

ively, shall not have the benefits of this act, unless they relinquish their right of taking tolls from any person, when passing from one part of his or her farm to the other along the said road.

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That so much of each and every of the incorporating acts of the before recited companies, as subjects them severally to a penalty for receiving toll in advance, and as is hereby further altered and supplied, shall be and the same is hereby repealed.

Approved March 17, 1806. Recorded in L. B. No. 10, p. 325.

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## CHAPTER MMDCLXXXVI.

AN ACT TO ERECT THE TOWN PLOT OF WILKESBARRE AND ITS VICINITY IN THE COUNTY OF LUZERNE, INTO A BOROUGH.

Section I. (Section I, P. L.) 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 plot of Wilkesbarre and its vicinity in the county of Luzerne, shall be and the same hereby is erected into a borough, which shall be called the Borough of Wilkesbarre, bounded and limited as follows, that is to say: Beginning at a stake at low water mark, on the south side of the north-east branch of the Susquehanna river, and running thence south thirty-four degrees forty minutes east ninety-four perches to a stake on the main street; thence on the south side of said street north fifty-five degrees twenty minutes east twenty-four perches to South-street; thence on the south side of said street south thirty-four degrees forty minutes east sixty-four perches and two-tenths of a perch to the south corner of said town plot; thence to the south-east side of said back street, and continuing that course fifty-five degrees twenty minutes four hundred and five perches to a post where that line intersects the north side line of Jacob Johnson's lot; thence on the line of said lot north fifty-one de-

grees thirty minutes west ninety-nine perches to a post; thence south fifty-five degrees twenty minutes west one hundred and eighteen perches to a post on the north side of North street; thence north thirty-four degrees forty minutes west sixty-six perches to an iron bolt in a rock at low water mark of the said Susquehanna river; thence down the said river the several courses thereof at low water mark to the place of beginning.

Section II. (Section II, P. L.) 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 twelve months previously to such election, to meet at the courthouse in said borough( or at such other place as may hereafter be appointed), on the first Tuesday in May in every year, and then and there elect by ballot, between the hours of twelve and six o'clock of the same day, one reputable citizen residing therein, who shall be styled "The Burgess of the said Borough," and seven reputable citizens residing therein, who shall be a town council, and shall also elect as aforesaid, one reputable citizen as high constable; but previously to such election, the inhabitants shall elect two reputable citizens as judges, one as inspector, and two as clerks 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 for mal-practices as by the said law is imposed; and the said judges, inspectors and clerks, respectively, before they enter upon the duties of their offices, shall take an oath or affirmation before any justice of the peace of the said county, to perform the same with fidelity, and after the said election shall be closed shall declare the persons having the greatest number of votes to be duly elected; and in case any two or more candidates should have an equal number of votes, the preference shall be determined by lot, to be drawn by the judges and inspector; 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 cor-

poration; and in case of death, resignation, removal, refusal to accept or neglect or refusal to act after acceptance of any of the said officers, the burgess, or in case of his death, 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 there is no high constable, or where he refuses or neglects to act, then any of the members of the town council, shall advertise and hold an election in manner aforesaid to supply such vacancy, giving at least ten days notice thereof by advertisements set up at four of the most public places in the said borough.

Section III. (Section III, P. L.) And be it further enacted by the authority aforesaid, That from and after the first Tuesday in May 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 Town Council of the borough of Wilkesbarre;" and shall have perpetual succession; and the said burgess and town council aforesaid, and their successors, shall be capable in law to 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 give, grant, sell, let and assign the same lands; moreover shall have the exclusive right of keeping, maintaining and letting a ferry over the Susquehanna, opposite the said borough; of demanding and receiving, by themselves or lessees, such tolls as the court of general quarter sessions of the peace of said county, from time to time shall direct, first obtaining permission to land the necessary boats on the opposite side of said river, from those who may there own the right of soil and 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 in 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 IV. (Section IV, P. L.) And be it further enacted by the authority aforesaid, That if any person duly elected as burgess, or a member of the town council, or constable, and having received notice thereof, as aforesaid, shall refuse or neglect to take upon himself the execution of the office to which he shall have been elected, every person so refusing or neglecting shall 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 the bylaws and ordinances of the town council, shall be for the use of the corporation.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That the burgess, town council and high constable, and each of them, before entering upon the duties of their respective offices, shall take an oath or affirmation, before any justice of the peace of said county, 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 the said corporation.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That it shall and may be lawful for the town council to meet as often as occasion may require, and enact such bylaws, 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 market, streets, alleys and highways therein; 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 bylaws, rules and regulations into complete effect; and also to appoint a town clerk, treasurer, two persons to act as street and road commissioners, and a clerk of the market, annually, and such other officers as may be deemed necessary, from time to time: Provided, that no bylaw, 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 the breach of bylaw or ordinance made as aforesaid, until three weeks have expired after the promulgation thereof, by at least four advertisements set up in the most public places in the said borough: And provided also, that no tax shall be laid in any one year, on the valuation of taxable property, exceeding one half cent in the dollar, unless some object of general utility shall be thought necessary; in which case, a majority of the freeholders of said borough, by writing under their hands, shall approve of and certify the same to the town council, who shall proceed to assess the same accordingly.

