

An Act to incorporate the Town of Fort Smith.

SECTION

1. Town of Fort Smith incorporated.
2. Trustees appointed for 1843.
3. Trustees to survey and lay off the town.
4. Provides for the annual election of 5 trustees.
5. Qualifications of trustees.
6. Form of oath to be taken by trustees.
7. Failure to hold election, how remedied.
8. Meeting of trustees, and appointment of officers.
9. Trustees to appoint assessor, and his duties.
10. General powers of trustees.
11. Limits of jurisdiction.
12. Powers of president of the board of trustees.
13. Penalties, forfeitures, or fines imposed by corporation, may be plead in

SECTION

- bar to any action on the part of the State.
14. Trustees to appoint town sergeant, and his duties.
15. Trustees to fix amount of penalties, and to determine fees of president.
16. President of board to keep docket.
17. Town sergeant allowed same fees as township constables.
18. This act not to prevent justice of the peace or constable from being eligible to offices of president and town sergeant.
19. Manner of holding elections.
20. Vacancies, how filled.
21. Trustees not to contract singly.
22. Corporation not to issue any change tickets, and penalty for so doing.
23. When to take effect.

Be it enacted by the General Assembly of the State of Arkansas, That the town of Fort Smith, in the county of Crawford, shall be, and the same is hereby incorporated.

SEC. 2. *Be it further enacted, That John Rodgers, Charles A. Birnie, Joseph H. Heard, Joseph Bennett, and Samuel Edmonson, are hereby constituted and appointed trustees for said town, who shall continue in office for the term of twelve months from and after the first day of January next, (1843,) any three of whom may form a quorum to do business.*

SEC. 3. *Be it further enacted, That the said trustees may fix the metes and bounds of said town, and have the same surveyed and platted, if the same has not been previously done, and laid out in streets and alleys, and cross streets, as they may direct; which plats of the survey of said town shall be recorded in the clerk's office of the Crawford county court, within three months after the passage of this act.*

SEC. 4. *Be it further enacted, That it shall and may be lawful for the free male inhabitants of said town of Fort Smith, who shall have attained the age of twenty-one years, and who are entitled to vote for county representatives, and all other male persons who have attained the aforesaid age, (negroes, mulattoes, and Indians excepted,) who own a town lot or lots in said town, to meet at some convenient house in said town, on the first Monday of January, 1844, and every year thereafter, and elect five trustees for said town, to serve for one year thereafter, and until their successors are elected and qualified.*

SEC. 5. *Be it further enacted, That no person shall be elected a trustee, or qualified to act as such, unless he shall have attained the age of twenty-one years, and reside within the limits of said town, and be owner of real property in the said town.*

SEC. 6. *Be it further enacted, That the trustees appointed by this act, and their successors hereafter to be elected, before they act as such,*

shall take the following oath, to be administered by any justice of the peace: "You do swear, (or affirm, as the case may be), that you will well and truly discharge the duties of a trustee of the town of Fort Smith, and that you will, as far as comes within your knowledge, cause all persons to be proceeded against who violate any of the by-laws or ordinances of said town of Fort Smith, without favor, partiality or affection."

SEC. 7. *Be it further enacted*, That if the citizens of the said town shall at any time hereafter fail to have an election on the day appointed in this act, that then and in that case, the clerk or any trustee may, by giving ten days previous notice, have an election held for trustees, which shall be as legal as though it had taken place on the day herein appointed.

SEC. 8. *Be it further enacted*, That the trustees shall, on the first Saturday after the election, meet at some convenient house in said town, and at such other times and places as they may think necessary for the internal policy of said town; and that they shall, at their first meeting, choose a president of the board, who shall hold his office until the next annual election: they shall also appoint one of their own body a treasurer, who shall, before he enters upon his duties, give bond and security, payable to the president and his successors, in the penalty of five hundred dollars, conditioned for the faithful discharge of his duties as treasurer; and the said treasurer shall receive from the collector of the tax, all moneys collected by him for town tax or fines, and shall pay over the same to the order of the board; and upon his failing or refusing to do so, the president may cause an application to be made to the Crawford county circuit court, to render judgment against said treasurer and securities, for the amount of money in his hands; and the said court is authorized, upon ten days notice having been given to the said treasurer, by the clerk of the board of trustees, to enter a judgment against him and his securities, for the amount of money which shall appear in the hands of said treasurer, with thirty per cent. thereon, damages, and costs of the motion; and execution shall issue on said judgment forthwith, endorsed that no security of any kind shall be taken.

