

No. 35.

AN ACT

To incorporate the borough of Marietta, in the county of Lancaster.

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 the towns of Waterford and New Haven, shall still continue and forever remain a borough, under the name and title of "The borough of Marietta," the extent and bounds of which shall be the same as in the original law, to wit: beginning at a post at the river Susquehanna, thence extending along the line of lands of James Anderson and the late Samuel Evans, deceased, north twenty-seven degrees and a quarter, east one hundred and thirty-six perches, to a post; thence along the lands of James Anderson, Anthony Haines, David Cooke and Henry Cassel, north seventy-eight degrees and a quarter, east three hundred and twenty-four perches, to a post; thence down the lands of the said Henry Cassel, south two degrees and three quarters, east one hundred and eighty perches, to the river Susquehanna aforesaid, at a corner of lands of said Henry Cassel and Christian Hushey; thence up the said river, on the several courses thereof, three hundred and ninety perches to the place of beginning.

Name.

Bounds of the
borough.

Qualificat'ns
of voters.

Election to be
held 3d Fri-
day in March

Officers to be
elected.

SECTION 2. All citizens, inhabitants of the said borough, entitled to vote for members of the General Assembly, having resided within said borough at least one year immediately preceding the election, and within that time paid a borough tax, shall have power, on the third Friday in the month of March next, and on the same day in every year hereafter, to meet at the public school house, in said borough, and then and there, between the hours of twelve 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, two citizens, and return the names of those two elected to the court of Quarter Sessions of said county, one of whom shall be appointed constable of said borough, in the same manner, with like power and authority, and subject to the same regulations and penalties, as are provided and contained in the laws now existing, or that may hereafter be passed, concerning constables within this Commonwealth; and all manner of process which may by law be directed to the constable of any township in the said county, may, in the same manner, be directed to the constable of said borough, whose duty it shall be to execute the same according to law; and the same person shall be high constable of the borough;—all of whom shall be

residents of the said borough, and entitled to vote at said election. But previous to the opening of said election, such of the inhabitants as are present at the public school house, shall elect three citizens as judges, one as inspector, and two as clerks of the said election, which shall be regulated and conducted throughout according to the 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, inspector 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 county, to perform the same with fidelity; and, after 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 three 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 delivered to the clerk of the Quarter Sessions of the said county, to be deposited in his office, and the other shall be filed among the papers 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 offices, the chief 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 of such election, by six advertisements, set up in the most public places in said borough.

Manner of
conducting
the election.

Vacancy,
how supplied.

SECTION 3. From and after the third Friday in March 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 Marietta," 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 and 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, or before any justice of the peace in this Commonwealth, in all manner of actions whatsoever, and to have and 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.

Style of cor-
poration.

To hold pro-
perty not ex-
ceeding in
yearly value
\$5000.

Any officer
refusing to
serve to be
subject to the
penalty of \$20

SECTION 4. 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 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 twenty dollars, which fine, and all other fines and forfeitures, incurred and made payable in pursuance of this act, or of any of the by-laws and ordinances of the town council, shall be for the use of the corporation, and shall be recovered in the same manner that debts not exceeding one hundred dollars are recoverable before any justice of the peace; 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 said corporation, to pay the same to the treasurer forthwith.

To be paid to
the treas'r of
the borough.

Officers to
take an oath
or affirmation

SECTION 5. 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 the said county, to support the constitution of the United States, and of this State, and to execute the duties of their respective offices with fidelity; and the certificates of such oaths and affirmations shall be filed among the records of the said corporation.

The town
council to
hold quarterly
meetings.

SECTION 6. It shall be the duty of the said town council, three of whom shall be a quorum, to hold quarterly meetings, on the first Saturday in April, July, October and January, in each year, and oftener if occasion requires; at which meetings they shall revise, repeal, or amend all such by-laws and ordinances as have been heretofore made in the said borough, and enact such other by-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 advantage of said borough, particularly of providing for the regulation of the markets, improving, repairing and keeping in order the streets, lanes, alleys, pavements and highways, ascertaining the depth of vaults, sinks, pits for necessary houses, and making permanent rules relative to the foundation of buildings, party-walls and fences; for the safe keeping and preservation from injury of all property belonging to said corporation, 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

Power to lay
taxes.

