

LAWS OF PENNSYLVANIA,

part of a certain lot of ground situate in Monongahela City, Washington county, Pennsylvania, containing sixty feet in breadth on Main street, and extending in depth two hundred feet to Cherry alley, being the lot now owned in common by the said Sarah Ann M'Farland Sparks, and the said Mary C. Wilson, wife of Alexander Wilson.

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

GEORGE DARSIE,
Speaker of the Senate.

APPROVED—The tenth day of April, one thousand eight hundred and forty-nine.

WM. F. JOHNSTON.

No. 372.

A N A C T

Erecting the village of East Birmingham into a borough; fixing the place of holding elections in Plum, Patton and Indiana townships, Allegheny county; relative to licensing hawkers and pedlars; and fixing the standard weight of oats.

Boundaries.

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 territory situate on the south side of the Monongahela river, and east of the borough of Birmingham, in the county of Allegheny, included within the following boundaries, to wit: beginning at low water mark on the Monongahela river at the point where the easterly line of the borough of Birmingham strikes said river, being at or near the centre of Harmony street; thence running along the line of said borough south four degrees thirty-six and a half minutes east one hundred sixty perches, more or less, to a point which is distant sixty feet southerly from the southerly line of Josephine street; thence running parallel with Josephine street south eighty-five degrees twenty-four minutes east one hundred and seventy perches twenty-three and a fourth links, and south seventy degrees east sixty-two perches and six links; thence north twenty degrees east one hundred and twenty-five perches, more or less, to low water mark on said river; and thence down the said river along the several courses thereof at low water mark to the line of Birmingham, the place of beginning, is hereby erected into a borough, which shall be called and styled the borough of East Birmingham.

Elections.

SECTION 2. That the inhabitants of said borough, entitled to vote for members of the general assembly, having resided therein one calendar month immediately preceding the election, shall, on the third Friday of May next, and annually thereafter on the same day, which now is or hereafter may be fixed by law for the election of constable and other township officers within this commonwealth, meet at the railroad office of Oliver H. Ormsby, situate on or near Ormsby street, in said borough,

and then and there, between the hours ten A. M. and seven P. M., elect by ballot one of the citizens who shall be styled the burgess of said borough, and four other citizens to be members of the town council, one person as constable of said borough, and two persons as overseers of the poor, one person as street commissioner, two persons as auditors, one person as assessor, two justices of the peace, one judge of election and two inspectors of election; and at the first election six school directors, two to serve one year, two for two years and two for three years, and thereafter two school directors annually to serve three years, all of whom shall be citizens and residents of 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, and shall be subject to the same penalties for mal-practices, except that the certificates of the election of burgess and town council, and other borough officers, shall be filed among the records of the corporation; and duplicate certificates of said election shall be signed by the judges, one of which shall be transmitted to each person so elected: *And provided*, That in case of death, resignation, removal or refusal to accept of any of said offices, the vacancies may be supplied by a new election, in all cases where by existing laws there is no 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 Andrew McClure, David Chess and James Bryce, or any one them, to give notice and perform all the duties enjoined on 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 such services; 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.

Burgess, town council, constable, overseers of the poor, &c.

Proviso.

Proviso.

SECTION 3. That the justices of the peace, constable, school directors, and other officers elected in said borough, shall hold their offices for a similar length of time, and exercise like powers with similar officers elected under the general election laws of this commonwealth; and further, that the burgess and members of council, and other officers elected as aforesaid, shall in all cases continue to hold and exercise the duties of their respective offices, until their successors shall be duly elected and qualified.

Term of office.

SECTION 4. 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, pay and forfeit the sum of five dollars; and every other officer elected or appointed by virtue of this act, or by 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 East Birmingham.

Penalty for refusing or neglecting to serve when elected.

