

No. 58.

AN ACT

Authorising William Sill and Joseph M. Bishop, of Bradford county, to erect a dam in the river Susquehanna.

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 William Sill and Joseph M. Bishop, of Bradford county, be and they are hereby authorised to erect and their heirs and assigns to maintain, a dam in the North Branch of the Susquehanna river, in the township of Monroe, in said county, at the place where they have erected a saw mill, to extend from the western shore of said river to an island directly opposite, commonly called Ackley's island: *Provided,* That the said dam shall in no wise injure or impede the free navigation of the river, or interfere with the construction of the North Branch canal: *And provided further,* That neither the said William Sill or Joseph M. Bishop, or either of them, or their heirs, executors, administrators or assigns, shall be entitled to demand or receive from this commonwealth, any damages whatever, for injuries which may hereafter be done, any buildings or works, which may be erected under the authority of this act, by the public works of the state.

Dam on the
N. Branch.

Proviso.
Not to impede
navigation.

Builders pre-
cluded from
future claim
to damages:

FREDK. SMITH,

Speaker of the House of Representatives.

WM. G. HAWKINS,

Speaker of the Senate.

APPROVED—The twenty-third day of February, A. D. one thousand eight hundred and thirty-one.

GEO. WOLF.

No. 59.

AN ACT

To erect the town of Mercersburg, in the county of Franklin, 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 Mercersburg, aforesaid, shall be and the same is hereby erected into a borough, which shall be

Borough
limits.

called the borough of Mercersburg, which borough shall be comprised within the following boundaries, to wit: beginning at a corner on lands of Robert Smith, Esq. thence south eighty-eight degrees and one half, east sixteen perches; thence south sixty-seven degrees, west twenty-five perches, south fifteen degrees, west fifty-six and one fourth perches, south twenty-one and one fourth degrees, west twenty-eight perches to lands of Michael Sellers; thence by lands of said Sellers and Creamer, south eighty degrees, east thirty perches; thence by lands of said Creamer, south seven degrees, west twenty-six perches to lands of John Brawnson, Esq; thence north eighty-eight degrees and one half, east thirty-eight perches, south forty-one degrees, east thirty-eight perches, north one degree and one half, east three and one half perches, south eighty-eight degrees and one half, east five perches and six tenths to lands of William M. Kinstry, Esq.; thence north one degree and one half, west one hundred and fourteen perches, north eighty eight and one half, east five perches and six tenths, north one degree and one half, west twenty perches, north forty-three degrees, east seventeen and one half perches to lands of Adam Hoak; thence by same, north seventy-five degrees, west eight perches, north eighty-five degrees, west thirty and one half perches; thence by lands of Robert Smith, south eighty-eight degrees and one half, west seventeen perches; thence south one and one half degrees, east nine perches, to the place of beginning.

Annual elec-
tion of offi-
cers.

Burgess,
council and
constable.

Mode of con-
ducting elec-
tion.

SECT. 2. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for all persons entitled to vote for members of the legislature, who have resided in said borough six months previous to any election, to meet at the usual place of holding the elections in said borough, on the third Saturday in March, in each and every year, and then and there elect by ballot, between the hours of twelve at noon and six o'clock in the evening, one reputable citizen residing therein, who shall be styled the Burgess of said borough, and five reputable citizens residing therein, to be a town council; and shall also elect as aforesaid, one reputable citizen as high constable; but previously to such election, the inhabitants entitled to vote, shall elect three reputable citizens, one of whom shall preside as judge, one as inspector, and the other discharge the duty of clerk, according to the general election law of this commonwealth, so far as it relates to receiving and counting votes, and shall be subject to the same penalties for malpractices as by the said election laws are imposed; and the said judge, inspector and clerk, before they enter on the duties of their respective offices, shall take an oath or affirmation before a justice of the peace in the county of Franklin, to perform the same with fidelity; and shall hold the said elections from time to time as occasion may require, and receive and count the ballots, and

declare the persons having the greatest number of votes to be duly elected; whereupon, duplicate certificates thereof shall be signed by the said judge, inspector and clerk, one of which shall be transmitted to the prothonotary's office of said county, and the other filed among the records of the corporation for their safe keeping; and if two or any greater number of persons have an equal number of votes for any of the said offices, or if any election shall be disputed upon other principles, the said return shall be laid before the judges of the court of common pleas of said county, at the term next ensuing the said election, who upon examination into the same, shall determine which of the said persons shall fill the said office; and in case of vacancy by death, resignation, refusal to accept or removal from the said borough of any of said officers, or if said election shall not be held on the day appointed in this act, the first named of the town council shall issue his precept, directed to the constable of said borough, requiring him to hold an election to supply such omission or to fill such vacancy, he giving at least ten days notice by advertisements put up at four of the most public places of said borough.