To appoint
certain
officers.

officers from time to time to remove; which meetings of the said town council shall be held at such place as the chief burgess, or assistant burgess, may appoint, until a town house is erected: *Provided*, That no by-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 by-law or ordinance, made as aforesaid, until ten days have expired after the promulgation thereof, by at least two copies, under the seal of the corporation, of such by-law or ordinance, being put up in some public houses 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 half a cent in the dollar of such valuation, unless some object of general utility shall be thought necessary, in which case a majority of the land holders, inhabitants of said borough, shall approve of and certify the same in writing, under their hands, to the council, who shall proceed to assess the same accordingly.

SECTION 7. The chief burgess, or assistant burgess, are hereby authorized and empowered, by ordinance or resolution of the town council, to borrow, for the use of said borough, any sum or sums of money which they may deem necessary, not exceeding the amount of five thousand dollars, and in no one year to borrow more than one thousand dollars; for the repayment of which said loans, the faith of the said borough may be pledged, as also for the re-payment of all loans already made.

SECTION 8. That the chief burgess, elected and qualified agreeably to this act, or, in his absence or inability to act, the assistant burgess, is hereby authorized to issue his precept, as often as occasion may require, directed to the collector, who shall have like powers as collectors of county rates and levies, and be subject to the same penalties, commanding him to collect all taxes so assessed, and the same to pay over to the treasurer. And the said chief burgess, or, in his absence or inability to act, the assistant burgess, is hereby authorized to carry into effect all by-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, and shall also have power to mitigate or remit fines and forfeitures in all cases, when it shall appear that the person so fined did not offend intentionally, or on their having some other just and reasonable excuse to plead in his or their behalf, which excuse shall be satisfactorily proven to the said chief burgess, or assistant burgess, as the case may be.

SECTION 9. 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 thereof,

Duty of town clerk. 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 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. SECTION 10. The treasurer shall give approved 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.

Officers to settle their acc'ts annually in April. SECTION 11. The street supervisors, treasurer, high constable, clerk of the market, and collector, as well as all other officers which may be appointed by the corporation or council, shall, at the quarterly meeting of the council, on the first Saturday 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, showing particularly the amount of taxes laid and collected, and of all moneys paid into the treasury, and the amount of expenditures.

Court of appeal constituted. SECTION 12. 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 assessor, or assistant assessor, shall inform each land holder, resident in the borough, of the amount of his or her 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 grievances that may occur in imposing the same.

High constable to give notice of elections, and superintend the same. SECTION 13. It shall be the duty of the high constable, to give notice of the annual elections of the said borough, held in pursuance of this act, by setting up advertisements in four public houses in the said borough, ten days previous thereto; he shall attend and see that the same is opened at the time and in the manner directed by this act: *Provided*, That it shall be the duty of the present high constable to publish and superintend, in like manner, the election to be held on the third Friday in March next, as is herein before directed.

Present high constable to give notice of first election. SECTION 14. The judges, inspector and clerks of the elections aforesaid, shall be allowed, each, fifty cents a day for their services in holding said elections; and 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

Compensat'n of the officers of election. 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 said officers were appointed respectively: *Provided also*, That if any per-

Town council to fix the salaries of other officers.

Proviso.

son, appointed by the town council as aforesaid, shall neglect, or refuse to take upon himself the duties of the office to which he shall be so appointed, shall forfeit and pay for the use of the corporation the sum of twenty dollars, unless he can render to the said council a satisfactory reason why he should be exonerated from such service. \$20 penalty for refusing to accept office.

SECTION 15. 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 county, 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 against all parties. Right of appeal to the court of C. P. except in cases relating to appointments and taxation.

SECTION 16. From and after the third Friday in March next, the act entitled "An act to erect the towns of Waterford and New Haven, in the county of Lancaster, into a borough," passed on the sixth day of March one thousand eight hundred and twelve, as also an act entitled "An act, amending the act, entitled 'An act to incorporate the towns of Waterford and New Haven, in the county of Lancaster, into a borough,'" passed on the sixteenth day of March, one thousand eight hundred and nineteen, and so much of the act entitled "An act to incorporate sundry boroughs, and for other purposes," passed the eighth day of April, one thousand eight hundred and thirty-three, as relates to the borough of Marietta, be, and the same are hereby repealed. Repeals former acts.

WM. PATTERSON,

Speaker of the House of Representatives.

THO'S. RINGLAND,

Speaker of the Senate.

APPROVED—The fifteenth day of February, one thousand eight hundred and thirty-four.

GEO: WOLF.

No. 36.

AN ACT

Granting Andrew Dennis compensation for a tract of donation land.

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 the State Treasurer be and he is hereby authorized