

year: *Provided*, That nothing herein contained shall exempt directors of any district adopting the provisions hereof from the performance of their general duties as directed in the eighth section of the act of the thirteenth June, one thousand eight hundred and thirty-six, entitled "An Act to consolidate and amend the several acts relative to a general system of education by common schools."

HENDRICK B. WRIGHT,

*Speaker of the House of Representatives.*

B. CRISPIN,

*Speaker of the Senate.*

APPROVED—The eighth day of April, one thousand eight hundred and forty-three.

DAVID R. PORTER.

[ No. 96. ]

## AN ACT

To erect Newton Hamilton, in the county of Mifflin, into a borough.

### Boundaries

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 town of Newton Hamilton, in the county of Mifflin, shall, and the same is hereby erected into a borough, which shall be called Newton Hamilton, and shall be comprised within the following boundaries, to wit: Beginning at a post on the towing path on the line of Samuel Drake's land, thence along said land north thirty-three and a half degrees east forty-one perches and seven links to a post, thence south fifty-nine and a half degrees west one hundred and twenty-six perches to a post, thence by lands of Jacob Shavers south fifty-eight and a half degrees east thirteen perches and seven links to a post, thence by lands of said Shavers south fifty-seven and a half degrees west fifty-four perches to a post at a corner of George Vansant's land, thence by said land south thirty-two and a half degrees east fifty perches to a post on the towing path, thence north forty degrees east forty perches, thence north fifty-three degrees east thirty-two perches, thence north fifty-six degrees east one hundred and

four perches six links along said towing path to the place of beginning.

SECTION 2. It shall and may be lawful for all persons entitled to vote for members of the legislature, who have resided in the said borough ten days previously to such election, to meet at the school house in said borough on the third Monday in April, in the present year, and on the third Friday of March in every year thereafter, and then and there elect by ballot, between the hours of twelve and six o'clock of the same day, one respectable citizen residing therein, who shall be styled the burgess of said borough, and five citizens residing therein who shall be a town council, and one citizen residing therein town constable; but previously to such election, the inhabitants present shall elect one respectable citizen as judge, and two as inspectors of the said election, which shall be regulated and conducted according to the general election law of this commonwealth, so far as relates to receiving and counting votes, and who shall be subject to the same penalties and malpractices as by the said law is imposed; and the said judges, inspectors and clerks, before they enter upon the duties of their office, shall each take an oath or affirmation before any justice of the peace of the said county, but if no justice of the peace be present at the election, one of the judges, after first having the oath or affirmation required by the aforesaid act administered to him by one of the other judges, shall administer the oaths or affirmations to the other judges and to the inspectors and clerks, to perform the same with fidelity; and after the said election shall be closed, shall declare the person having the greatest number of votes to be duly elected, and in case any two or more persons shall have an equal number of votes, the preference shall be determined by lot to be drawn by the judges and inspectors, whereupon duplicate returns thereof 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 in case of death, resignation or refusal to accept, or neglect or refusal to act after acceptance of any of the said offices, the burgess, or in case of his absence or inability to act, or when he neglects or refuses to act, the first named of the town council shall issue his precept directed to the high constable, or when he refuses or neglects to act, then any of the members of the town council shall advertise and hold an election in the manner aforesaid, to supply such vacancy, giving at least ten days notice thereof by advertisements put up at four of the most public places in said borough.

SECTION 3. From and after the third Monday of April next, the burgess and town council duly elected as aforesaid, and

their successors, shall be one body politic and corporate in law by the name and style of the burgess and council of Newton Hamilton, and shall have perpetual succession; and the said burgess and the council aforesaid, and their successors, shall be capable in law to receive, hold and possess goods and chattles, lands and tenements, rents, liberties, jurisdictions, Liberties and franchises, hereditaments, to them and their successors, in fee simple or otherwise, not exceeding the yearly value of one thousand dollars; and also to give, grant, sell, let and assign the same lands, tenements, hereditaments, rents; and by the same 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 this commonwealth, in all 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.

**SECTION 4.** If any person or inhabitant of said borough duly qualified to elect as aforesaid, shall be elected to the office of burgess, and receiving notice of his election, shall refuse to undertake and execute that office, any person so refusing shall forfeit and pay a fine of ten dollars; and if any other person duly qualified as aforesaid, shall be duly elected to any other office in said borough enacted by this act, and receiving notice of his election, shall refuse to undertake and execute the duties of that office, every person so refusing shall forfeit and pay a fine of five dollars, which fines, forfeitures and all others in pursuance of this act, or of the by-laws of the said council, shall be recoverable before any justice of the peace of said county, for the use of said corporation: *Provided*, That no person shall be compelled to serve more than one year in every term of three years, and that if any person or persons shall conceive himself or themselves aggrieved by the judgment of any justice of the peace, by virtue of this act, he or they may appeal to the next county court of common pleas, upon giving security according to law to prosecute his or their appeal with effect, who shall upon the petition of the party take such order therein as to them shall appear just and reasonable, and the same shall be conclusive to all parties.

**SECTION 5.** The burgess shall take and subscribe an oath or affirmation before one of the associate judges or justice of the peace of the county of Mifflin, to support the constitution of the United States and of this state, and an oath or affirmation well and truly to execute the office of the burgess of the borough of Newton Hamilton, and when so qualified, he shall administer an oath or affirmation to the town council, town constable or town clerk, in manner and form aforesaid, before they shall enter upon the duties of their respective offices; the certificates of which oaths and affirmations shall be filed among the records of the said corporation.