Section VII. (Section VII, P. L.) And be it further enacted by the authority aforesaid, That the burgess elected and qualified, agreeably to this act, is hereby authorized and empowered to issue his precept, as often as occasion may require, directed to the high constable, commanding him to collect all taxes assessed, and fines and forfeitures imposed by this act, or by the ordinances or regulations of the corporation, and the same to pay over to the treasurer; and the said burgess is hereby authorized to carry into effect all bylaws enacted by the council, and whatever else shall be enjoined upon him for the well ordering and governing the said borough; he shall have jurisdiction in all disputes between the corporation and individuals arising under the bylaws, regulations and ordinances.

Section VIII. (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the town clerk to attend all the meetings of the town council, when assembled upon business 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 IX. (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the treasurer shall give security for the faithful discharge of the duties of his office, and for the safe delivery into the hands of his successors of all monies, books and accounts appertaining thereto, upon demand being made by the burgess for that purpose.

Section X. (Section X, P. L.) And be it further enacted by the authority aforesaid, That the street commissioners, treasurer, constable, and clerk of the market, as well as all other officers who may be appointed by the corporation or council, shall render their 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.

Section XI. (Section XI, P. L.) And be it further enacted by the authority aforesaid, That it shall be the duty of the high constable to give notice of the elections, by setting up advertisements in the market and three other public places in the said borough, ten days previously thereto; he shall attend and see that the same is opened at the time, and in the manner directed by this act: Provided, that Jesse Fell, or Matthias Hollenback, esq. of the said town, shall publish and superintend the election to be held on the first Tuesday of May next, as hereinbefore directed.

Section XII. (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall think him, 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, upon giving security according to law, to prosecute his, her or their appeal with effect; and the court having taken such order as shall seem to them just and reasonable, the same shall be conclusive against all parties.

Section XIII. (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That nothing contained in an act for laying out, making and keeping in repair, the public

roads and highways within this commonwealth, and for laying out private roads, passed on the sixth of April 1802,<sup>(1)</sup> shall be deemed, construed or taken to extend to the public roads, streets, lanes or alleys, within the said borough, or to the assessing of the inhabitants thereof, for the purposes therein mentioned, or to any matter or thing to be done or performed therein.

Approved March 17, 1806. Recorded in L. B. No. 10, p. 326.  
Note (\*). Chapter 2298; 17 Statutes at Large, p. 151.

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#### CHAPTER MMDCLXXXVII.

AN ACT DIRECTING THE SALE OF CERTAIN LANDS GRANTED FOR THE USE OF AN ACADEMY OR PUBLIC SCHOOL, IN BEAVERTOWN.

Section I. (Section I, P. L.) 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 trustees of the Beavertown academy or a majority of them, be, and they are hereby authorized to sell and dispose of in the following manner, one moiety of the tract of land, adjoining the borough of Beaver, heretofore granted for the use of an academy or public school in said town; that is, the trustees, aforesaid, shall lay out the said land in lots of not less than five nor more than ten acres each, and shall proceed to sell the same by public auction at the court house in said borough, on or before the first Monday in August next, having previously advertised the same for three weeks in a newspaper, published at Washington, one in Pittsburgh, and one in Meadville, the terms of which sale shall be as follows: to wit, one fourth of the purchase money to be paid in hand, the residue to be paid in three equal biennial installments; for which payments the trustees are required to take bonds from the purchasers, payable with lawful interest to themselves and their successors in office, for the use of said