

as fully and completely, and not otherwise, to all intents and purposes, as if the said Susannah had been born in lawful wedlock.

WM. HOPKINS,

Speaker of the House of Representatives.

EB. KINGSBURY, Jr.

Speaker of the Senate.

APPROVED—The twenty-ninth day of May, A. D., one thousand eight hundred and forty.

DAVID R. PORTER.

[No. 218.]¹

AN ACT

To incorporate the town of Zelienople, in the county of Butler, into a borough.

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 Zelienople, in the county of Butler, and territory included within the following boundaries, to wit: Beginning on the banks of Connequenessing creek, where P. L. Passavant's lot adjoins the outlots of Harmony; thence along Passavant's lot south five degrees, east crossing the road leading from Zelienople to Harmony, twenty-eight perches; thence by lot of Spier, and said road south eighteen degrees, west seven and one-half perches to a street; thence on the east side of said street, south nine degrees, east crossing New Castle and Beaver street, one hundred and one perches, and eighteenth of a perch; thence along Beaver street south eighty-one degrees, west fifty perches to the grave yard lane; thence along said lane, including the same, south nine degrees, east one hundred and twenty perches; thence south eleven and one-half degrees, west by lands of Andrew Zieglier, seventy-seven perches; thence west through lands of P. L. Passavant, one hundred perches; thence north nine degrees, west along the west side of a lane by lands of said P. L. Passavant, Joseph Zieglier, and John Herr, three hundred and forty-two perches, to the

Borough erected. bank of the Connequenessing creek ; thence up the said creek along the bank of the same, to the place of beginning, are hereby erected into a borough, which shall be called and styled the borough of Zelienople.

SECTION 2. That the inhabitants of said borough entitled to vote for members of the general assembly, having resided therein one month immediately preceding the election, shall, on the third Friday of June next, and annually thereafter on the same day, which now is, or hereafter may be fixed by law for the election of constables and other township officers within this commonwealth, meet at the brick school-house in said borough, and then and there, between the hours of eight o'clock in the forenoon, and seven o'clock in the afternoon, elect by ballot one of the citizens, who shall be styled the burgess of the said borough, and seven other citizens to be styled the town council, one assessor, and two assistant assessors of the county rates and levies, two persons to serve as justices of the peace, and three auditors of the public accounts of the said borough, which election shall, in all respects, be conducted in the same manner as is provided for the election of township officers within this commonwealth, except that the certificates of the election of burgess, town council, and auditors, shall be filed among the records of corporation: *And provided*, That in case of the death, resignation, removal, or refusal to accept of any of said offices, the vacancy may be supplied by a new election, in all cases where, by the existing laws, there is not provision made for supplying vacancies by appointment: *And provided further*, That for the first election to be held under this act, it shall be the duty of P. S. Passavant, John Read, and John Levis, or any of them, to give notice, and perform all the duties enjoined upon constables by the existing laws relative to township elections ; and in case no election shall be held on the first day mentioned, they shall appoint some other day, and perform the said service ; but previous to opening of such election, such of the citizens entitled to vote, as aforesaid, as may be present at the time and place of opening the same, shall choose one judge and two inspectors, and two clerks thereof, who shall be sworn or affirmed, in the same manner as is provided by law for swearing or affirming election officers, and they shall perform the duties required of them by law relative to township elections ; and in case two or more candidates should have an equal number of votes, the preference shall be determined by lot, to be drawn by the inspector and judges in the presence of the clerk, immediately after the votes are counted off ; whereupon duplicate certificates of said election shall be signed by the said judge and inspectors, one of which shall be transmitted to each of the persons elected, and the other filed among the records of the corporation.

Annual election.

Burgess council assessors justices and auditors.

Proviso.

Vacancy.

Notice of election.

Equal votes determined.

SECTION 3. That the Burgess shall be President of the President. Council, and shall have and exercise all the rights and privileges of a member thereof in every respect.

SECTION 4. That the Burgess and Town Council shall meet on the first Monday next succeeding their election in each year, and as often thereafter as occasion may require. Three mem- Meeting.
bers shall constitute a quorum to do business, and the proceedings of a majority of a quorum, when there is one formed, shall be valid; they shall have power in the absence of the burgess to elect a president pro tem., who shall in the case of death, resignation, refusal to accept, or to act, or inability of the burgess to attend, perform all and every duty enjoined on the burgess. The burgess, or in his absence, the president pro tem. shall have power to call special meetings of the council, but in all cases of special meetings personal notice shall be given to every member, unless absent from the borough. The burgess and members of the town council shall in all cases continue to hold and exercise the duties of their respective offices until their successors shall be duly elected and qualified. Quorum.