- Proviso.** ham, as debts of like amount are recoverable by law : *Provided*, That no person or persons shall be compelled to serve more than one year in any term of three, and 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.
- Proviso.**
- Burgess, privileges of.** SECTION 5. That the burgess shall be president of the council, and shall have and exercise all the rights and privileges of a member thereof in every respect.
- Burgess and town council, powers of. Quorum.** SECTION 6. 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 members 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 ; 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 each member, unless absent from the borough.
- Officers required to be sworn.** SECTION 7. That the burgess, before entering upon the duties of his office, shall take and subscribe an oath or affirmation before a justice of the peace of the county of Allegheny, to support the constitution of the United States and state of Pennsylvania, and to perform the duties of his office with fidelity ; and when so qualified, he shall administer a like oath or affirmation to each of the members of the town council, high constable, town clerk, and such other officers as shall be elected or appointed under this act, or any by-laws or ordinances 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.
- Incorporate.** SECTION 8. That from and after the third Friday of May next, the said burgess and town council duly elected, and their successors, shall be one body corporate and politic, by the name and style of "The borough of East Birmingham," 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 chattels, lands and tenements, rents, liberties, jurisdictions, franchises, hereditaments, to them and their successors, in fee simple or otherwise, not exceeding the yearly value of five 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 use one common seal, and the same from time to time, at their will, to change and alter.
- Style.**
- Privileges.**
- Powers. By-laws.** SECTION 9. That the town council shall have power to pass and enact such by-laws, rules, regulations and ordinances, as they may deem necessary to promote the peace and good order, and general welfare of the inhabitants and well being of said borough, and for the purpose of improving and keeping in good order the side walks, streets, lanes, alleys, common grounds, or other property whatsoever, that has heretofore been granted to the use of the citizens, or that may hereafter be granted to the corporation, and for removing nuisances and obstructions therefrom, and the same to alter, make, renew or annul, as the occasion

may require; and also assess, levy and collect, and appropriate such taxes as shall be necessary to carry their rules and ordinances into effect, which said taxes shall not exceed in any one year, five mills on the dollar, except by consent of two-thirds of the votes polled at any general election for township officers of said borough: *Provided however,* That in no case shall the tax levied and assessed in each year, on all that portion of the real estate in said borough, which is situate west of Brown street, and over sixty feet east of Ormsby street, be greater than is levied and assessed for that year in the township of Lower St. Clair, (to which township the said property belonged before the erection of this borough :) *And provided further, however,* That this exemption from taxation, beyond the rate assessed by said township on real estate therein, shall gradually cease, as the said property becomes more thickly inhabited, in the following manner, viz:—Wherever fifty taxable inhabitants reside in any part of said borough, situate between two succeeding streets, that is between Ormsby street and Page street, or between Page street and Phillips street, or between Phillips street and Caroline street, or between Caroline street and Oliver street, or between Oliver street and Brown street, in said borough, that then such portion of said property lying as aforesaid, between such two streets, shall become liable to the full assessment of taxes, and then, and not till then, the said borough shall and may require the said street forming the eastern boundary of such portion of said property, to be thrown open as a public thoroughfare.

Assess, levy and collect taxes.

Proviso.

Proviso.

SECTION 10. That the town council shall have authority to obtain materials for improving the streets, lanes, alleys and public grounds, and order and direct the manner and ways in which the same shall be improved, repaired and kept in good order; they shall annually appoint a town clerk, treasurer, collector of taxes, clerk of the market, when necessary, and such other officers as they may deem expedient, and the same to remove at pleasure; the officers to be appointed by the town council, shall be allowed such compensation as the council may fix and agree, but the members of the council themselves, shall not receive any compensation for their services as members of council; the council may remit any fines or penalties that may be incurred by and under this act, or any of the by-laws or ordinances, when in their judgment it may be proper so to do: *Provided,* No by-law, rule, regulation or ordinance, shall be repugnant to the constitution and laws of the United States, or of this commonwealth; and that no person shall be subject to any fine or punishment for a violation of any by-law or ordinance of said borough, until after six days shall have expired, the promulgation thereof by at least four copies of the same being 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 services as may be enjoined on him by the same.