Court of common pleas to decide election questions

Vacancies from any cause.
How filled.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the burgess and town council, duly elected as aforesaid, and their successors forever, shall be one body politic and corporate in law, by the name of the burgess and town council of the borough of Mercersburg, and shall have perpetual succession; and the said burgess and town council aforesaid, and their successors forever, shall be capable in law to have, get, receive, hold and possess, lands, tenements, rents, liberties, jurisdiction, franchises and hereditaments to them and their successors, in fee simple, or otherwise, all goods, chattels and other things of what nature and kind soever, not exceeding the yearly value of one thousand dollars; and also, to have, grant, let, sell and assign the same lands, tenements, hereditaments, rents, goods and chattels; and by the name aforesaid, they shall be capable in law, to sue and be sued, plead and be impleaded, in any of the courts of this commonwealth, in all manner of action whatsoever; and to have and use one common seal, and the same from time to time, at their will, to change and alter.

Powers, privileges &c. of corporation.

Seal.

SECT. 4. *And be it further enacted by the authority aforesaid,* That if any person duly elected as aforesaid, having been notified in writing, which notice it shall be the duty of the clerk of the election, to give within three days after the same shall refuse or neglect to take upon himself the duties of the office to which he shall have been elected, every person so refusing or neglecting shall forfeit and pay ten dollars, which said sum and all fines and forfeitures incurred and made payable, in pursuance of this act or by the by-laws and

Penalty on persons elected refusing to serve.

How recover-
ed and appro-
priated.
To serve only
1 year in 3.

ordinances of the burgess and town council, shall be for the use of said corporation, to be recovered as debts of equal amount are or may be by law recoverable; but no person shall be compelled to serve more than one year in any term of three years.

Oaths of
office.

SECT. 5. *And be it further enacted by the authority aforesaid,* That the burgess, town council and constable, and each of them, shall take an oath or affirmation before any judge or justice of the peace of the said county, to support the constitution of the United States and of this state, and well and truly to execute the duties of their respective offices, in the borough of Mercersburg; and the certificate of such oath or affirmation shall be recorded in the books of said corporation.

Duties of bur-
gess and
council.

Town clerk.

SECT. 6. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the burgess and town council, to meet as often as occasion may require, and enact such by-laws and make such rules, ordinances and regulations, assess, apportion and appropriate such taxes as shall be determined by a majority of them necessary, to promote the peace, good order, benefit or advantage of said borough; and also, to appoint a town clerk and such other officers as may be deemed necessary by the said burgess and town council; but no by-law, rule or ordinance, enacted as aforesaid, shall be repugnant to the constitution and laws of the United States and of this state; and no person shall be punished for a breach of any by-law or ordinance enacted for the regulation of the said borough of Mercersburg, unless a true copy thereof be set up at three of the most public places in said borough; and no by-law or ordinance shall be carried into operation in less than three weeks after such publication: *Provided nevertheless,* That no tax shall be laid in any one year on the valuation of taxable property exceeding one cent in the dollar; said burgess and town council shall proceed to assess the same as aforesaid.

Proviso.

Tax limited.

Collection of
taxes.

SECT. 7. *And be it further enacted by the authority aforesaid,* That the burgess elected, agreeably to this act, is hereby authorised and empowered to issue his precept, directed to the constable of said borough, commanding him to collect all taxes assessed from time to time as aforesaid, and all fines and forfeitures that may become due by virtue of this act or by the ordinances or regulations of the corporation, and the same to pay over to the treasurer to be appointed by the said burgess and town council, and to carry into effect whatsoever is enjoined on him for the well ordering and governing the said borough.

Duties of
burgess.

