

Pennsylvania, LAWS, statutes, etc.

OF THE
GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF PENNSYLVANIA,

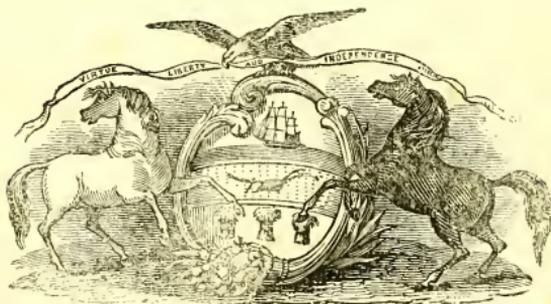
PASSED AT THE

SESSION OF 1851,

IN THE

SEVENTY-FIFTH YEAR OF INDEPENDENCE.

WITH AN APPENDIX.



PUBLISHED BY AUTHORITY.

HARRISBURG:
THEO. FENN & CO., PRINTERS TO THE STATE.
1851.

suitable person in the county of Lawrence as an auctioneer, who shall be authorized to sell at public auction, at such times and places as he may select, all kinds of goods, wares, merchandize, lands, tenements, and all other kinds of property; and the auctioneer so appointed and commissioned, shall before exercising any of the powers or enjoying any of the privileges incident to said appointment, pay into the county treasury of Lawrence county, for the use of the Commonwealth, the sum of twenty-five dollars for his commission; and the said auctioneer shall also pay into the county treasury, for the use of the Commonwealth, one per centum upon all sales exceeding in amount the sum of ten thousand dollars.

JOHN CESSNA,

Speaker of the House of Representatives.

BENJAMIN MATTHIAS,

Speaker of the Senate.

APPROVED—The third day of April, A. D., one thousand eight hundred and fifty-one.

WM. F. JOHNSTON.

No. 218.

AN ACT

Regulating 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* every borough within this Commonwealth that hereafter may be incorporated by an act of the General Assembly, or by the Court of Quarter Sessions of any county shall have power.

Boroughs here-
after incorpor-
ated, powers of.

- I. To have succession by its corporate name perpetually.
- II. To sue and be sued, to complain and defend in all courts of record and elsewhere.
- III. To make and use a common seal, and alter the same at pleasure.
- IV. To hold, purchase, and convey such real and personal estate as the purposes of the borough shall require, not exceeding the amount limited in its charter.

II. POWERS OR CORPORATE OFFICERS.

Power of offi-
cers.

SECTION 2. The powers of the corporation shall be vested in the corporate officers designated in the charter, they shall have power;—

To make laws.

- I. To make such laws, ordinances, by-laws, and regulations not inconsistent with the laws of this Commonwealth as they shall deem necessary for the good order and government of the borough.

II. To survey, lay out, enact, and ordain such roads, streets, lanes, alleys, courts, and common sewers as they may deem necessary, and to provide for, enact, and ordain the widening and straightening of the same. Lay out streets &c.

III. To prohibit the erection or construction of any building or work, excavation or other obstruction, to the opening, widening, straightening, and convenient use thereof. Prohibit obstruction of.

IV. To regulate the roads, streets, lanes, alleys, courts, common sewers, public squares, common grounds, foot-walks, pavements, gutters, culverts, and drains, and the heights, grades, widths, slopes, and forms thereof; and they shall have all other needful jurisdiction over the same. To regulate.

V. To require and direct the grading, curbing, paving, and guttering of the side or foot-walks, by the owner or owners of the lots of ground respectively fronting thereon, in accordance with the general regulations prescribed. Direct curbing and paving.

VI. To cause the same to be done on failure of the owners thereof, within the time prescribed by the general regulations, and to collect the cost of the work and materials with twenty per centum advance thereon from said owners, as claims are by law recoverable under the provisions of the law relative to mechanics' liens, and the particulars of such labor and materials; the name or names of the actual or reputed owner or owners, as also of the occupier or occupiers of the premises for the time being, shall be set forth in a statement to be filed within thirty days after such expense shall have been incurred. On failure of owners, the borough to pave and with power to recover cost thereof.