The trustees shall, at their first meeting, appoint a clerk, who shall hold his office until the next annual election, but for good cause may be removed; and the clerk so appointed, before he enters upon the duties of his office, shall take an oath, to be administered by the president of the board, that he will, to the best of his skill and ability, make true entries, and [perform] such other duties as may devolve upon him by virtue of his office, and that he will safely keep the books and papers given him in charge.

SEC. 9. *Be it further enacted*, That the trustees shall have power to appoint an assessor, who shall be sworn to discharge, in a faithful and impartial manner, his duty. It shall be the duty of the assessor to make out and furnish to the trustees, at such times as they may appoint, lists of the taxable property of each individual in said town, with the value attached thereto, and also a list of the lots, and the

value thereof, which belong to individuals which do not reside in said town. The trustees shall also have power to appoint a collector, annually, to collect taxes assessed on taxable property and tithes in said town, who shall give bond and security to the trustees of said town, for the faithful performance of his duty; and the said collector shall have power to make distress and sale, (if necessary), in the same manner as is now authorized by law in regard to sheriffs, in collecting the revenue and county tax in this State; and said trustees shall allow to said assessor and collector an adequate compensation for their services; they shall also allow their treasurer and clerk such compensation for their services as they may deem reasonable and just.

SEC. 10. *Be it further enacted,* That the said trustees may enact such by-laws and ordinances, not contrary to the constitution and laws of this commonwealth, as they in their discretion may deem most expedient for the government of said town; and to impose fines and forfeitures for all violations of the same: they shall have power annually to lay and levy a tax on the inhabitants and real property of said town; *Provided*, the same shall not exceed twenty-five cents on each hundred dollars worth of real property, with a poll tax not exceeding fifty cents for each titheable: and the said trustees shall have power to purchase, sell, and convey the titles to any lots in said town, in whom the same shall, upon their appointment be vested; and to contract and be contracted with, sue and be sued, plead and be impleaded, and to do all and singular the acts and things, in their corporate capacity, concerning the premises, which individuals might lawfully do.

SEC. 11. *Be it further enacted,* That the trustees of the town of Fort Smith shall have jurisdiction for one half mile, in all directions, from the town limits, within the jurisdiction of this State, over all shows and showmen of all descriptions, pedlars, and auctioneers, and all exhibitions and performances, where money is charged for admittance for a sight thereof, under such penalties as they may choose to impose, having a discretion, however, to exempt from penalty all exhibitions which in their judgment tend to promote the objects of science and popular information among the people. And it shall be the duty of the president of the board of trustees, to take jurisdiction of all offences against the provisions of this act, or against the laws or ordinances of the board of trustees, made by the authority thereof; and to render judgment and award execution thereon, in the same manner as judgment is rendered and execution ordered by justices of the peace; and all fines and penalties imposed by this act, or by the by-laws or ordinances of the board of trustees, shall be recoverable in the name of the trustees of the town of Fort Smith, and shall be applied by them in such manner as they may deem of the most importance to the general welfare of the citizens and the improvement of the town.

SEC. 12. *Be it further enacted,* That the president of the board of trustees shall have jurisdiction of all offences against the peace of this State, by affrays, assaults and batteries, riots and unlawful assemblages, in such manner as is made and prescribed by law, which may take place

within the prescribed limits of the said town, or one half mile in any direction from the prescribed limits of the said town; that he shall issue process for that purpose in the same manner as writs and other process are now issued in civil cases by justices of the peace, for any violation of the above mentioned laws of the land, subject to appeal to the circuit court of the county of Crawford, as in other cases now specified by law.

