

[No. 131.]

A N A C T

Declaring the Streets, Lanes and Alleys, in the town of Bloomsburg, in Columbia county, public highways, and authorizing the election of an additional supervisor, and for other purposes.

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 streets, lanes and alleys, in the town of Bloomsburg, in the county of Columbia, are hereby declared public highways, according to the plot of said town, and as such shall be opened and improved, and kept in repair and other highways of this commonwealth are opened, improved and kept in repair: *Provided,* That nothing in this act shall be so construed as to interfere with private property.

SECTION 2. That at the time and place for holding constable elections in the township of Bloom, in the county of Columbia, and annually thereafter, there shall be elected an additional supervisor of roads, which supervisor shall, at the time of said election, and during the term for which he shall be elected, be and continue a resident of the town of Bloomsburg; and if any vacancy in said office shall exist between the times for holding said elections, either in consequence of the person elected removing out of the said town, or from any other cause, the court of Quarter Sessions of said county, on petition of the citizens of said town, shall appoint some suitable person to fill the vacancy in said office, until the term of said court next succeeding the time of holding said elections, and the person thus appointed shall have all the same rights and powers, and be subject to all the same duties and liabilities, as if he had been elected by the people of said town of Bloomsburg.

SECTION 3. That the constable of the borough of Berwick, elected under the authority of an act of assembly, approved the 16th April, 1838, be and he is hereby authorized and required to hold an election on the Saturday next before the second Monday of June, one thousand eight hundred and forty, at the usual place of holding elections for officers of the borough of Berwick, for the purpose of electing such officers as are allowed to said borough, by the act erecting the town of Berwick into a borough, and the supplement thereto, giving at least five days notice by either written or printed notices,

the elections for borough officers for the said borough of Berwick, for the year one thousand eight hundred and forty-one, and thereafter shall be held on the said Saturday next before the second Monday of April, as directed by the act incorporating said borough, and the supplements thereto: *Provided*, That in case the officer therein authorized and required to give notice of said election, shall neglect or refuse to give such notice, the chief burgess or assistant burgess, or any member of the council, may give notice of said election, and in case of a vacancy in any office for said borough, caused by death, resignation, or refusal to serve or otherwise, a majority of the council may give the usual notice, and hold an election to fill such vacancy.

Proviso.

Proceedings
in case of neg-
lect or refusal
of constable to
give notice.
Vacancy.

SECTION 4. That the town council of the said borough of Berwick, be and they are hereby empowered to make, or cause to be made, a plan of said borough, in conformity with a plan originally made by Evan Owen, of said town, except such parts as relate to lots and streets in Luzerne county, and the plan so made shall be certified by a majority of the town council, to be a full and complete plan of said borough of Berwick, in the county of Columbia, and the plan when made and so certified, shall be entered of record in the office for recording of deeds, in the county of Columbia, and also upon the records of said borough, and shall be received in evidence as the plan of said borough.

Town council
to have made
a plan of bor-
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How authen-
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Where recor-
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SECTION 5. That the town council of said borough of Berwick, are hereby empowered, if they think proper so to do, to rent for a term not exceeding five years, such streets or parts of streets as in their opinion are not needed for the use of the inhabitants of said borough, and the moneys thus received as rent shall be placed in the hands of the treasurer, for the use of said borough.

To rent cer-
tain streets.

SECTION 6. The streets, roads, lanes and alleys, which were lately laid out by the proprietor of the tract of land, situate in the borough of Norristown, in the county of Montgomery, lately owned by Levi Pawling, are hereby confirmed and declared to be public highways, as fully to all intents and purposes as if they had been laid out by order of the court of Quarter Sessions of said county; and all streets, roads, lanes, and alleys, which may hereafter be laid out by the owner or owners of land situated in said borough, through the same, which may be approved by the town council of said borough, and of which a plot or draft, showing the course, length and width of such streets, roads, lanes and alleys, and their connexion with each other and with other streets in said borough, as well as the lands and improvements through which they pass, signed by the owner of such land, duly certified by the president and clerk of the town council of said borough, as approved by said council, shall have been filed in the office of

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in Norristw'n
Montgomery
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ways.

