

be injurious to the citizens of this commonwealth; in such manner, however, that no injustice shall be done to the corporators.

WILLIAM F. PACKER,
Speaker of the House of Representatives.

GEORGE DARSIE,
Speaker of the Senate.

APPROVED—The twelfth day of March, one thousand eight hundred and forty-nine.

WM. F. JOHNSTON.

No. 223.

AN ACT

To incorporate the town of Rochester, in the county of Beaver, 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 village of Rochester, in the county of Beaver, shall be and the same is hereby erected into a borough, which shall be called the borough of Rochester, and shall be bounded and limited as follows, viz: to begin Boundaries. in the middle of the Ohio river, opposite the south-east corner of out lots; thence along the east line of said lots to the line between lots number seventy-three and seventy-nine, on a new county road on said line; thence westward along the north side of said road to Fox lane; thence northward along the east side of said lane thirty-five rods north of Deer lane; thence westward along a parallel line north of and with Deer lane to the middle of Big Beaver creek; thence southward along the middle of said stream to the middle of the Ohio river; thence eastward along the middle of said river to the place of beginning.

SECTION 2. It shall and may be lawful for all persons entitled to vote for members of the state legislature, and who have resided within the limits of the said borough for the space of one year, and who, after the first election, have paid a borough tax within two years, to meet at the place of holding the general election in the village of Rochester, on the third Tuesday of March, in each and every year, or after the first election, in such place as shall be directed by the council, and then and there, between the hours of one and six in the afternoon, elect by ballot, one citizen residing therein, who shall be styled chief burgess of said borough; and one other citizen residing therein, who shall be styled assistant burgess; and nine citizens residing therein, to be a town council; and also, shall elect as aforesaid, a high constable; but previously to any such election, the inhabitants entitled to vote as aforesaid, shall elect three citizens, one to act as judge, and two to act as inspectors, according to the general election laws of this commonwealth, and subject to the same penalties for malpractices as by the said election laws are now, or hereafter may be imposed; and the said judges and in-

Chief burgess,
assistant burgess,
town council,
high constable,
officers of elections.

spectors and clerks, by them appointed, before they enter upon the duties of their respective offices, shall take an oath or affirmation, before any justice of the peace in the said county of Beaver, to perform the same with fidelity, and when the said election shall be closed, shall declare the person having the greatest number of votes to be duly elected; whereupon, duplicate certificates thereof shall be signed by the said judges, inspectors and clerks, one of which shall be transmitted to each of the said persons elected, and the other filed among the records of the said corporation for safe keeping; and in case of vacancy, by death, resignation or otherwise, of any of the said officers, the chief burgess, or in case of his absence or inability to act, the assistant burgess shall issue his precept, directed to the high constable, requiring him to hold an election to fill such vacancy; he giving at least ten days' notice, by advertisement, set up at four of the most public places in said borough: *Provided*, That it shall be the duty of the constable of the township of Rochester for the time being, to superintend the first election, of which he shall give ten days' notice as aforesaid: *Provided also*, That it shall be the duty of the chief burgess or assistant burgess to have the names of all the qualified electors, each year, recorded in the town books, and a certified copy to be set up at the place of holding said borough election, at least ten days before the election; the burgess and town council, duly elected as aforesaid, and their successors forever, shall be one body politic and corporate in law, by the name and style of the "Chief burgess, assistant burgess and town council of the borough of Rochester, in the county of Beaver," and shall have perpetual succession; and the said burgess and town council aforesaid, and their successors forever, shall be capable in law, by the name and style aforesaid, to have, get, receive, hold and possess goods and chattels, lands and tenements, rents, liberties, jurisdiction, franchises and hereditaments, to them and their successors in fee simple, or otherwise, not exceeding the yearly value of ten thousand dollars; and also to grant, sell, let and assign the same lands 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 of this commonwealth, in all manner of actions whatsoever, and to have and use one common seal, and the same from time to time, at their will, to change and alter until it be otherwise directed by law: *Provided*, No misnomer or failure of the election of officers, on the day appointed, shall discontinue or dissolve the said corporation; but the officers, respectfully, for the time being, shall continue in office until a new election shall be made, at such time as the council may direct: *And provided also*, That neither the chief burgess nor the assistant burgess shall have any voice in the legislation for said borough; but that the same is vested in the council exclusively.