VII. To make all needful regulations respecting the foundations and party-walls of buildings, and respecting vaults, cess-pools, sinks, drains, and partition fences. Regulate foundation and party walls.

VIII. To enter upon the lands and premises of any person or persons, for the purposes authorized by this act by themselves and their duly appointed officers and agents. To enter upon lands.

IX. To prohibit and otherwise regulate the running at large of horses, cattle, sheep, swine, geese, dogs, and other animals, and to authorize their seizure and sale for the benefit of the borough. Prohibit running at large of animals.

X. To authorize and direct the killing of dogs running at large, contrary to the regulations of the borough. Killing of dogs.

XI. To make all needful regulations respecting markets and market days, the hawking and peddling of market produce, and other articles in the borough, and for the inspection and measurement or weight of cord-wood, hay, coal, and other articles sold or offered for sale in the borough. Regulate market peddling, &c.

XII. To regulate annually the scales, weights, and measures within the borough, according to the standard of the Commonwealth. Weights and measures

XIII. To prohibit and remove any obstructions in the highways of the borough, and any nuisance or offensive matter whether in the highways or in public or private ground, and to require the removal of the same by the owner or occupier of such grounds, in default of which the corporation may cause the same to be done, and collect the cost thereof with twenty per centum advance thereon in the manner provided herein for the cost of pavements made by the corporation. Prohibit nuisance.

XIV. To prohibit within the borough the carrying on of any manufacture, art, trade, or business which may be noxious or offensive to the inhabitants; the manufacture, sale, or exposure of fire-works or other inflammable or dangerous articles, and to limit and prescribe the quantities that may be kept in one place of gunpowder, fire-works, turpentine, and other inflammable articles, and to prescribe such other safe-guards as may be necessary. Prohibit carrying on of noxious trade or business.

- To regulate accumulations of manure. XV. To make such regulations relative to accumulations of manure, compost, and the like in barns, stable-yards, and other places, and to prohibit the keeping of hogs within the borough, or within such limits within the same as they may prescribe.
- Regulate interments. XVI. To prohibit within the borough the burial or interment of deceased persons, or within such partial limits within the same as they may from time to time prescribe, and to regulate the depth of graves.
- Other regulations. XVII. To make such other regulations as may be necessary for the health and cleanliness of the borough.
- Relative to fires, of fires, and within such limits within the borough as they may deem proper to prescribe, and to authorize the borough authorities to appropriate money for the purchase of fire engines for the use of said boroughs to and fire companies.
- Exhibitions. XIX. To regulate and prohibit the exhibition of plays, shows, mountebanks, jugglers, and all other exhibitions within the same.
- Night watch. XX. To establish a nightly watch, to light the streets, to provide a supply of water for the use of the inhabitants, to make all needful regulations for the protection of the pipes, lamps, reservoirs, and other constructions or apparatus, and to prevent the waste of water so supplied.
- Fines and penalties, lock-up house. XXI. To impose fines and penalties, incurring partial or total forfeitures, to remit the same, to provide or erect a lock-up house for the temporary detention of persons committed by the proper corporate officers, or by the justices of the peace within the borough: *Provided*, That no person shall be confined in such lock-up house for a longer period than forty-eight hours at any one time.
- Proviso. XXII. To appoint and remove such officers, prescribe their duties, and allow them such compensation as they may deem necessary to secure the peace, order, and well-being of the inhabitants, and to enforce the ordinances and regulations of the borough.
- Appointment and removal of officers, and compensation. XXIII. To prescribe such fees as they may deem proper for the services of their officers in the adjustment of the grades, curbs, lines, party walls, partition fences, and the like, and to enforce the payment of the same.
- Fees of officers.
- Borough tax. XXIV. To levy and collect annually for borough purposes any tax not exceeding one-half cent on the dollar on the valuation assessed for county purposes as now is or may be provided by law, all property, offices, professions, and persons made taxable by the laws of this Commonwealth for county rates and levies, shall be taxable after the same manner for borough purposes.
- Tax on dogs. XXV. To levy and collect annually a tax on the owners of dogs and bitches, not exceeding one dollar on the owner of but one dog, or two dollars on the owner of but one bitch, and to levy and collect such additional tax on the owners of more than one dog or bitch, and in such ratio of increase as they may deem proper.
- Borrow money. XXVI. To borrow money for the use of the borough not exceeding in the whole one dollar in every hundred dollars of the assessed value of the real and personal estate in the borough as assessed for county purposes, and to issue certificates therefor bearing interest not exceeding six per centum: *Provided*, That the same shall not be disposed of at less than par value: *And provided further*, That such loan shall be subject only to the payment of State taxes.