How streets,
&c., may
hereafter be
laid out.

the clerk of the court of Quarter Sessions of said county, shall thereafter also be considered public highways, as fully to all intents and purposes, as if the same had been laid out by an order of said court; and it shall be the duty of the said town council to keep the streets, roads, lanes and alleys, which have been or may hereafter be laid out as above mentioned in good repair, and the said council shall have the same power and authority to regulate such streets, roads, lanes and alleys, and to compel the owners of lots and lands bounding thereon, to curb and pave the side walks in front of their respective lots and lands, which the town council now have to regulate other streets, roads, lanes and alleys in said borough, and to compel the owners of lots and lands bounding on the same, to curb and pave the side walks in front of the same.

Duty of council.

Owners to curb and pave lots.

SECTION 7. It is hereby declared that it is the true intent and meaning of the twenty-ninth section of the act entitled, an act authorizing the Governor to incorporate the Huntingdon and Chambersburg rail road company, passed the sixteenth day of June, one thousand eight hundred and thirty-six, that either upon completing or doing any part of the curbing of the side walk, in front of any lot or land in the borough of Norristown, or on completing or doing any part of the paving on such side walk, after the neglect or refusal of the owner to curb or pave the same, that the said town council should have authority to file a lien for the amount of either the curbing or the paving which might have been done, or to institute an action for the recovery of the expense of such curbing or such paving, notwithstanding the whole of such curbing and paving or either may not have been completed; and in all cases of liens which have been or may be filed for any curbing or paving alone, in said borough, and in all cases in which actions have been brought or may be brought, agreeably to the said section, for the recovery of the expense of any such curbing or paving alone, such liens and actions shall be deemed and held as good, valid, and regular, as if the curbing and paving had been completed, and the lien had been filed or action brought for the amount of the curbing and paving.

Town council of borough of Norristown after paving, &c. may file lien or institute action against owners of lots.

SECTION 8. Any person who shall furnish curbstone for the purpose of curbing the side walk, in front of any lot or piece of land, in the borough of Norristown, or shall furnish brick or other materials for paving any such side walk, or shall perform any work or labor in putting up such curbstones or laying such pavement, either at the request of the owner of such lot or land, or by the order of the town council, or any committee appointed by them, after the owner shall have neglected or refused to curb and pave, agreeably to the order of the town council, shall have the same right and authority to file a lien for such curbstone, brick materials, and labor performed, or to recover the amount of such materials or labor, by action against

Labor or materials provided for curbing, paving, &c. may be secured by lien or recovered by action against lot owners.

the owner of the lot or land, in front of which such curbing and paving was done, as is given to the town council of said borough, by the twenty-ninth section of the act recited in the preceding section entitled, "an act authorizing the Governor to incorporate the Huntingdon and Chambersburg rail road company."

SECTION 9. That whenever the town council of the borough of Norristown shall, by ordinance or otherwise, require the owner of any lot or land, in said borough, to curb or pave the side walks in front of, or opposite to his lot or land, it shall be the duty of the clerk of the said town council, to give such notice as said council may direct, to such owner in writing, and the same shall be served by delivering such notice to such owner personally, or by putting up the same at the dwelling house or to curb, pave, other conspicuous place on the lot or land ordered to be curbed or paved as aforesaid, and the certificate of the said clerk, that he had duly served the said notice as aforesaid, stating the time and manner of such service, shall be conclusive evidence of the due service of such notice. In all cases in which claims have been or may be filed for the amount of the materials and work for curbing or paving any of the side walks in said borough, or any part of such side walks, and in all cases in which any action or proceedings have been or may be instituted, to recover the amount of any claim for any such curbing or paving heretofore done, the affidavit of one of the street and road commissioners of said borough, of the service of a notice to curb or pave any of the side walks in said borough, by order of the town council, either on the owner or owners of the lot or land, in front of which the side walks had been so curbed or paved, personally, or by leaving the same at his or her usual place of abode, or with any person residing on such lot or land, or by putting up such notice on such lot or land, specifying in such affidavit, or showing, by reference to an endorsement or a copy of such notice, which shall be attached to said affidavit, or otherwise, the day on which such notice had been served as aforesaid, shall be received in evidence, and shall be deemed and taken as prima facie evidence of the due service of any notice, requiring any person to curb or pave the sidewalks, in said borough.

SECTION 10. That hereafter in all cases in which the town council of the borough of Norristown, shall curb or pave any side walk, in front of any lot or land in said borough, after the owner of such lot or land shall refuse or neglect to curb or pave such side walk, on being duly required so to do, it shall be lawful for said town council, at their option, to recover the expense of such curbing or paving or both, by filing a lien or bringing an action for the amount, as is now provided by law, or to recover the amount of the expense of such curbing and paving, by assessing the amount of such expense upon the said lot or land, or the owner thereof, in the same manner

Duty of clerk of council to give notice to owners of lots to curb, pave, &c.,

What shall be deemed evidence of notice to pave, &c., in all cases when liens have been filed.

