

## No. 98.

## AN ACT

To provide for the Incorporation of Boroughs.

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 from and after the passing of this act, the several courts of Quarter Sessions, within this Commonwealth, shall have power by and with the concurrence of the grand jury of the county, to incorporate any town or village within their respective jurisdictions, containing not less than three hundred inhabitants, and every town or village so incorporated, shall be a body corporate and politic, by the name which shall be given or sanctioned by the court, and by that name, shall be capable in law to purchase, have, hold, enjoy, and retain forever, or for a shorter term, lands, tenements, and hereditaments, goods, chattels, and effects of every kind whatsoever, that may be necessary to fulfil the end of the corporation; and the said corporation shall have perpetual succession, and in its name, shall be capable in law to sue, and be sued, plead, and be impleaded, in any of the courts of law in this Commonwealth, in all manner of actions whatever, to have, and to use one common seal, and the same from time to time, at their will, to change and alter: *Provided,* That the clear yearly value of the property by them held, together with the interest of monies by them lent, shall in no case exceed the sum of ten thousand dollars.

Court of Q. Sessions and grand jury the power to incorporate towns and villages.

Proviso.

SECTION 2. When application is made to the court, by the inhabitants of any town or village for the privileges conferred by this act, it shall be in writing, and shall be signed by a majority of the freeholders residing within the limits of the same. It shall set forth the name, style, and title of the proposed borough, with a particular description of the boundaries thereof, exhibiting the courses and distances in words at length, and be accompanied with a plot or draft of the same.

Applicat'n to be made by majority of freeholders of the town, &c.

SECTION 3. The court shall cause the aforesaid application to be laid before the grand jury when in session, and if a majority of the said grand jury after a full investigation of the case shall find, that the conditions prescribed by this act have been complied with, and shall believe, that it is expedient to grant the prayer of the petitioners, they shall certify the same to the court, which certificate shall be entered of record, and no further proceedings shall be had, until the succeeding term of the said court, at which term the judgment of the grand jury may be confirmed; and if the decree of the court, shall be in conformity with the prayer of the petitioners, the said petition and de-

Subsequent proceedings.

ees shall be recorded in the Recorder's office of the proper county at the expense of the applicants, and from thenceforth, the said town or village shall be deemed an incorporated borough, and shall be entitled to the several rights, privileges, and immunities conferred by this act, subject to such modifications, as may be hereafter made by the Legislature. But, if the court shall deem further investigation necessary, they may take such order thereon, as to right and justice shall appertain. The same proceedings shall be had, on an application to change the limits of any borough, incorporated under this act, and the courts aforesaid shall have full power, to decree such alterations as may be needful.

Pow'r to alter  
charters.

SECTION 4. The several courts of Quarter Sessions aforesaid, shall also have power with the concurrence of the grand jury of the county; and upon the application in writing of two-thirds of the taxable inhabitants of any borough now incorporated, or that may hereafter be incorporated, to annul or alter the charter of the same, and similar proceedings shall be had on such application, as in the case of incorporating a borough.

Elections of  
officers.

SECTION 5. The inhabitants of every borough hereafter incorporated, entitled to vote for members of the General Assembly, having resided within the said borough at least six months immediately preceding the election, and within one year paid a borough tax, shall have power on the days, and at the places directed by the courts of Quarter Sessions of the proper county to meet, and then and there, between the hours of one and six in the afternoon, to elect by ballot one citizen residing therein, who shall be styled the burgess, and five citizens to be a town council, and shall also elect as aforesaid two citizens, who shall be overseers of the poor if necessary, and one citizen as town constable, all of whom shall be resident in said borough; but previous to the opening of said election, such of the inhabitants as are present at the place of election, shall elect two citizens as judges, one as inspector, and two as clerks of 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 laws are imposed; and the said judges, inspectors, and clerks, before they enter on the duties of their respective offices, shall take an oath or affirmation before some justice of the peace to perform the same with fidelity, and after the said election shall be closed, shall declare the person and persons having the greatest number of votes to be duly elected to their respective offices, and in case any two or more candidates shall have an equal number of votes the preference shall be determined by lot, to be drawn by the inspector in the presence of the judges 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 com-

stable for the preceding year, to give notice in writing to each of the persons so elected, and in case of the death, resignation, removal, or refusal of any person so elected, or if it should at any time happen, that no election should be holden on the day and in the manner aforesaid, the 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 the citizens of said borough shall be entitled to vote at the first election, although they have not paid a borough tax. Proviso.