Town council, powers of.

Shall appoint a town clerk, treasurer, collector, &c.

Proviso.

SECTION 11. 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 collector shall have the 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 the county treasurer, 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 their duplicates, according to law:

Burgess to issue his warrant to collector, &c.

Provided, That the town council may hold appeals, hear any complaints in relation to the assessment of the said taxes, and grant relief, as may seem best, at any time; and also exonerate the collector from the payment of any taxes that may be impracticable to collect; and in all cases of afly tax assessed upon any vacant or unseated land in said borough, and the taxes remain unpaid, it shall be lawful for the collector to certify the same to the commissioners of said county, in the same manner as the supervisors of the roads are authorized by law to return road taxes on 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 into the treasury of the borough, or to whatever it may belong: *Provided also*, That prior to the collection of any borough tax, the collector shall inform each taxable inhabitant of the amount of his tax, and of the time and place of appeal.

Proviso.

Town clerk,
duty of.

SECTION 12. 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 the duties that may devolve upon him by this act, or of the acts of the incorporation; he shall keep a fair journal of the proceedings of the town 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 certify copies under the seal of the corporation, which copies of any book, paper, by-laws, ordinance 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 to do so 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 recoverable as like debts and damages are by law recoverable.

Treasurer, duty
of.

SECTION 13. It shall be the duty of the treasurer to receive moneys due to the corporation, whether for fines, taxes, donations or in any other way, and to pay out the same on orders of the president or president pro tem.; he shall keep a fair account of his receipts and payments, and settle his accounts with the town council 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 a bond to the burgess and town council with sureties thereon as they may require.

Statement of
affairs to be pub-
lished annually.

SECTION 14. That no moneys shall be drawn from the treasury but by the authority of the council, on orders signed by the president thereof and attested by the clerk; it shall be the duty of the town council to settle the accounts of the treasurer, street commissioner, collector of taxes and of the several officers annually, and to cause a fair statement showing the receipts in the treasury, and how the same shall have been expended, to be published by the town clerk every year, in the manner prescribed by said town council.

Railroad lots,
owners of, may
hold and occupy
the same to low
water mark.

SECTION 15. That the owners of the property known as the railroad lots in said borough at the terminus of the railroad, and their heirs and assigns, shall and may hold and occupy the same to low water mark in the Monongahela river, and in case any lots of ground situate on the river fronts of said borough are or may hereafter be occupied for manu-

facturing purposes, the owners or occupants of such lot or lots shall have the like right of holding and occupying the same to low water mark of said river: *Provided*, That in all such cases there shall be secured to *Proviso*, the public a right of way along the river bank across such lot or lots.

SECTION 16. That it shall be the duty of the high constable of the High constable, said borough to give notice of the annual elections of said borough, by duty of, setting up six advertisements in the most public places in said borough, ten days previous thereto.

SECTION 17. That the said borough shall be a separate school district, Separate school and also a separate election district; and the annual elections in said district. borough shall be held at the place named in the second section of this act, until a school house shall be erected in said borough, when such elections shall be thenceforth held in the said school house.

SECTION 18. That the constable elected under the provisions of this Constable, act shall serve as high constable of said borough, unless the town council shall deem it necessary to appoint a high constable.

SECTION 19. That the qualified voters of Plum township, in the Plum township, county of Allegheny, shall hereafter hold their general and township Allegheny elections at the house of John Summerhill, in said township; and that county, place of Hugh Logan be and he is hereby appointed judge, and Hugh D. King holding elections and James M'Math, senior, inspectors of said elections until others shall in, be duly elected.

SECTION 20. That the qualified voters of Patton township, in the Patton township, county of Allegheny, shall hereafter hold their general and township Allegheny elections at the house of Joel Monroe, in said township; and that county. Samuel Shaw, be and he is hereby appointed judge, and William Carothers and David Boggs, inspectors of said elections, until others shall be duly elected.