III. DUTIES OF CORPORATE OFFICERS.

SECTION 3. That it shall be the duty of the corporate officers, a majority of whom shall be a quorum,

I. To meet statedly at least once a month, and within ten days after Meetings. the election of any corporate officer.

II. Before entering upon the duties of their offices to take and subscribe an oath or affirmation before any judge or justice of the peace of the proper county, to support the Constitution of the United States and of the Commonwealth of Pennsylvania, and to perform the duties of their respective offices with fidelity; and the same shall be entered upon or filed among the records of the corporation, provided that the chief officer of the corporation, having been first duly qualified, may administer to the other officers the said oaths and affirmations.

III. To make full records of their proceedings, and to provide for the preservation thereof. Record.

IV. To publish in at least one newspaper, if such be printed in the proper county, and by not less than twelve advertisements, to be put up in the most public places in the borough, every enactment, regulation, ordinance, or other general law, at least ten days before the same shall take effect. Publication of ordinances.

V. To appoint a treasurer and secretary

VI. To give due and reasonable personal notice of all orders and regulations affecting particular individuals. Treasurer and secretary. Notice of orders, &c.

VII. To make a draft or plan of the roads, streets, lanes, alleys, and courts opened or laid out, with every explanation necessary to a full understanding of the same, which draft or plan shall be kept by the clerk, and shall be open to public inspection when required. Plan of streets, &c.

VIII. To give due and personal notice to all persons resident in the borough, directly interested therein, of any proposition to fix or change the roads, streets, lanes, alleys, or courts, or in the grading or other regulation thereof, and to designate a time and place when they shall be heard in relation thereto, and in the case of persons not residing in the borough, such notice shall be given to the occupants of the respective premises by them held affected by such proposition, or if unoccupied, by written or printed notices conspicuously posted upon such premises. Notice to residents of change of streets, &c.

IX. To appoint a time and place, of which due notice shall be given, for the hearing of appeals in relation to the assessment of taxes by such corporate officers, not less than three of whom they may designate, who shall have power to grant such relief as may to them seem proper. Appeals.

X. To fix from time to time the amount of security to be given by the treasurer, high constable, and the collector of borough taxes, and their compensation, and to direct the publication of the accounts of the treasurer annually, and the mode of publication. Security of treasurer and secretary.

IV. BOROUGH OFFICERS.

SECTION 4. That the corporate officers shall receive no compensation for their services in that capacity, excepting such as may be specially authorized by law. Compensation.

SECTION 5. That the chief burgess or other principal officer of the corporation shall have power,— Chief Burgess.