SECTION 3. If any person, duly elected, whether chief burgess, assistant burgess, member of the town council, or high constable as aforesaid, having been notified as before directed, shall refuse 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 five dollars; which fine and all other fines and forfeitures, incurred and made payable in pursuance of this act, or of the by-laws and ordinances of the town council, shall be recovered before the chief burgess, or any justice of the peace, in the same manner that debts not exceeding one hundred dollars are by law recoverable; and when so recovered, shall be forthwith paid to the treasurer of the said borough, for the use of said corporation: *Provided*, That no person, elected as aforesaid, shall be required to serve in either of the said offices for a

longer term than three years, in any one period of nine years, unless of choice.

SECTION 4. The chief burgess shall take an oath or affirmation before any justice of the peace in the said county, to support the constitution of the United States and of this state, and well and truly to discharge the duties of his office, before he enters on the execution thereof; and shall thereupon administer a similar oath or affirmation to the assistant burgess, and each member of the said council, and high constable, and to the town clerk that shall be appointed by the said town council, and the certificates of such oaths or affirmations shall be recorded in the books of the said corporation; and the said chief burgess shall further have power and authority to administer oaths or affirmations, when the same may be necessary, in the investigation of any matter within the cognizance of the said corporation. Qualification of burgess.

SECTION 5. It shall and may be lawful for the said corporation to have and keep within the said borough, two markets in each week, if necessary, to wit: one market on Wednesday, and one market on Saturday, together with free liberties, customs, profits and emoluments to the said market belonging.

SECTION 6. The town council shall hold quarterly meetings on the third Tuesday of February, May, August and November, in every year, and oftener if required, and at the May quarterly meetings elect one of their number president; they shall also elect a town clerk, treasurer and street commissioner, wharf master, weigh-master, board measurer and market master, whenever they shall deem it necessary; the above appointments to be made by the council, from among the citizens of the borough, and not members of the council, except the town clerk and treasurer, and all such appointments to be approved of by the burgess; the town council shall have power to enact, revise, repeal and amend such by-laws, 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 markets, improving and keeping in good order the streets, lanes, alleys and highways within said borough, and removing nuisances and obstructions therefrom, of every kind, on the side walk, wharves, and in the streets, lanes and alleys, by the proper officers; and in reference to the cause and management of fires, the purchase and sale of lumber, hay, coal, et cetera, within said borough; and determine the grade of streets, lanes and alleys, whenever required by two-thirds of the property holders on said streets, lanes and alleys; and when so determined and made, the property holders to be ordered to set curb stones, and pave one-half of the side walk, if not the whole, and that next to the curb stone at their own expense, and to have the privilege of making so much of the street, lane or alley opposite their property as they may wish, if it be done as cheap and as well as by the street commissioners, and it is approved of by the council and burgess, and when agreed to be done by them, must be done in such time as may be set by the council; and failing to pave or finish the street in the time as above set, and then to be done by the street commissioners afterwards, such property holders shall forfeit and pay the sum of fifteen per cent. on the cost of street, and twenty per cent. with the cost of paving opposite to their property, circumstances to have due force with the council; in such cases the property holders to be credited for all work done on streets, lanes, alleys, et cetera, as above, for taxes then or thereafter may be due, until the amount thus expended be consumed; the council shall have power to regulate the scales, weights and measures within said borough, according to the standard of the common- Quarterly meetings. Officers. General powers of council.