**SECTION 6.** The town council may meet by their own Meetings authority as occasion may require, or upon the summons of the burgess; they shall have power to enact by-laws and to By-laws make such rules, regulations and ordinances as shall be determined upon by the majority of the whole council, necessary to promote the peace, good order and general welfare of the inhabitants of the said borough; and for the purpose of improving and keeping in order the streets, lanes and alleys and Streets public squares and common grounds belonging to said town within the said borough, for removing nuisances and obstructions therefrom, and the same to annul, alter or make decree as the occasion may require, and also to levy, assess and collect a tax for said purposes, and also annually to appoint a Tax town clerk, treasurer, street commissioner, overseer of the poor and such other officers as may be deemed necessary, Officers with all other powers required for the well ordering and better government of said borough: *Provided*, That the said Proviso ordinances, rules and regulations shall not be repugnant to the constitution or laws of this commonwealth or of the United States: *And provided also*, That no tax shall be laid by them in any one year to exceed one-half of a cent in the dollar on the valuation of taxable property taken from the last assessment, unless some object of general interest shall be thought necessary, in which case a majority of the freeholders of said borough by writing under their hands shall approve and certify the same to the town council, who shall proceed to assess the same accordingly; and all taxes which may be assessed or laid in their said borough shall as nearly as the same practicable be assessed and collected conformably to the laws for raising county rates and levies.

**SECTION 7.** It shall be the duty of the town clerk to attend all meetings of the town council when assembled on business Duty of clerk 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; and his attestation with the seal of the corporation shall be good evidence of the thing or act so certified.

**SECTION 8.** The treasurer shall give security for the faithful discharge of his duties as treasurer, and for the safe delivery into the hands of his successors of all moneys, books and accounts appertaining thereto, upon demand being made by the burgess for that purpose. Treasurer

**SECTION 9.** The street commissioner, treasurer, constable and overseer of the poor as well as all other officers who may be appointed by the corporation or council, shall render their Accounts

accounts to the council once in every year for settlement; and the said accounts being adjusted and settled accordingly shall be forthwith published by the said council, showing particularly the amount of taxes laid and collected, and of the expenditures.

**Constable** SECTION 10. It shall be the duty of the town constable to give notice of the election by setting up advertisements in three public places in the said borough, at least ten days previously thereto, and shall attend and see the same opened in the time and manner directed by this act.

**Board of appeal** SECTION 11. The burgess, president of the council, treasurer or any two of them shall constitute a board of appeal, and prior to the collection of any borough tax they shall appoint a day for the hearing of appeals, of which and of the amount of his or her tax, and the place where the appeal will be held, the collector shall notify each taxable by a written notice in the usual manner at least ten days before the day of appeal; and when the said tax shall have been properly adjusted it shall be the duty of the burgess, or in case of his absence or inability to act, the treasurer, and he is hereby authorized to issue his precept directed to the collector commanding him to collect all taxes so assessed, and vesting him with like powers and authority given to the collectors of county rates and levies by the laws of this commonwealth, and the amount shall be paid into the treasury for the use of the corporation.

**Burgess pro tem** SECTION 12. In the absence from the borough or inability of 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 upon the burgess by this act or which may be enjoined by the by-laws, which may be passed in pursuance of the same.

**Quorum** SECTION 13. In any meeting of the burgess and town council it shall require at least three to form a quorum to transact business.

**First election** SECTION 14. Samuel Drake and Jacob Norton of said town or either of them, shall publish and superintend the first election of borough officers on the third Monday of April next, after the passage of this act, at the place appointed by law for holding the elections for said borough; and they are hereby directed to give five days notice by advertisements as before directed in other cases of election of the time and place of holding the same.

**Separate sch'l district** SECTION 15. That the territory within the limits of the said borough shall be a separate district for school purposes, and for the levy and collection of county rates and taxes, and shall be a separate election district and hold all their elections at a

separate window of the school house in said borough, and in all other respects shall be separate from the township of Wayne in said county, and that all jurisdiction and powers of the officers of said township from the third Monday of April next shall cease and determine, except so far as to collect any taxes that may be then due and owed to them from the inhabitants of said borough.

HENDRICK B. WRIGHT,  
*Speaker of the House of Representatives.*

B. CRISPIN,  
*Speaker of the Senate.*

APPROVED—The twelfth day of April, one thousand eight hundred and forty-three.

DAVID R. PORTER.

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[ No. 97. ]

## A SUPPLEMENT

To the act entitled "An Act to incorporate the Lüthersburg and Punxatawney turnpike road company, and for other purposes," approved the sixteenth day of April, one thousand eight hundred and thirty-eight.

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 president and managers of the Lewistown water company are hereby authorized in such streets or part of said borough where trunks or pipes may be laid down, to erect fire plugs or hydrants to be used for extinguishing fires in said borough, for such reasonable compensation as may be agreed upon between said company and the burgess and town council of said borough; and the said water company is also hereby authorized to supply individuals and corporations with water for family and other purposes, for such compensation as may be agreed upon between said company and individuals or corporations, or according to the rates adopted by said company.