- Enforce laws. I. To enforce the by-laws, ordinances, rules, and regulations of the corporation.
- Jurisdiction. II. To exercise jurisdiction in all disputes between the corporation and individuals arising under the same.
- Jurisdiction in criminal cases. III. To exercise the powers, jurisdiction, and authority of justices of the peace within the borough for the suppression of riots, tumults, disorderly meetings; and in all criminal cases for the punishment of vagrants and disorderly persons he shall be entitled to the same fees for like services.
- To preserve order. SECTION 6. That it shall be the duty of the chief burgess or other principal corporate officer,—
I. To preserve order and maintain the peace of the borough, to enforce the ordinances and regulations, to hear complaints, to remove nuisances, and exact a faithful performance of the duties of the officers appointed.
II. To issue his warrant for the collection of taxes assessed, and to demand and receive sufficient security in the amount fixed by the corporation from the treasurer, collector, and high constable.
III. To sign the several by-laws, rules, regulations, and ordinances adopted, after they shall have been duly and correctly transcribed by the secretary.
- Issue his warrant to collect taxes.
- To sign laws, &c.
- Absence of Chief Burgess, who shall act. SECTION 7. That in the absence of the principal corporate officer, and in case of vacancy or inability of the same, the second burgess or other officer designated in the charter, or by the by-laws of the corporation for that purpose, shall exercise the like powers and perform the like duties.
- Duties of secretary. SECTION 8. That the secretary shall attend all the meetings of the corporation, keep full minutes of their proceedings, transcribe the by-laws, rules, regulations, and ordinances adopted, into a book kept for that purpose; and when signed by the presiding officer, shall attest the same, preserve the records and documents of the corporation, keep the seal of the corporation, certify copies of any book, paper, record, by-law, rule, regulation, ordinance or proceeding of the corporation under the seal thereof, which copies so certified shall be good evidence of the act or thing certified, and shall attest the execution of all instruments under the same record, the publication of all enactments, and attest the same by his signature thereto, and shall file of record the proof of service of all notices as required by this act or of supplements hereto, his certificate whereof shall be good evidence of such notice; he shall deliver over to his successor the seal and all the books, papers, and other things belonging to the corporation.
- Town Clerk. SECTION 9. That the duties of town clerk in boroughs shall hereafter be performed by the secretary of the corporation, who shall receive the fees prescribed by law for the performance of the duties of that office.
- Treasurer. SECTION 10. That the treasurer shall give bond with surety as required by the corporation, before entering upon his duties; he shall keep a just account of all his receipts and disbursements, and shall annually submit his accounts to the borough auditors to be audited and examined by them, and shall publish the same in the manner directed by the corporation, and shall pay over all moneys remaining in his hands, and deliver all books, papers, accounts, and other things belonging to the corporation to his successor.
- Treasurer. SECTION 11. That the treasurer of the corporation shall perform the duties of township treasurer within the borough, and shall receive such compensation as the corporation shall direct.
- Collector. SECTION 12. That the collector of borough taxes shall have the same

powers, and may be proceeded against by the borough treasurer in the same manner for neglect to pay over the amount of his duplicate according to law, as provided in the case of collectors of county rates and levies.

SECTION 13. That the high constable shall give bond with surety as required by the corporation; he shall have the power and authority of constables of the several townships in the proper county; he shall serve the notices prescribed by this act, and attest the services of the same by affidavit in writing signed by him and deposited with the secretary of the corporation. High constable.

V. ELECTIONS.

SECTION 14. Borough elections shall be held in accordance with and subject to all the provisions of the laws regulating township elections, so far as applicable, unless otherwise provided for in the charter. Elections.

SECTION 15. That the election of borough officers shall be at the time and place appointed by law for the choice of inspectors of the general election, unless otherwise prescribed in the charter. Held at general elections.

SECTION 16. That every person entitled to vote for members of the general assembly having resided in the borough six months immediately preceding the election, and within one year paid a borough tax, if such shall have been levied, shall be entitled to vote at the borough election. Who may vote.

SECTION 17. That it shall be lawful for the borough electors annually to elect,—

I. The corporate officers designated in the charter or by this act. What officers to

II. One judge and two inspectors of the general election. elect.

III. One assessor and two assistant assessors, when required by the laws of this Commonwealth.

IV. One borough auditor to serve three years.

V. One constable.

VI. Two overseers of the poor, if necessary, who shall perform the duties and be subject to the provisions of the law respecting township officers and elections.

SECTION 18. That electors only shall be eligible to borough offices.

SECTION 19. That the officers elected shall serve until others are duly elected and qualified.