SECTION 21. That the qualified voters of that portion of Indiana Part of Indiana township, in the county of Allegheny, residing within the following township, Allegheny described boundaries, to wit: beginning at a point on the Allegheny county, river, at the upper line of John Cable's farm, and running a northerly place of holding direction between the farms of said Cable and John Boyd, to the north-east corner of said Cable's farm; thence running a westerly course to the Shaler township line, in such manner as to embrace all farms or lots situate in Cunningham's district, and known as the "river tracts," within said boundaries, shall hereafter vote at all general elections in the borough of Sharpsburg, at the election poll of said borough; and that the fifty-second section of an act regulating election districts, approved the sixteenth day of March, one thousand eight hundred and forty-seven, be and the same is hereby repealed.

SECTION 22. That every person who shall not have been a resident Persons applying within the county of Allegheny, at least six months before applying to for license in the the city or county treasurer for a license to sell by wholesale or retail, county of Allegheny, to file affidavit, &c. goods, wares or merchandize, within the said county of Allegheny, shall, at the time of applying for such license, file with the city or county treasurer from whom such license is sought to be obtained, an affidavit made before some alderman or justice of the peace within said city or county, setting forth that it is the bona fide intention of the applicant for such license to reside within the said county, and be engaged in selling, by wholesale or retail, goods, wares and merchandize within the said county, for and during the term of at least one year from the date of such license.

SECTION 23. That any person wilfully and corruptly swearing or affirming falsely, in making such affidavit as aforesaid, shall, upon conviction thereof, be subject to all the pains, penalties and disabilities that Penalty for swearing falsely in making such affidavit. are incurred on conviction of wilful and corrupt perjury.

Penalty for
wholesaling or
retailing without
first having filed
such affidavit.

SECTION 24. That any person not having been a resident within the county of Allegheny for at least six months, who shall wholesale or retail by sample or otherwise, any goods, wares, or merchandize within the said county of Allegheny, without having first made and filed with the proper treasurer the affidavit mentioned in the first section, and obtained a license authorizing him or her to sell, by wholesale or retail, goods, wares, or merchandize within the said county, shall, for each and every such offence, be subject to and pay a penalty of fifty dollars, to be sued for and recovered before any alderman or justice of the peace; the one-half to be for the use of the county aforesaid, and the other half to be for the use of the person suing for the same.

Repeal.

SECTION 25. That so much, and no more of any act as is hereby altered, be and the same is hereby repealed.

Fourteenth sec-
tion of certain act
repealed.

SECTION 26. That the fourteenth section of the act, entitled "An Act fixing the place of holding elections in Piney township, and regulating the boundaries of Toby township election district, in the county of Clarion, and also regulating certain other election districts," approved April eleventh, eighteen hundred and forty-eight, be and the same is hereby repealed.

WILLIAM F. PACKER,

Speaker of the House of Representatives.

GEORGE DARSIE,

Speaker of the Senate.

APPROVED—The tenth day of April, one thousand eight hundred and forty-nine.

WM. F. JOHNSTON.

No. 373.

AN ACT

For the relief Isaac Pauling, junior; supplementary to the act incorporating the York Savings Institution; and relative to the scrip issued by the Lehigh coal and navigation company.

Isaac Pauling Jr.

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 auditor general be and he is hereby authorized and directed to examine the claim of Isaac Pauling, junior, for work alleged to have been done for the Columbia and Philadelphia railroad, and report the facts to the legislature.

York Savings In-
stitution, charter
extended.

SECTION 2. That the charter of the York Savings Institution be and the same is hereby extended for the term of ten years from the expiration of the time to which it is now limited, and that the corporate name and style thereof shall be hereafter "The York Savings Bank."

Seventh section
of said charter
repealed.

SECTION 3. The seventh section of said charter which prohibits said institution from issuing their own notes is hereby repealed, and the stock-