SECTION 5. That if any person duly elected burgess or member of the town council, and having received notice thereof, as directed by this act, shall refuse or neglect to take upon himself the execution of the office to which he shall have been elected, or having taken upon himself such duties, shall neglect to discharge the same according to law, every such person so refusing or neglecting shall for every such offence forfeit and pay the sum of ten dollars, and every other officer elected or appointed by virtue of this act or the by-laws or ordinances of the town council, aforesaid, who shall refuse or neglect to take upon himself the execution of such office, or having accepted the same, shall refuse or neglect to perform the duties thereof, shall for every such refusal or neglect pay a fine not exceeding five dollars, at the discretion of the burgess; which fines, and all other fines that may be incurred under this act, or any of the by-laws or ordinances of the town council, shall be for the use of said corporation, and shall be recovered in the name of the burgess and town council of the borough of Zelenople, as debts of like amount are recoverable by law; *Provided*, That no person shall be compelled to serve more than one year in any term of three, and that the payment of a fine shall be equivalent to a service of one year in any office; *And provided further*, That nothing herein contained shall be construed to exonerate any constable or other officer from the payment of any fine or penalty imposed by the existing laws, or that may hereafter be enacted, for refusing to serve in such office. Refusal to act. Penalty.

SECTION 6. The burgess shall take and subscribe an oath or affirmation before one of the judges of the court of Common Pleas, or a justice of the peace, of said county of Butler, Oaths.

to support the constitution of the United States and of the state of Pennsylvania, and an oath or affirmation to execute the office of burgess of the borough of Zelienople with fidelity, and when so qualified, he shall administer an oath or affirmation to each of the members of the town council, high constable, town clerk, clerk of the market, (if one shall be appointed,) and such other officers as shall be appointed or elected under this act, or any by-law or ordinance of said borough, before they shall enter upon the duties of their respective offices; which oath or affirmation so taken and subscribed shall be filed among the records of said corporation.

SECTION 7. That from and after the third Friday in June next, the burgess and town council duly elected, and their successors, shall be one body politic and corporate, by the name and style of the burgess and town council of the borough of Zelienople, and shall have perpetual succession, and the said burgess and town council, and their successors, shall be capable in law, to have, receive, hold and possess goods and chattles, lands and tenements, rents, liberties, jurisdictions, franchises, hereditaments, to them and their successors in fee simple or otherwise, not exceeding the yearly value of three thousand dollars; and also to grant, sell, let and assign the same, and 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 whatever, and to have and to use one common seal, and the same from time to time, at their will, to change and alter.

SECTION 8. That the town council shall have power to pass and enact such by-laws, rules, regulations and ordinances, as they may determine necessary to promote the peace, good order and general welfare of the inhabitants and well being of the said borough, and for the purpose of improving and keeping in good order, the streets, lanes, alleys, public squares and common grounds, land, wharfs, landings, or other property, whatsoever, that has heretofore at any time been granted to the use of the citizens of Zelienople, or that may hereafter be granted to the use of the corporation, and for removing nuisances and obstructions therefrom, and the same to alter, make anew or annul, as the occasion may require, and also to assess, levy and collect, and appropriate such taxes as shall be necessary to carry their rules and ordinances into effect, and to make all necessary contracts and engagements for the same purpose, they shall have the same authority in obtaining materials for improving the streets, lanes, alleys, landings, wharf and public grounds, as the supervisors of the highways within this commonwealth have; and for neglect of their duty in keeping the same in good order, they may be proceeded against, by indictment, in the court of quarter sessions of said county, and be subject to the like fines and penalties as the supervisors are, for any neglect of duty in relation to keeping the public high-

ways in good order, they shall annully appoint a town clerk, treasurer, collector of taxes, clerk of the market, when necessary, and such other offices as they may deem expedient, and the same to remove at pleasure; the officers to be appointed by the council, shall be allowed such compensation as the council may fix and agree on, but the members of the council themselves shall not be entitled to any compensation for their services as members of the town council; the council may remit any fines or penalties that may be incurred under this act, or any of the by-laws or ordinances, when in their judgment it may be proper so to do, except any fine or penalty that may be imposed upon them by the court of quarter sessions of the county, for neglect of duty: *Provided*, No by-law, rule, regulation or ordinance, of the said corporation, shall be repugnant to the constitution and laws of the United States or of this commonwealth, and that no person shall be subjected to any fine or punishment, for a violation of any by-law or ordinance of the said borough, until after six days shall have expired after the promulgation thereof, by at least four copies of the same, put up at the most public places within the said borough, and signed by the president or president pro tem, and attested by the town clerk. It shall be the duty of the burgess to cause all the by-laws and ordinances of the council to be carried into effect, and to do and perform all such other services as may be enjoined on him by the same: *And provided also*, That no tax shall be levied, in any year, exceeding fifty cents in the hundred dollars, on the valuation of property in said borough, made for county purposes, unless two-thirds of the taxable inhabitants of said borough who may be assembled in such meeting, upon ten days notice given by the president of the town council to meet for that purpose, shall authorize a greater tax to be levied. Tax limited.