- wealth, annually, and markets and wharfage, purchase and sale of lumber, hay and coal, according to the rates and rules of the city of Pittsburg, and not to exceed or transcend said rates and limits at any time within said borough; they shall have power to grade and pave a wharf on the Ohio river, and within said borough, in such way and manner as to them may seem best, and all charters granted heretofore, for such purposes, are hereby repealed; and also to assess, apportion and appropriate such taxes as shall be determined by a majority of the said town council, necessary for carrying the said rules and ordinances, from time to time, into complete effect; and the council shall have power to remove all officers by them appointed, from office for misdemeanors, and shall have their quarterly and other meetings in the public school house until a town house shall be erected; and no person shall be fined or punished for the breach of any by-laws or ordinances made as aforesaid, until ten days have expired after the promulgation thereof, by advertisements, put up in four of the most public places in said borough: *Provided*, That no by-laws, rules or ordinances of the corporation shall be repugnant to the constitution or laws of the United States, or of this commonwealth: *And provided also*, That in assessing tax, due regard shall be had to the valuation of taxable property taken for the purpose of raising county rates and levies, so that the said tax shall not, in any one year, exceed one-half cent on the dollar of such valuation, unless some object of general utility shall be thought necessary; in which case, two-thirds of the taxable inhabitants of said borough shall approve of and certify the same in writing, under their hands to the town council, who may proceed then to assess the same as aforesaid: *And provided also*, That such out lots, or farm lot, kept as and for such purposes, be not taxed higher than if in the township of Rochester, for highways and road purposes; and that said town council shall have power to straighten streets, lanes, alleys, remove trees, posts, et cetera, in performing this duty.
- SECTION 7.** 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, by the said borough; and all taxes, rates and levies, assessed, rated and levied therein, shall be recovered in the same manner as the county rates and levies in the county of Beaver are by law recoverable.
- SECTION 8.** That the town council provide, by sufficient ordinances and penalties, that no horses, geese, sheep or swine, shall be suffered to run at large in the said borough; and also shall make such regulations with respect to dogs as they may think necessary.
- SECTION 9.** The chief burgess, elected agreeable to this act, or in case of his absence or inability to act, the assistant burgess is hereby authorized and empowered to issue his precept, directed to the high constable, commanding him to collect all taxes assessed from time to time, as aforesaid, and the same to pay over to the treasurer, and to carry into effect whatsoever is enjoined upon him for the well ordering and governing the said borough.
- SECTION 10.** It shall be the duty of the high constable, and all the officers appointed by the town council, to render their accounts to the said council, once in every year, on the third Tuesday in February, which being settled and adjusted by the said council, shall be put up in written or printed notices, in three of the most public places, showing particularly the amount of tax levied, fines collected, and all receipts and expenditures which shall have been made.
- SECTION 11.** The chief burgess, elected and qualified agreeably to this act, is hereby required to cause the by-laws, rules and ordinances, made
- Proviso.
- Proviso.
- Proviso.
- Taxes on offices, professions, &c.
- Horses, geese, sheep or swine, not to be suffered to run at large.
- Collect taxes.
- Accounts.
- By-laws, rules and ordinances to be recorded.

as aforesaid, to be recorded in a book to be kept for that purpose, and he shall cause the same to be carried into full execution, without delay, after the publication thereof, as is directed by this act; and shall also have power, on the payment of costs which may have accrued, to remit fines and forfeitures; in all cases when it shall appear that the person or persons so fined did not offend intentionally, or on their having some other just and reasonable excuse to plead in his, her or their behalf: *Proviso.* *Provided, That such remission be made before judgment rendered for such fine.*

SECTION 12. It shall be the duty of the town clerk to attend all 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, records, books, papers and documents relating to the said corporation, and be answerable for the same, and also for the faithful discharge of all duties which may be enjoined upon him by virtue of this act, or the acts of the corporation, whose attestation, with the seal of the corporation, shall be good evidence of the act or thing so certified; the treasurer, to be appointed pursuant to this act, shall give such security for the faithful discharge of the duties of his office, as a majority of the said council shall deem reasonable and necessary; and the high constable shall give bond and security to the said corporation, in such sum as the said council, or a majority thereof, shall deem necessary, conditioned for the faithful performance of all and singular the duties enjoined upon him, either by this act or by the by-laws and ordinances of the said council: *Provided however, That if the said treasurer or high constable shall make default in performing the duties enjoined upon them, respectively, they, or either of them may be removed from office by the chief burgess, on complaint of a majority of the said council.*

Town clerk,
duty of.

Proviso.