SECTION 20. That certificates of the election of all borough officers shall be filed among the records of the corporation.

VI. NEW BOROUGHIS.

SECTION 21. That the several Courts of Quarter Sessions within this Commonwealth shall have power as provided by law to incorporate boroughs without regard to the population thereof, which shall be subject to the provisions of this act to fix the time and place of holding the first election therein, to designate a person to give due notice of such election and the manner thereof, to appoint a judge and inspectors of such first election from among the electors of the borough, to fix and change the time and place within the same of holding the annual borough election. Courts of Quarter Sessions may incorporate boroughs.

SECTION 22. That every borough hereafter incorporated by an act of

Court to fix time and place of holding elections. the General Assembly shall, unless otherwise provided, be subject to the provisions of this act, and the Courts of Quarter Sessions shall have power to fix the time and place of holding borough elections as herein provided, and shall in like manner appoint the officers to hold the first election, and a person to give notice thereof.

Court may declare boroughs separate districts. SECTION 23. That the court aforesaid shall have power to declare any borough erected or incorporated under the provisions of this act a separate election and school district, or either, if in their opinion the interest of the inhabitants requires it.

Boroughs within a township separate district. SECTION 24. That every borough incorporated from within a township or townships, shall be a distinct district separate therefrom, but shall pay its just proportion of the indebtedness of such township or townships for the repairs of roads existing at the time of its incorporation.

Boundaries to be marked. SECTION 25. That the boundaries of the borough shall, as soon as practicable after its incorporation, be determined and marked, due notice being first given to the supervisors of adjoining townships, or to the corporate authorities of adjoining boroughs.

School directors. SECTION 26. That it shall be lawful for the borough electors at the first borough election to elect six school directors under the provisions of the laws regulating common schools, and two justices of the peace to serve for a term of five years, and thereafter to elect justices of the peace and school directors as directed by law: *Provided*, This section shall not be so construed as to authorize the commissioning of or to have commissioned more than two justices at the same time residing within said borough, unless under the provisions of the existing laws they have by a vote of the electors increased the number of justices within the limits of any such borough or boroughs.

VII. GENERAL PROVISIONS.

SECTION 27. That the powers and duties of the corporation shall be subject to the following provisions:

Private property, compensation for. I. Private property shall not be taken for the use or purpose of the corporation without the consent of the owners, or until just compensation shall be made therefor, according to the laws of this Commonwealth.

Complaints may be made to Quarter Sessions. II. Complaint may be made to the next Court of Quarter Sessions of the proper county, by any person, upon entering into recognizance with sufficient security according to law to prosecute the same with effect, and for the payment of costs and any grievance in consequence of any ordinance, regulation, or act done or purporting to be done in virtue of this act; and the determination and order of the said court thereon shall be conclusive.

Opening and grading streets, &c., said court to take order in. III. Upon the complaint of any person or persons aggrieved by any regulation under the provisions of this act in relation to the laying out, widening, and straightening the roads, streets, lanes, alleys, courts, and common sewers, or of the opening, grading, or other regulations thereof; the said court shall take such order as may be just and reasonable, and the final order of the said court shall be conclusive: *Provided*, That like proceedings shall be had for the opening, widening, and straightening of the roads, streets, lanes, courts, and alleys laid out and ordained in accordance with the provisions of this act, as are provided by law for the laying out and opening of public roads within this Common-

wealth: *Provided also*, That every jury appointed to view, review, lay out, widen, or straighten, or vacate any road or part of road in any borough of this Commonwealth, shall have due reference to the town plot herein authorized and directed, and to the general arrangement, plan, convenience, and advantage of the borough, and shall set forth the facts fully in their report: *Provided further*, That such streets, lanes, and alleys, shall not be opened for public use until the damages shall be liquidated; and upon any amounts due or to become due by borough corporations for the purposes aforesaid, interest shall be allowed and paid from the date of the adjudication of said damages. Damages therefor, how allowed.

IV. The same when duly opened according to law or by agreement of parties, are hereby declared public highways, over which the corporation shall exercise jurisdiction under the provisions of this act. When opened a highway.