SEC. 13. *Be it further enacted,* That all penalties, fines, or forfeitures, which may be imposed by the president of the board of trustees, authorized by this act, may be plead in bar to any action on the part of the State of Arkansas, which may be instituted for the same offence before the circuit court of Crawford county: *Provided,* That this act shall not be so construed as to deprive any person aggrieved from bringing a civil action for damages in the circuit court of Crawford county, or in any other county where the offender may reside.

SEC. 14. *Be it further enacted,* That it shall be the duty of the trustees to appoint a town sergeant, who, upon oath as a sworn officer, shall be required to give notice to the president of the board of trustees, or to some one member of the board, of any and all persons who commit a breach of the laws or by-laws of said town; and whose duty it shall be to see that the provisions of this act, and the regulations made in pursuance thereof, are carried into effect; and the said trustees shall allow him a compensation for his services.

SEC. 15. *Be it further enacted,* That the board of trustees shall determine upon the amount of penalties to be imposed for the violation of any law specified in this act, as well as against the by-laws and regulations made by the board. They shall furthermore have power to determine upon the amount to be given to the president of the board, as fees in discharge of his duties.

SEC. 16. *Be it further enacted,* That the president of the board of trustees shall keep a docket, and make entries of all his official acts, when in the discharge of his judicial duties given him by this act; and when an appeal is prayed for, a transcript from his docket shall be sent up to the circuit court of Crawford county, as in other cases of appeal from a justice's court, now defined by law.

SEC. 17. *Be it further enacted,* That the town sergeant shall be allowed the same fees that are allowed to township constables: *Provided,* That the trustees may have power to increase the same to twice the amount.

SEC. 18. *Be it further enacted,* That this act shall not be so construed as to prevent a justice of the peace or township constable, each living within the prescribed limits of the said town, from being eligible to the office of president of the board of trustees or town sergeant.

SEC. 19. *Be it further enacted,* That in all elections for trustees of the town of Fort Smith, persons entitled to vote for the same shall give their votes *viva voce*; the president of the board and some justice of the peace to be the presiding officers; and as soon as the election is held and over, the presiding officer shall return the polls to the clerk of the board, certifying to him who have received the highest number of votes polled at said election, and who is thereby duly

elected; and the said clerk shall copy said polls into a book to be kept by him for that purpose, and give notice in writing to each person elected as trustee, of his election.

SEC. 20. *Be it further enacted,* That in case of death, resignation, or removal of any of the said trustees, or their successors, the remainder of the trustees shall have power to fill such vacancy, who shall hold their office until the next annual election.

SEC. 21. *Be it further enacted,* That no trustee of said town shall by himself contract for, or procure any other person to contract for him, for any public work let out or disposed of by the board, during his continuance in office.

SEC. 22. *Be it further enacted,* That if the said corporation shall, under any pretext whatsoever, issue any bills, notes, or tickets, or any other promise or obligation to pay, designed or intended to circulate and pass as a currency, such act shall be taken and held as a forfeiture of its charter: any person or persons whomsoever may, in any trial or action by said corporation, give the fact in evidence on such action or trial, and, when proven, shall be a good bar to any such action.

SEC. 23. *Be it further enacted,* That this act be in force from and after the first of January, 1843.

W. S. OLDHAM, *Speaker*
of the House of Representatives.
SAM'L ADAMS, *President*
of the Senate.

Approved, the 24th Dec., 1842.

A. YELL.

An act authorizing the Administrator of Allen McVay, deceased, to convey certain Lands.

SECTION

1. Administrator authorized to execute deed.

SECTION

2. Force of said deed.

Whereas, Allen McVay, now deceased, was entitled to re-locate one quarter section of land in lieu of the bounty lands previously patented to him as a soldier of the late war, and by his obligation, dated the 6th day of January, 1834, covenanted, for a valuable consideration paid to him, to convey in fee simple to William Pelham the lands which might be so re-located, so soon as a patent therefor should issue; and whereas said patent hath issued, and said Allen McVay hath, since the making of said covenant, departed this life; Therefore,

Be it enacted by the General Assembly of the State of Arkansas, That the administrator of said Allen McVay, deceased, shall be, and he is hereby, authorized and empowered to make, sign, seal, execute,