SECTION 9. That it shall be the duty of the burgess to issue his warrant to the collector, as often as occasion may require, commanding him to collect the taxes assessed by the town council, a list or duplicate of which shall be made out and delivered to said collector, and to pay the same to the treasurer; and the said collector shall have the like power and authority, in the collection of said taxes, as the collectors of county rates and levies, and may be proceeded against in the same manner that county treasurers or county commissioners are authorized by law to proceed against the collectors of county taxes, when they neglect to collect or pay over the amount of taxes in their duplicates according to law: *Provided*, That the town council may hear any complaint in relation to the assessment of the said taxes, and grant such relief as shall seem best at any time, and also exonerate the collector from the payment of any tax that may be impracticable to collect; and in all cases of any tax assessed upon any vacant or unseated lot within said borough Warrant for taxes.

and the taxes remain unpaid, it shall be lawful for the collector to certify the same to the county commissioners of Butler county, in the same manner as supervisors of the roads are authorized by law to return road taxes or unseated lands, and the county treasurer shall, in like manner, collect the said taxes, or sell and convey the lot or lots for the payment of the same and pay the money to the treasury of the borough, common school directors, or to whomsoever it may belong.

Duty of clerk. SECTION 10. That it shall be the duty of the town clerk to attend all meetings of the town council when assembled on business of the corporation, and perform the duty of clerk thereto, and keep and preserve the corporate 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 this act, or of the acts of the corporation, he shall keep a fair journal of the proceedings of the council in a book to be provided for that purpose, and shall enter all by-laws and ordinances adopted by the council in a separate book for that purpose, and when signed by the president, shall attest the same, he shall keep a fair index to the same, he shall certify copies under the seal of the corporation, which copies of any book, paper, by-laws, ordinances or proceeding of the council when so certified and attested by the clerk, shall be good evidence of the thing certified; he shall deliver over to his successor the seal and all the books, papers and other things belonging to the corporation, and upon neglect or refusal so to do, upon demand made, he shall forfeit and pay a fine of not less than fifty dollars, and be accountable for all damages sustained by the corporation, to be recovered as like debts and damages are by law recoverable.

Penalty.

Duty of treasurer. SECTION 11. That it shall be the duty of the treasurer to receive all monies due to the corporation, whether for taxes, fines, donations or in any other way, and to pay out the same on orders of the president or president pro tem., he shall keep fair accounts of his receipts and payments, and settle his accounts with the auditors whenever they shall require the same to be done, and pay over all moneys or balances found in his hands, and deliver to his successor in office, all books, papers and accounts belonging to the corporation or pertaining to his official duties when demanded, for which he shall give bond to the burgess and town council, with sureties therein as they may require.

Moneys how drawn. SECTION 12. That no moneys shall be drawn from the treasury, but by authority of the council, on orders signed by the president thereof, and attested by the clerk. It shall be the duty of the auditors to settle the accounts of the several officers annually, and to cause a fair statement showing the receipts, into the treasury, and how the same shall have been expended, to be published by the town clerk every year, in

the month of March, by setting up at least four copies thereof, in the most public places within the borough.

SECTION 13. It shall and may be lawful for all persons entitled by law to vote for burgess, and other officers of the borough of Zelenople, at the same time and place where they vote for borough officers, to elect two reputable citizens of said borough for constables, and return the names of the persons so elected to the next court of quarter sessions of the said county, one of whom shall be appointed constable of said borough, in the like manner, with the like powers and authority, and receive like fees, and be subject to regulations and penalties, as are provided and contained in the laws now existing, or that may hereafter be passed concerning constables within this commonwealth; and the said constable, so appointed, shall do and perform all the duties required to be done by the high constable of said borough, in pursuance of this act, and of the by laws and ordinances of said borough. Constables.

SECTION 14. That the territory within the limits of the said borough shall be a separate district for the levy and collection of county rates and taxes, and in all other respects shall be separate from the township of Conoquenessing, in said county, and that all jurisdiction of the officers of said township, from the third Friday of June next, shall cease, except so far as to collect any taxes that may then be due and owing to them from the inhabitants of said borough: *Provided*, That nothing herein contained shall be construed to effect the election district as now formed, and for holding the general elections, but that the township of Conoquenessing, including the borough of Zelenople, shall be and remain an election district, the same as though this act had not been passed. Separate dist.
for taxes.

Provido.

WM. HOPKINS,

Speaker of the House of Representatives.

EB. KINGSBURY, Jr.

Speaker of the Senate.

APPROVED—The twenty-ninth day of May, A. D., eighteen hundred and forty.

DAVID R. PORTER.