SECT. 8. *And be it further enacted by the authority aforesaid,* That the burgess shall be and is hereby required to cause the by-laws, rules, ordinances and regulations made as aforesaid, to be recorded in a book to be kept for that purpose, and he shall carry the same into full execution without

delay, after the publication thereof, as directed by this act; and it shall be the duty of the town clerk ^{Of town clerk} to attend all meetings of the burgess and town council, when assembled on business of the corporation, and perform the duty of clerk thereto; and keep and preserve the common seal, records, papers and other documents relating to the said corporation; and in default, he shall be answerable to any person concerned, for all damages, and may be removed from office by the burgess, on complaint of a majority of the council: *Provided always*, That if any person or persons shall think him, ^{Provido.} her or themselves aggrieved by any thing done in pursuance of this act, he, she or they may appeal to the next court of quarter sessions to be held for the proper county, on giving ^{Right of persons aggrieved to appeal.} security according to law, to prosecute his, her or their appeal with effect, which court shall take such order therein as shall be just and reasonable, which order or judgment shall be conclusive against all parties.

SECT. 9. *And be it further enacted by the authority aforesaid*, That it shall be the duty of the town clerk and all officers ^{Annual settlement of accounts.} appointed by the burgess and town council, to render their accounts to the said burgess and council once in every year, which being settled and adjusted by the said burgess and council, shall be published, showing particularly the amount of taxes levied, fines collected, and of all receipts and expenditures which shall have been made.

SECT. 10. *And be it further enacted by the authority aforesaid*, That in all meetings held under this law, or the by-laws ^{Presiding officer of council.} enacted in pursuance of the same, it shall be the duty of the burgess to preside, or in his absence the member who may be then present of the town council first named in the return of the election; and it shall be the duty of the officers of the election, to name in their return the persons who may be elected, according to the number of votes which each may have, placing first in the return the name of the person who has the greatest number of votes, and so on; and if any of the persons elected, shall have an equal number of votes, then the officers of the election shall decide by lot which of them shall first be named.

SECT. 11. *And be it further enacted by the authority aforesaid*, That in the absence from the borough, or inability of ^{In absence, &c. of burgess} the burgess, it shall be the duty of the first named of the town council, who may be present, to perform the duties which are enjoined on the burgess by this act, or which may be enjoined by the by-laws which may be passed in pursuance of the same.

SECT. 12. *And be it further enacted by the authority aforesaid*, That in any meeting of the burgess and town council, ^{4 a quorum in council.} it shall require at least four to form a quorum to transact business.

Citizens to vote with townships at general and electoral elections.

SECT. 13. *And be it further enacted by the authority aforesaid,* That in the general or electoral elections, the citizens of the said borough shall not be separated from the citizens of Montgomery and Peters townships, nor in any measure preparatory thereto, but shall remain connected with said townships as they have been heretofore.

FREDK. SMITH,

Speaker of the House of Representatives.

WM. G. HAWKINS,

Speaker of the Senate.

APPROVED—The twenty-sixth day of February, A. D. one thousand eight hundred and thirty-one.

GEO. WOLF.

No. 60.

AN ACT

To compel the attendance of witnesses upon rules and commissions to take depositions.

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 in all cases where a commission shall be issued from, or a rule be taken in any court of record in this commonwealth, or from any justice of peace or alderman, under the act entitled "An act to amend and consolidate with its several supplements the act entitled An act for the recovery of debts and demands not exceeding one hundred dollars, before a justice of peace, and for the election of constables, and for other purposes," and of the supplement thereto, passed on the 30th day of March, 1829, for the examination of witnesses, it shall be competent for the person or persons named in, or authorised by such commission or rule, to issue subpoenas to such witnesses as may be requested by any of the parties concerned, requiring their attendance at a certain day, hour and place therein designated, having regard to the distance of such witnesses, and under a penalty not exceeding one hundred dollars.

SECT. 2. *And be it further enacted by the authority aforesaid,* That in case of the non attendance of any such witnesses, it shall be lawful for such commissioner, or person or persons, duly authorised as aforesaid, on proof by oath or affirmation, of the due service of the subpoena, to issue process of attach-

Persons named in rule or commission under \$100 laws. May issue subpoenas requiring attendance under penalty of \$100.

To issue process in case of non attendance.