V. It shall not be lawful for any owner or owners, occupier or occupiers of lands, buildings, or other improvements, to erect any buildings or make any improvements within the lines of the roads, streets, lanes, alleys, courts, or common sewers, laid out, widened, or straightened, or ordained to be laid out, widened, or straightened, after due notice thereof, and if any such erection or improvement shall be made, no allowance shall be made therefor in the assessment of damages, but the loss or injury sustained by the laying out of the same, or the enactment of such widening or straightening thereof, shall be determined by agreement of the parties, or by appeal to the court as herein directed: *Provided*, That all damages assessed beyond the value of the land thus appropriated to public use shall be paid by the corporation, and the jury shall separately assess the same. Owners of land not to erect buildings within the lines of streets, &c.

SECTION 28. That the corporate style and title of boroughs incorporated under this act shall be "The borough of

SECTION 29. That all charters granted under this act shall set forth, What charters shall set forth.

- I. The corporate style and title of the borough.
- II. The boundaries thereof.

III. The time and place of holding the annual borough election.

SECTION 30. That the burgess and town council of any borough shall have power, and by virtue of this act are directed and required, on petition of any number not less than twenty of the freehold owners of lots or out-lots, or other tracts of land in any section lying adjacent to said borough, to declare by ordinance the admission of the section on which such petitioners and others reside; and the said section shall forever thereafter be deemed and taken and allowed to be a part of said borough, and subject to the jurisdiction and government of the municipal authorities of said borough, as fully as if the same had been originally a part of the said borough. Limits of, how enlarged.

SECTION 31. That boroughs incorporated by the court of the proper county shall be limited to hold real and personal estate not exceeding the yearly value of three thousand dollars.

SECTION 32. Fines and penalties under the ordinances of the borough shall be recoverable before any justice of the peace of the borough, which shall be paid over to the treasurer for the use of the corporation. Fines, how recoverable.

SECTION 33. That any borough heretofore incorporated may, upon application to the Court of Quarter Sessions, become subject to the restrictions and possess the powers and privileges conferred by this act: *Provided*, That the said court may in their discretion refuse such application on the remonstrance of the inhabitants: *And provided further*, That upon such application being confirmed by the said court, the provisions of the former charter shall be annulled by the decree of the court, so far as they are in conflict with the provisions of this act. Boroughs, how a former incorporation may become subject to this act.

Repeal.

SECTION. 34. That all general laws of this Commonwealth inconsistent herewith are hereby repealed.

JOHN CESSNA,
Speaker of the House of Representatives.

BENJAMIN MATTHIAS,
Speaker of the Senate.

APPROVED—The third day of April, A. D., one thousand eight hundred and fifty-one.

WM. F. JOHNSTON.

No. 219.

AN ACT

For the relief of a certain soldier and widows of soldiers of the Revolutionary and Indian wars.

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 and required to pay to Agnes Lemon, of the State of New York, Martha Bellas, of Franklin county, Elizabeth Gonter, of Lancaster county, and Elizabeth Harper, of Fayette county, Martha Gillespie, of Mercer, Ann Coln, of Greene county, Elizabeth Brewer, of Butler county, widows of soldiers of the Revolutionary and Indian wars, an annuity of forty dollars each, payable half-yearly during life, to commence on the first day of January, one thousand eight hundred and fifty-one.

Agnes Lemon,
Martha Bellas,
Elizabeth Gonter,
and Elizabeth Harper, for
relief of.

Jacob Reiner.

SECTION 2. That the State Treasurer is hereby authorized and required to pay to Jacob Reiner, of Schuylkill county, a soldier of the Revolutionary war, an annuity of forty dollars, and a gratuity of forty dollars.

JOHN CESSNA,
Speaker of the House of Representatives.

BENJAMIN MATTHIAS,
Speaker of the Senate.

APPROVED—The third day of April, A. D., one thousand eight hundred and fifty-one.

WM. F. JOHNSTON.