

William M. Darlington

L A W S

Pennsylvania. Laws, statutes, etc. 717-55

OF THE

GENERAL ASSEMBLY

OF THE

Commonwealth of Pennsylvania,

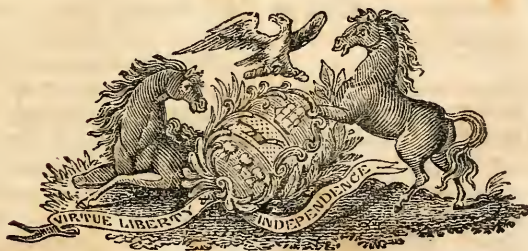
PASSED AT THE SESSION OF 1840,

IN THE

SIXTY-FOURTH YEAR OF INDEPENDENCE:

INCLUDING TEN ACTS AND FOUR RESOLUTIONS,

PASSED BY BOTH BRANCHES OF THE LEGISLATURE, AT THE SESSION OF 1838-9.



PUBLISHED BY AUTHORITY.

HARRISBURG:

WILLIAM D. BOAS—Printer.

.....
1840.

[No. 136.]

AN ACT

To incorporate the City of Allegheny.

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 inhabitants of the borough of Allegheny, in the county of Allegheny, as the same extends and is now incorporated, are hereby constituted a corporation and body politic, by the name and style of "The Mayor, Aldermen and Citizens of Allegheny," and by the same name shall have perpetual succession, and they and their successors by such name, shall at all times for ever be able and capable in law, to have, purchase, receive, possess and enjoy lands, tenements and hereditaments, liberties, franchises and jurisdictions, goods, chattels, and effects, to them and their successors for ever, or for any other or less estate, and the same lands, tenements, hereditaments, goods, chattels and effects, by such name to grant, bargain, sell, alien, convey, mortgage, pledge, charge and encumber, or demise and dispose of at their will and pleasure, and by the said name, shall be able and capable in law to sue and be sued, plead or be impleaded, answer and be answered unto, defend and be defended, in all courts of record and elsewhere, in all manner of suits, actions, complaints, pleas, causes, matters and things, that to the said city as a body politic and corporate in law, and in fact shall and may appertain, and for that purpose shall have and use one common seal, and the same from time to time may change, alter, deface and make anew.

SECTION 2. That the freemen of the said city of Allegheny, citizens of the state, or of the United States, who have resided within the bounds of the said city at least ten days immediately preceding the election, and within that time paid a borough or city tax, shall meet in their respective wards as hereinafter designated, or as may be at any future time designated by the select and common councils, on the second Tuesday in July next, and on the second Tuesday in January following, and yearly thereafter; and elect by ballot one of the aldermen of the said city, or any other citizen thereof, as mayor of the said city, and at the same times and places elect by ballot four persons for each ward, qualified to serve as

members of the House of Representatives of this Commonwealth, to be members of the common council of the said city, who shall hold their offices until the next following election thereafter, and until their successors are duly qualified, and also at the first election aforesaid, three persons for each ward qualified to serve as Senators of this Commonwealth to be members of the select council of the said city, who shall forthwith after their election in each ward divide themselves by lot into three classes, the seats of the first class to be vacated on the second Tuesday in January next; of the second class at the expiration of the first year, and of the third class at the expiration of the second year thereafter, so that one-third may be chosen in each and every ward, that is to say, one person for each and every ward every year after the first election, to be held on the second Tuesday in July next; and the first election to be held under this act, shall be held and conducted by the burgess and town council of the borough of Allegheny, at such places as may be appointed by them in each of the wards of the said city, and all elections thereafter, shall be held and conducted by the aldermen of the said city, or any four of them, who shall take the usual oaths or affirmations, as prescribed by the general election laws of this commonwealth, to be taken by the judges and inspectors of the general elections; and shall have power to appoint clerks of such elections, and to administer the necessary oaths to such clerks; and when each election to be had and held pursuant to this act shall be closed, and the number of votes for each candidate or person voted for shall be counted and ascertained, the persons herein authorized to hold and conduct such election, or a majority of them, shall prepare and make under their respective hands and seals, a return thereof, containing the names of the mayor, and the name of each select and common council man, elect as the case may be, with the number of votes in favor of each of them, and shall within twenty-four hours after the closing of each of the said elections, give notice in writing to the mayor elect, and to each of the said select and common council men elect of their respective elections, as the case may be, and shall also deliver such return to the select and common councils elect at the times and places in and by this act appointed for them respectively to meet and receive the same, and the said returns shall thereafter be deposited and preserved with the clerks of each council respectively; and the said elections shall be conducted in all other respects as is now prescribed by the existing laws of this commonwealth, and it shall be the duty of the mayor of the said city to give at least ten days previous notice of the time and places of holding such elections.

