

No. 80.

## AN ACT

To incorporate the town of Saint Mary's, in the county of Elk, 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 Saint Mary's, in the county of Elk, shall be and the same is hereby erected into a borough, which shall be called the borough of Saint Mary's, and shall be bounded and limited as follows, to wit: Beginning at a point thirty rods south of the dwelling house of Andrew Grass; thence east nine perches to the eastern line of town lots on Saint Mary's street; thence north three hundred perches to Saint Michael's street; thence north forty-five degrees west, following the northern line of town lots on Saint Michael's street, three hundred perches to Saint Joseph's street; thence west, following the northern line of town lots on Saint Joseph's street, three hundred perches to Cross street; thence along Cross street to Saint Theresia street; thence along the southern line of town lots to the place of beginning.

Boundaries.

**SECTION 2.** That the inhabitants of the said borough, entitled to vote for members of the general assembly, having resided within the bounds of said borough at least ten days immediately preceding the election, shall have power, on the fourth Saturday in April next, to meet at the house of Ignatius Garner, in said town, and on the same day annually thereafter, at the place aforesaid; and shall then and there, between the hours of one and seven in the afternoon, elect by ballot, one respectable citizen residing therein, who shall be styled the chief burgess, and five citizens to be a town council; and shall also elect as aforesaid, one citizen as high constable, all of whom shall be residents of said borough and entitled to vote for borough officers, agreeably to the provisions of this section. But previous to the opening of said election, such of the inhabitants qualified to vote as aforesaid, as are present at the said place of election, shall choose, viva voce or by ballot, one citizen to act as judge, and two citizens to act as inspectors; the judge and one inspector shall also act as clerks of said election; the judge and one inspector to be voted for by each voter, and the election to be conducted throughout according to the general election laws of this commonwealth; and the officers of the election shall be subject to the same penalties for malpractices as by the said election laws are imposed. The said judge and inspectors, before they enter upon the duties of their respective offices, shall take the same oaths or affirmations, before any justice of the peace of the county, as are prescribed by the existing election laws of this commonwealth, and after the said election shall be closed, shall declare the persons having the greatest number of votes to be duly elected; and in case any two or more candidates should have an equal number of votes, the preference shall be determined by lot, to be drawn by the two inspectors in presence of the judge: whereupon, duplicate certificates of said election shall be signed by the said judge and inspectors, one of which shall be transmitted to the chief burgess elect, and the other filed among the records of the corporation; and it shall be the duty of the high constable for the preceding year (and in the event of

Annual elections.

Officers.

Elections how to be conducted.

his absence or inability to act, such person as the officers of the election may direct) to give notice in writing to each of the persons so elected as aforesaid; and in case of the death, resignation, removal or refusal to accept any of the said offices, or if it should at any time happen that no election should be holden on the day and in the manner aforesaid, the corporation shall not on that account be dissolved, but the chief burgess, or in the event of his absence, death, resignation, removal or inability to act, the president of the town council shall issue his precept, directed to the high constable, commanding him to hold an election in manner aforesaid, to supply such vacancy, giving at least eight days' notice, by six advertisements set up in the most public places in said borough.

Style.

Privileges.

SECTION 3. That from and after the fourth Saturday in April next, the chief burgess and town council, duly elected as aforesaid, and their successors, shall be one body politic and corporate, by the name and style of "The chief burgess and town council of the borough of Saint Mary's," and shall have perpetual succession; and the said chief burgess and town council, and their successors, shall be capable in law to have, get, receive, hold and possess goods and chattels, lands and tenements, in fee simple or otherwise; and also to grant, sell, let and assign the same goods and chattels, lands and tenements, not exceeding at any one time in value three thousand dollars, 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 a common seal, and the same from time to time, at their will, to change and alter until it be otherwise directed by law.

Penalty in case of refusal or neglect to serve.

SECTION 4. That if any person duly elected chief burgess, member of the town council, or high constable, as aforesaid, and having received due notice thereof, as directed by this act, shall refuse or neglect to take upon himself the execution of the said office, to which he shall have been elected, or having taken upon himself the duties of the said office, shall neglect to discharge the same according to law, every person so refusing or neglecting, shall, for every such offence, forfeit and pay the sum of ten dollars; which fine, and all other fines, penalties and forfeitures, incurred and made payable in pursuance of this act, or any by-law or ordinance of the town council, shall be for the use of the said corporation, and shall be recovered by suit before the chief burgess, (to whom is hereby given the same power and authority in suits brought before him,) to recover the same, as justices of the peace within the commonwealth by law have, where the demand does not exceed one hundred dollars, in the form and manner, and with the same costs of suits that debts of like amount are by law recoverable; and the same, when recovered, shall be paid to the treasurer of the borough; and it shall be the duty of the officers of the borough, on receiving any money belonging to the corporation, to pay the same to the treasurer forthwith: *Provided*, That no person elected as aforesaid, shall be liable to a fine for refusing or neglecting to serve more than once in five years.

Proviso.

Officers to be qualified.

SECTION 5. That the chief burgess, members of the town council, and high constable, and all the other officers of the borough, appointed by the town council in pursuance of the further provisions of this act, before entering upon the duties of their respective offices, shall take and subscribe an oath or affirmation, before the chief burgess, or any justice of the peace of said county, to "support the constitutions of the United States and of the state of Pennsylvania, and to perform the duties of their respective offices with fidelity;" and the certificates of

such oaths and affirmations shall be filed among the records of said corporation.

