the same.

High constable to give  
notice of  
elections by  
advertisement.  
Proviso.

SECT. 12. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the high constable to give notice of the annual election of said borough, held in pursuance of this act, by setting up six advertisements in the most public places of said borough, ten days previous thereto: he shall attend and see that the election is opened at the time, and in the manner directed by this act: *Provided,* That Samuel Headley and John Jones, of the said town, or either of

them, shall publish and superintend the election, to be held on the first Tuesday of April next, as herein before directed.

SECT. 13. *And be it further enacted by the authority aforesaid,* That the town council shall, from time to time, affix the salaries of the high constable, town clerk, treasurer, clerk of the market, and such other officers as may be appointed under this act; which salaries shall be paid out of the borough treasury, by orders drawn thereon, signed by the president of the council, which salaries shall not be increased or diminished, during the time for which the said officers were appointed respectively: *Provided also,* That if any person appointed by the town council as aforesaid, shall neglect or refuse to take upon himself the duties of the office to which he is so appointed, shall, for the same, forfeit and pay, for the use of the corporation, the sum of five dollars, unless he can render to the said council, a satisfactory reason why he should be exonerated from such service: *Provided,* That no person shall be compelled to serve more than once in five years.

Salaries how fixed and paid.

Proviso. Penalty on neglecting or refusing to serve.

2d proviso.

SECT. 14. *And be it further enacted by the authority aforesaid,* That if any person or persons shall think him, her or themselves aggrieved, by any thing done in pursuance of this act, except in what relates to the imposing and collecting the borough tax, and appointments made by the town council, he, she or they may appeal to the next court of common pleas, to be held for the said counties of Columbia or Luzerne, as the case may be, upon giving security according to law, to prosecute his, her or their appeal with effect; and the said court having taken such order therein, as shall seem to them just and reasonable, the same shall be conclusive.

Appeal to the common pleas.

WILLIAM DAVIDSON, *Speaker of the House of Representatives.*

ISAAC WEAVER, *Speaker of the Senate.*

APPROVED—the twenty-ninth day of January, one thousand eight hundred and eighteen.

WILLIAM FINDLAY.