SECTION 3. That the said city shall be divided into four wards, in the manner following. All that part of the city em-

Com. council.

Select council

Classified.

First elections how held.

Subsequent elections how held.

Returns.

Deposited.

Notice of election.

Four wards.

braced between the Allegheny river and Ohio street, and lying west of Federal street, shall constitute the first ward; all that part north of Ohio street and west of Federal street, shall constitute the second ward; all that part north of Ohio street and east of Federal street, shall constitute the third ward; and all that part between the Allegheny river and Ohio street, and east of Federal street, shall constitute the fourth ward.

SECTION 4. That it shall be lawful for the qualified electors of the aforesaid wards, and such other ward or wards as may be hereafter created and established, under the same provisions and regulations, as are prescribed by the act relating to the elections of this commonwealth, passed the second of July, one thousand eight hundred and thirty-nine, on the day first herein appointed for the election of members of the select and common councils, and on the second Tuesday of January following, and yearly thereafter, to elect two inspectors and one judge of said election, and according to the provisions and regulations of an act providing for the election of aldermen and justices of the peace, passed the twenty-first of June, one thousand eight hundred and thirty-nine, on the said second Tuesday of January, two aldermen for each of the wards of the said city, except the ward or wards where justices of the peace now in commission reside, who are hereby declared to be aldermen of the said city, or if the said justices reside in separate wards, the electors are hereby authorized to choose one alderman for each of said wards, so that not more than eight aldermen shall be commissioned for said city, who shall hold their offices for the time prescribed by the constitution of the commonwealth, and shall have, respectively and severally, all the powers, jurisdictions, authorities, fees, and perquisites of justices of the peace of the commonwealth. And on the said second Tuesday of January, and on the same day annually thereafter, the said electors of the said city are hereby authorized to choose for each of said wards constables and assessors, as is prescribed by the several acts of the commonwealth for the election of constables and assessors, and the constables and assessor or assessors who may be chosen, pursuant to said laws, prior to the said second Tuesday in January next, shall hold their offices until said day and no longer. And the inspectors, judges, and clerks of the general election, shall meet at the places designated by the councils, within the limits of their respective wards, and proceed, in all respects, according to the provisions of the act of the second of July, one thousand eight hundred and thirty-nine: *Provided*, That it shall not be lawful for any inhabitant of the said city, to vote at any other place except within the ward where he may reside.

Elections how regulated.

Annually.

Inspectors & Judges.

Aldermen.

Number limited.

Constables & assessors:

Proviso.

SECTION 5. That the said select and common council men elect, shall meet at such places, in the said city, as the said councils, each for its own body, may, after the first election,

Meeting of council.

agree upon, and afterwards at such place as by any ordinance duly passed, may be fixed for that purpose, between the hours of ten and twelve of the clock in the forenoon, on the Friday next following each, and every election of select and common council men, to be held in pursuance of this act, and shall then and there receive the returns aforesaid, and shall forthwith proceed to examine the same and to judge and determine thereon, and for that purpose, and to the end and intent that this act, or the provisions herein contained, may not be ineffectual, the said select or common council men elect, as the case may be, who shall be elected and returned as aforesaid, or a majority of them who shall be a quorum for all business, shall be judges of their own elections and shall have full power and authority to approve thereof or to set aside the same, or afterwards to vacate the seat of any member for misbehaviour, neglect of duty, or other misdemeanor, and to order new elections, as the law may require to be held, at such times as shall be by such council respectively appointed, of which they shall give at least six days previous notice, in one or more of the public papers printed in the said city, which election shall be held by the persons herein authorized to hold and conduct the annual elections of said city, who are hereby enjoined to do and perform the duties herein required of them at such special or occasional election, and to make return of such election in manner as aforesaid, and so, in like manner, as often as occasion may require, upon the death or resignation of a member or members of either of the said councils.