Proceedings where owners of lots shall refuse or neglect to curb, &c.

May tax lot or owner to recover cost of paving, &c.

that taxes, in said borough are assessed, which shall be entered in the duplicate of borough taxes, and collected by the collector of the said borough, as the borough taxes are collected: *Provided*, That after assessing the amount of such curbing or paving or both, as aforesaid, notice shall be given of such assessment, and the amount thereof, to the person against whom the same is assessed, or put up on the premises, who may, within six days thereafter, appeal from such assessment, to the persons authorized to hold the appeals in the case of the assessment of borough taxes, which court of appeals shall correct any error which they may ascertain in such assessment, and the amount which may be fixed by such court of appeals, if any alteration be made, shall be returned to the collector and collected as aforesaid; but if no appeal shall be made within six days after notice as aforesaid, the sum assessed by the town council shall be collected as above mentioned.

SECTION 11. The market house, authorized by the twenty-seventh section of the act, entitled an act authorizing the Governor to incorporate the Huntingdon and Chambersburg rail road company, to be erected in the borough of Norristown, on the lot of ground in the said borough, commonly called the jail lot, bounded on the north-west by Sweede street, on the south-west by Penn street, on the south-east by lands of John Dykes and James Wells, and on the north east by the jail; described in the said section as situate and lying between Sweede street and alley, and Penn street and the jail yard, shall and may be erected on the side of said lot bounding on Penn Street, extending in width from Penn street towards the jail not exceeding sixty-feet, and shall be built in two blocks, one extending from the line of John Dykes' land to or near the paved walk through said jail lot, and the other extending from Sweede street to or near the said walk, so as not to interfere with the passage from the court house to the jail, along said walk, and the part of said lot on which said market house shall be erected, shall be graded so as to be on a level with the pavement on Sweede street and Penn street, or as near as practicable.

SECTION 12. That so much of the one hundred and thirty-first section of the law, passed April fifteenth, eighteen hundred and thirty-five, which provides that it shall and may be lawful for any distiller of whiskey, or his agent, intending to ship whiskey, the produce of his own stills, coastwise, to ship the same without inspection, upon depositing with or at the office of one the principal inspectors, an invoice or list exhibiting the number and kinds of casks intended to be shipped, with an affidavit annexed by himself or agent, that such whiskey was made by him, and is intended for a market in one of the sister states, together with a notice of the name of the vessel on which the same is intended to be shipped, and the

place where it is intended to be taken on board, at least three hours before it shall be put on board; and so much of the one hundred and twenty-third section of the aforesaid act, as is contained in these words, "except when shipped coastwise by the distiller or his agent," be and the same is hereby repealed.

WM. HOPKINS,

Speaker of the House of Representatives.

W. T. ROGERS,

Speaker of the Senate.

APPROVED—The eleventh day of April, one thousand eight hundred and forty.

DAVID R. PORTER.

[No. 132.]

A SUPPLEMENT

To an act, entitled "an act providing for the election of Aldermen and Justices of the Peace, passed the twenty-first day of June, eighteen hundred and thirty-nine."

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 in all cases where an equal number of legal votes shall be polled for two or more candidates for the office of alderman or justice of the peace, in any ward, borough or township within this commonwealth, so that the said officers required by law shall not be duly elected, or where any election shall be declared void, or where a vacancy shall happen from any other cause, it shall be lawful for the qualified voters of said ward, borough or township, to hold another election for the choice of such officer or officers as they shall have failed to elect, and to fill such vacancy on the day fixed by law. But before holding the same, it shall be the duty of the constable of the proper ward, borough or township, to give notice, in the manner prescribed by law, that on a certain day mentioned in said notice (not less than twenty nor more than thirty days thereafter) an election will be held to fill the vacancy occasioned by such failure to elect, as aforesaid, which election shall be held by the same officers, at the same place, between the same hours, and be conducted and the return thereof made in the manner prescribed by law for holding the township elections, and shall be subject to like inquiry and judgment of the court of the proper county; *Provided, That*

Proceedings where candidates have equal number of votes or election from any other cause void.