SECTION 6. If any person duly elected as burgess, member of 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 such duties, 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 any of the by-laws and ordinances of any borough, shall be for the use of the proper borough and shall be recovered before any justice of the peace in the same manner that debts not exceeding one hundred dollars are by law recoverable, and when so recovered, shall be forthwith paid to the treasurer of said borough, and all other monies received by any officer for the use of said borough shall be forthwith paid to the said treasurer: *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. Penalty for refusing office of burgess, council-man and high constable. Proviso.

SECTION 7. The burgess, town council and high constable, before entering on the duties of their respective offices, shall each take and subscribe an oath or affirmation before some justice of the peace, 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 affirmations shall be filed among the records of said corporation. Oaths of office, &c.

SECTION 8. It shall be the duty of the town council of each borough hereafter incorporated, four of whom including the burgess, if present, shall be a quorum, to meet at such times and places as by the by-laws and ordinances of said borough shall be appointed; at which meetings they may enact, revise, repeal and amend all such by-laws, 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; they shall also have power to regulate, improve, repair and keep in order the roads, streets, lanes, alleys and other public grounds, wharves or landings within said borough; but nothing herein contained shall be construed to give to the town council aforesaid authority to lay out any road, street, lane or alley Meetings of the burgesses and councils, and their powers.

within the borough limits; but such authority shall be vested in the court of Quarter Sessions of the proper county, under the general road laws of the Commonwealth. They shall also 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 commissioners 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; and the meetings of said town council shall be held at such times and places as the majority of them may appoint, and the burgess shall be president of the town council and shall have and exercise all the rights and privileges of a member thereof; but in case of the absence of the burgess, the members present may elect one of their number to preside for the time being: *Provided*, That no by-law, rule or ordinance of 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 the violation of a by-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, and that the said tax shall not in any year exceed one half 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.

Proviso.

2d Proviso.

Duty of the burgess.

SECTION 9. Every burgess hereafter elected and qualified agreeably to this act, is hereby authorised to issue his precepts as often as occasion may require to the collector of the proper borough, commanding him to collect all taxes so assessed for the use of said borough and the same to pay over to the treasurer thereof, which collector shall have the same power that collectors now have in collecting county rates and levies; and the burgess is hereby authorised to carry into effect all by-laws and ordinances enacted by the town council. He is also required to cause to be opened all roads, streets, lanes or alleys that may be laid out by order of the proper court within the limits of the borough, and for neglect or refusal to do so, shall be liable to like penalties as are incurred by supervisors of the highways for a similar offence. And the town council shall have power to mitigate or remit fines and forfeitures in all cases where it shall appear that the person or persons so fined did not offend intentionally, or on having some other just and reasonable excuse to plead in his, her or their behalf.

**SECTION 10.** It shall be the duty of the town clerk of every borough hereafter incorporated, to attend all meetings of the town council when assembled on business of the borough, and perform the duties of clerk thereto and keep the common seal and records of the borough, whose attestation with the seal of the borough shall be good evidence of the acts or things certified.

**SECTION 11.** The treasurer of each borough hereafter incorporated, shall give sufficient security for the faithful discharge of the duties of his office and for the safe delivery of all moneys books and accounts appertaining thereto into the hands of his successor, upon demand made for that purpose. Of the treas'r.

**SECTION 12.** The town clerk, treasurer, street commissioner and collector, as well as all other officers who may be appointed by the town council of every borough hereafter incorporated, shall at such time and times as the town council may direct, render their accounts respectively to the said town council for settlement. Accounts of officers.

**SECTION 13.** The town council of every borough hereafter incorporated, 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*, That the court of appeal shall have no other power, as such, than to determine the apportionment of said taxes, and to remedy any grievance that may occur. Courts of appeal.

**SECTION 14.** It shall be the duty of the high constable of all boroughs hereafter incorporated, to give notice of the annual elections of said borough, by setting up six advertisements in the most public places in said borough ten days previous thereto. High constab. to give notice of elections.

**SECTION 15.** The town council of every borough hereafter incorporated, shall from time to time fix the salaries of the high constable, town clerk, treasurer, street commissioner and such other officers as they may appoint; and also the compensation to be made to the judges, inspectors and clerks of the election for borough officers, which salaries and allowances shall be paid out of the proper borough treasury by orders drawn thereon signed by the burgess. Salaries.

**SECTION 16.** If any person appointed by the town council of any borough hereafter incorporated, shall neglect or refuse to take upon himself the duties of the office to which he shall be so appointed, he shall for the same forfeit and pay for the use of the proper borough the sum of ten dollars, to be recovered as other fines and forfeitures are by this act recoverable. Penalty on refusing certain offices.

WM. PATTERSON,  
*Speaker of the House of Representatives.*

THO'S. RINGLAND,  
*Speaker of the Senate.*

Approved—the first day of April, Anno Domini, eighteen hundred and thirty-four.

GEO: WOLF.