Powers relative to elections.

Notice of new election.

Oath or affirmation of council.

Powers of council.

Ordinances.

SECTION 6. That each and every select and common council man who shall be elected, chosen and returned in manner aforesaid, and whose election shall be so, as aforesaid, approved of, shall, before he enters on the execution of his office, take a solemn oath or affirmation before the president or one of the judges of the court of common pleas of the county of Allegheny, or before the mayor of said city, for the time being, "well and faithfully to execute the office of a select council man or of a common council man (as the case may be) of said city," and shall thereupon, without any further or other commission, enter upon the duties thereof, and shall hold and exercise the same until the term of office therein shall expire as directed in and by this act.

SECTION 7. That the power of the corporation of the said city shall be vested in the said select and common councils, who shall have full power and authority to make, ordain, constitute and establish such and so many laws, ordinances, regulations and constitutions (provided the same shall not be repugnant to the laws and constitution of the United States or of this commonwealth) as shall be necessary or convenient for the government and welfare of the said city, and the same to enforce, put in use and execution by constables and other proper officers, whom they shall have power to appoint, and

at their pleasure to revoke, alter, and make anew as occasion may require, and shall have, hold and enjoy in addition to the powers now vested in the borough of Allegheny, which are hereby transferred to and vested in the said councils, all the powers and authorities now vested by law in the select and common councils of the city of Philadelphia.

Powers of
Philadelphia
councils.

SECTION 8. That in order that a knowledge of the said laws, ordinances, regulations and constitutions may at all times be had and obtained, and the publications thereof at all times be known and ascertained, such and so many of them as shall not be published in one or more of the public newspapers published in the said city, or in such other way as the select and common councils may direct, within fifteen days from and after their being severally passed, ordained and established, and also recorded in the office of recorder of deeds in and for the county of Allegheny, (who shall keep a separate book for that purpose, and shall be allowed and paid for recording thereof, at the same rates as are allowed by law for recording deeds,) within thirty days from and after their being so, as aforesaid, passed, ordained and established, shall be null and void, and before any of the said laws, ordinances, regulations and constitutions shall be so, as aforesaid, recorded; the publications thereof respectively with the times thereof shall be proved by oath or solemn affirmation of some credible person, which said oath or affirmation shall be recorded therewith, and at all times be deemed and taken as sufficient evidence of the time of such publication.

Ordinances,
&c. published

Publication
proved.

SECTION 9. That the doors of the respective halls of the said select and common councils shall be open for the admission of all peaceable and orderly persons who shall be desirous of being present at the discussion of any by-laws, ordinances, rules or regulations, for the welfare and good government of the said city.

Open doors.

SECTION 10. That it shall be the duty of the mayor to promulgate the by-laws, rules and ordinances of the corporation, and specially to attend to the due execution and fulfilment of the same, and he shall be entitled to receive, hold and enjoy all the emoluments which by the laws and ordinances of the corporation may hereafter be annexed and attached to the office of mayor, and the mayor elect shall take a solemn oath or affirmation before the president or an associate judge of the court of Common Pleas of Allegheny county, "well and faithfully to execute the office of mayor of said city," and shall thereupon enter upon and perform the duties of the said office without any further or other commission, and shall continue in office until a successor shall be duly elected and qualified, and in case of the death, resignation or removal of the mayor or other vacancy in the said office, such vacancy shall be filled by a new election for the remainder of his term of

Duties and
emoluments
of mayor.

Oath of

Vacancy how
supplied.

office by the said councils within ten days thereafter, and at least five days notice shall be given in the public newspapers of the city, or, if there be no newspaper published therein, by written or printed handbills, of the time of holding the same, and until the said vacancy is filled by a new election, the select and common councils shall appoint a mayor to act pro tempore.