SECTION 13. The chief burgess, assistant burgess and president of the council shall constitute a court of appeal, and prior to the collection of any borough tax, the high constable shall inform each inhabitant of the amount of his tax, and of the time and place of appeal: *Provided nevertheless, That the said court of appeal shall have no other power as such than to determine the justness of the apportionment of said tax, conformably to the county rates and levies, and to correct any mistake in that respect.*

Court of appeal.

Proviso.

SECTION 14. The judges, inspectors and clerks of the elections aforesaid, shall be allowed each fifty cents per day for their services in holding said elections; and the town council may from time to time if they deem it necessary, fix the salaries of the town clerk, treasurer, street commissioners, and such other officers as may be appointed under this act, which salaries shall be paid out of the borough treasury by orders drawn thereon, by the president of the council, which salaries shall not be increased or diminished during the time for which the said officers were appointed.

Pay of judges,
inspectors, &c.

SECTION 15. It shall not be lawful for the chief burgess, assistant burgess or either of the members of the town council, to receive any compensation for their services rendered in their respective offices; and the said high constable is hereby authorized and required to receive and execute all writs and process lawfully issued by the chief or assistant burgess, within the limits of the said borough, to do, and perform all such other duties in the same manner, with the like power and authority, and subject to the same penalties and regulations, and shall receive the same fees as are provided and contained in the laws now existing, or that may hereafter exist, concerning constables of the several townships in the said county of Beaver; and further, the said high

Burgess and assistant burgess, &c., not allowed compensation.

constable may, and shall execute all process to him directed by any judge or justice of the peace in the said county, in the same manner, and for the same fees, and to the same extent of territory as may or can be done by any of the said constables of the county aforesaid.

Town council to have the lines and boundaries fixed.

SECTION 16. The said town council at their first quarterly meeting, held under and pursuant to this act, shall cause the lines and boundaries of the borough to be accurately surveyed, ascertained, fixed, and permanently marked out, and shall cause an accurate plot or draft thereof, to be made and recorded in the record book of said corporation.

Persons aggrieved may appeal to the court of common pleas.

SECTION 17. If any person or persons shall think him, her, or themselves aggrieved by any thing done in pursuance of this act, except what relates to the imposing and collecting the borough tax, and the appointments made by the town council, he, she, or they may appeal to the next court of common pleas, to be held for the said county, upon giving security according to law, to prosecute his, her, or their appeal with effect, and the said court having taken such order thereon, as shall seem just and reasonable, the same shall be conclusive.

Exemption from road taxes to the township of Rochester.

SECTION 18. From and after the passage of this act, the citizens of the borough of Rochester, shall be exempted from paying road tax to the township of Rochester.

Assessors.

SECTION 19. The inhabitants of the borough aforesaid, shall elect one assessor, and two assistant assessors of the county taxes, for the said borough, at such times, under like regulations, and for the same purposes as are, or shall be hereafter directed by law in the several townships within this commonwealth, which said assessor and assistant assessor so elected, shall have, use, and exercise all and every the powers, rights and privileges, and perform all and every the same duties, and be subject to all and every the same fines, penalties, and forfeitures, within the said borough respectively, which are or hereafter shall lawfully be used, had, exercised, or which are or shall be suffered by, or imposed upon like officers of the several townships of this commonwealth.

Separate from the township of Rochester.

SECTION 20. That from and after the passage of this act, the citizens and property in the borough of Rochester, shall be and remain distinct and separate from the township of Rochester, to all intents and purposes, in the assessment and collections of all state and county taxes, rates and levies, and the election of state and county officers, assessors and overseers of the poor, as fully and effectually as any other township in said county, or this commonwealth.

Election.

SECTION 21. The citizens of said borough qualified to vote as aforesaid, shall meet at the public school house in said borough, on the third Tuesday of March, one thousand eight hundred and forty-nine, to appoint five competent citizens, one to act as judge, two as inspectors, and two to officiate as clerks, whose duty it shall be after being duly sworn and affirmed, to hold an election on said day, between the hours of one and six o'clock in the afternoon, for the purpose of electing borough officers.

Hold an election.

WILLIAM F. PACKER,

Speaker of the House of Representatives.

GEORGE DARSIE,

Speaker of the Senate.

APPROVED—The twentieth day of March, one thousand eight hundred and forty-nine.

WM. F. JOHNSTON.