Wooden houses, &c.

SECTION 11. That the select and common councils of the said city be, and they are hereby authorized and empowered to pass ordinances to prevent any person or persons from erecting or causing to be erected any wooden mansion, house, store, shop, ware-house, carriage-house, or stable within such parts of the said city as the said councils shall by their ordinances from time to time describe and limit.

Draft of city when filed.

SECTION 12. That the select and common councils of the said city shall cause to be made a draft or plan thereof in which shall be distinctly marked the streets, lanes and alleys therein, which said draft or plan shall be filed in the office of the city regulator, and shall be always open to public inspection, and the said councils shall have, exercise and enjoy all the powers, authorities and jurisdiction touching the opening, extending, widening or otherwise altering of streets, lanes and alleys within the said city, as are now exercised or enjoyed by the select and common councils of the city of Pittsburg; and all the general provisions of the several acts of assembly now in force and touching or relating to the opening, widening, extending or otherwise altering of streets, lanes and alleys within the said city of Pittsburg, are hereby extended to and made a part of the charter of the said city of Allegheny.

Streets, lanes, alleys, &c.

Title of commonwealth to certain lands vested in city.

SECTION 13. That the right of this commonwealth to all the lands within the limits of the said city of Allegheny, mentioned in the fourth section of the act of assembly of the eleventh of September, one thousand seven hundred and eighty seven, excepting such parts thereof as have heretofore been appropriated by grant and authority of law, is hereby granted and vested in the said city of Allegheny for such public uses as are recited in said act, and such other public uses as the select and common councils may from time to time direct and ordain; *Provided however*, That no part of the said land allotted by the said fourth section of the act of one thousand seven hundred and eighty-seven for a common, shall be applied to any other purpose, without releases first being had and obtained from such persons as are entitled to a right of common in such land, or from as many such persons as may by law grant a right to the whole or any part of said common.

Proviso.

Jurisdiction

SECTION 14. That the select and common councils of the said city may, whenever they deem it necessary, confer upon the mayor and aldermen of the said city, the jurisdiction,

power and authority to recover summarily, or by penal action, as the case may be, any fines and forfeitures inflicted for the violation of the provisions of any ordinances which may hereafter be enacted and ordained by the said councils for the government of the said city: *Provided*, That the said fines and forfeitures do not exceed one hundred dollars; *And provided further*, That in all summary convictions where fines, forfeitures and imprisonment are inflicted, the person or person or persons convicted may appeal to the next court of Quarter Sessions of the county of Allegheny, within ten days after conviction and entering security, approved by the mayor or alderman before whom the conviction has been entered.

Fines, &c.

Proviso.

2d Proviso.

Of appeal.

SECTION 15. And to the further end and intent that there may not be a failure of justice within the said city by reason of any person or persons who may be charged with having committed any offence or offences, therein lurking, or being in secret, or other places in the neighborhood thereof, it shall be lawful for any constable or constables of the said city to whom any warrant, under the hand and seal of the said aldermen, or any of them, shall be delivered, commanding him or them to take any person or persons who shall have been charged with having committed any offence within the said city, and to bring him, her or them before the said aldermen, or any of them, and he and they are hereby enjoined and required to execute the same by making the arrest, if the same can be done at any place within the county of Allegheny, and also by bringing such offender or offenders before the said aldermen or some of them.

Persons charged with offences, &c how secured and disposed of.

SECTION 16. That it shall and may be lawful for the said aldermen before whom any complaint, indictment, plea, matter or thing of a criminal or civil nature, within his or their jurisdiction shall be made, or depending, to issue their subpoena in common form to any persons or persons within this commonwealth, commanding him or them to appear and give evidence therein, and every person to whom the same shall be directed and on whom service thereof shall be duly made, shall attend accordingly and give evidence under such pains and penalties as are by law incurred by any person or persons refusing to attend and give evidence when duly subpoenaed for that purpose.

Subpoenas for witnesses how issued, &c.

SECTION 17. That the mayor and aldermen, or any of them shall and may take and receive the acknowledgement and probate of all deeds and written instruments and receive the legal fees therefor, which acknowledgements and probates shall be as valid, and have the like force and effect as if the same were acknowledged before a judge of the Supreme court, or any judge of the court of Common Pleas within this commonwealth.

Acknowledgment and probate of deeds, &c.

SECTION 18. That it shall be lawful for the select and com-

mon councils, when duly assembled, from time to time, by any ordinance duly enacted, to vest in the mayor of said city for the time being the appointment of such officers within the said city as they may think expedient for the well-ordering and governing the same, and to remove the same from such offices or appointments for misbehavior or otherwise may be necessary, all which officers shall take an oath or affirmation before the said mayor or alderman, well and faithfully to perform the duties of the offices or appointments to them respectfully committed, and the said councils may require security to be given by such officers or any of them, and prescribe the sum and the form in which such security shall be given; and the said officers and their sureties may be sued and recovery had against them for breach of official duty, and for the recovery of fines, forfeitures, penalties, debts and other demands, the ordinary forms of law shall be pursued in the process, judgment and several kinds of execution.

Officers.

Removal.

Oath, &c.

Security.

Aldermen,
&c. prohibited from being
council men.

SECTION 19. That no alderman of the said city, nor any person holding an office of trust or profit under the laws of this commonwealth, or the ordinances of the select and common councils, the emoluments whereof are paid out of the Treasury of said city shall be competent to serve as a member of the select or common councils.

Property of
Allegheny bo-
rough vested
in city.

SECTION 20. That all the property and estate whatever, real and personal, of the borough of Allegheny, are hereby vested in the corporation or body politic of the city of Allegheny, and their successors in and by this act established by the name, style and title aforesaid, to and for the use and benefit of the said citizens forever, and until the corporation of the said city shall be duly organized under this act, the present charter of the borough of Allegheny shall continue in full force and operation, and all officers under the same shall be appointed, and hold their offices as they now may, or can do by law, and as soon as this act shall go into operation, all suits, prosecutions, debts and claims, whatever, shall by force thereof, become transferred to the said city, and be under the management and control thereof, as fully and completely as if no alteration had been made in the said charter.

Annual pub-
lication of ac-
counts, &c.

SECTION 21. That the said select and common councils shall once in every year cause to be published, a just and true account of all the moneys which shall have accrued to them in their corporate capacity during the year preceding such publication, and also of the disposition thereof.

What may
not defeat this
act.

SECTION 22. That this act and the powers and authorities herein vested in the said city, shall not be impaired, affected, defeated or destroyed, by any neglect or omission to appoint all, or any of its officers at the time, or times allotted for the same, and in the case of any such defect or omission, the bur-

gess of the borough or the mayor of the said city, as the case may be, or in default of either of the two former, the aldermen or a majority of them shall forthwith take all necessary measures to cure and supply such defects and omissions, giving at least twenty days' notice thereof, in the public newspapers of the said city, or if there shall be no newspaper published therein, by written or printed handbills posted up at the most conspicuous place within the boundaries of the said corporation.

SECTION 23. That no inhabitant of the said city of Allegheny, otherwise competent to give testimony, shall be excluded from being a witness in any court of this commonwealth, by reason of his residence in the said city, and being subject to taxation therein, or by reason of any interest which he has, or may have in the common or public ground in said city, or by reason of any interest which the said city now has, or may hereafter have in any ground granted for public purpose, which is or may become the subject of suit, and in which any such inhabitant may be called to give testimony. ^{Who may be witnesses.}

SECTION 24. The legislature reserves the right to alter, amend or revoke, any part of, or the whole of this charter at any time, when it may be deemed expedient. ^{Repeal.}

WM. HOPKINS,

Speaker of the House of Representatives.

W. T. ROGERS,

Speaker of the Senate.

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

DAVID R. PORTER.

[No. 137.]

A N A C T

To incorporate the German Convention for promoting education.

WHEREAS a number of delegates chosen by citizens of the United States, being native Germans or descendants of Germans, have at sundry times met in convention, in this state, for the purpose of devising means to promote the cause of education, particularly among the German population: ^{Preamble.} *And*