SECTION 6. That the town council shall meet on the first Saturday next after their election, in each year, at the house of Ignatius Garner, in said town, or such other place as they may determine upon, and choose one of their number president, who shall preside at their meetings; and in the event of the absence, death, resignation, removal or inability to act, of the chief burgess, shall possess all and singular the rights, privileges, powers and authorities of the said chief burgess, given him in this act or elsewhere. And further to choose one of their number secretary of the town council, (whose salary shall be fixed by the said town council,) whose duty it shall be to take charge of all the papers, records and common seal of the said corporation, and be answerable therefor; and also, for the faithful discharge of the duties enjoined upon him by this act, or by the by-laws and ordinances of the town council, and shall keep a fair and accurate record of all the proceedings, minutes, resolutions, by-laws and ordinances of the said town council, open at all reasonable times, to the inspection of every qualified voter of said borough; and the attestation of the said secretary, with the seal of the corporation, shall be good evidence of the act or thing so certified. And it shall be the duty of the said town council, (three of whom shall be a quorum,) to hold quarterly meetings, on the second Saturdays in June, September, December and March, in each year, and such other meetings as occasion may require, at which meetings they may enact, alter, revise, repeal and amend, all 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 the said borough; and particularly providing for the regulation, improving, repairing and keeping in order the streets, lanes, alleys and highways. They shall have power to assess and apportion such taxes as shall be determined by a majority of them, necessary for carrying the said rules, by-laws and ordinances, from time to time, into complete effect; and also, to appoint a treasurer, street supervisor and collector, annually, and such other officers as may be deemed necessary, from time to time; and the same officers, from time to time, to remove for misdemeanor in office: *Provided*, That no by-laws, rules or ordinances of said corporation, shall be repugnant to the constitution and laws of this commonwealth; and that no person shall be punished for the breach of any by-laws or ordinances of the said corporation, until ten days shall have expired after the promulgation thereof, by at least three advertisements set up in the most public places in the said borough: *And provided also*, That in assessing such 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 three-fourths of the qualified voters of said borough shall approve of and certify the same in writing, under their hands, to the town council, who shall proceed to assess the same accordingly: *Provided also*, That the town council shall lay such taxes upon dogs, and to make such regulations respecting them, within said borough, as they may see proper.

SECTION 7. That the chief burgess, elected and qualified agreeably to this act, or in contingency aforesaid, the president of the town council, is hereby authorized and empowered to issue his precept as often as the occasion may require, directed to the collector, commanding him forthwith to collect all taxes so assessed, and the same to pay over to

Meeting of council.

Powers and duties.

Proviso.

Proviso.

Proviso.

Collection of taxes.

the treasurer; which said precept shall be signed by the secretary of the town council, and to which the seal of the said corporation shall be affixed; and the said chief burgess or president of the town council is hereby authorized to carry into effect all by-laws and ordinances enacted by the town council, and whatsoever else shall be enjoined upon him, for the well ordering and governing said borough; and the town council alone shall have power to mitigate or remit such fines and forfeitures.

**Treasurer to give security.** SECTION 8. That the treasurer shall give sufficient security, to be approved by the town council, for the faithful performance of the duties of his office, and for the delivery of all moneys, books and accounts appertaining thereto, into the hands of his successor, upon demand made for that purpose. And that the street supervisor, treasurer, high constable and all other officers of said borough, shall, in the month of June, yearly, render their accounts to said town council for settlement.

**Court of appeal.** SECTION 9. That the chief burgess, president and secretaries of the town council, or any two of them, shall constitute a court of appeal, and prior to the collection of any borough tax, the collector 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 than to determine the justness of the apportionment of said tax, and to remedy any grievance that may occur in imposing the same; and that it shall be the duty of the high constable to give notice of the annual election of the said borough, to be held in pursuance of this act, by setting up five advertisements in the most public places in said borough, at least ten days previous thereto; he shall attend and see that the election is opened at the time and in the manner directed by this act: *Provided*, That the constable of the township of Bensinger, for the time being, shall publish and superintend the election to be held on the fourth Saturday of April next, as hereinbefore directed.

**Compensation of officers.** SECTION 10. That the town council shall, from time to time, fix the compensation, and at their discretion, declare the duties of all the officers elected, appointed, or to be appointed under the several provisions of this act, which compensation shall be paid out of the borough treasury, by orders drawn by them, signed by the president, and countersigned by the secretary, and the same shall not be increased or diminished during the time for which said officers were appointed, respectively: *Provided*, That if any person appointed by the town council aforesaid, shall neglect or refuse to take upon himself the duties of the office to which he has been appointed, he shall for the same, forfeit and pay for the use of the corporation, the sum of ten dollars, unless he can render to the said council, satisfactory reason why he should be exonerated from said service: *Provided also*, That no person appointed as aforesaid, shall be liable to a fine for refusing or neglecting more than once in five years.

**Right of appeal to court.** SECTION 11. That if any person or persons shall think him or themselves aggrieved by any thing done by the chief burgess, in his judicial capacity, or any thing done in pursuance of this act, except in what relates to 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 county of Elk, upon giving security according to law, in appeals from judgments, appeals from justices of the peace, to prosecute his, her, or their appeal with effect: *Provided also*, That such appeals shall be determined in the same manner, and the proceedings therein shall be the same as in appeals from justices of the peace, and that such appeal

shall be allowed in cases where the judgment is given for a less sum than five dollars thirty-four cents, as well as where it exceeds that sum.

SECTION 12. That no officer of said borough shall have any voice in the legislature for said borough, but the same is hereby vested in the members of the town council exclusively, who, as members, shall receive no compensation for their services. Votes.

SECTION 13. That 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 tax, rates and levies assessed, rated and levied therein, shall be recovered in the same manner as the county rates and levies of the county of Elk are by law recoverable. Taxable property.

SECTION 14. That the said council shall have full power to pave, or otherwise improve all or any, or every of the footways and gutters within the borough, at the expense thereof: *Provided*, That every owner of property or ground, shall have the right to pave the footways on the front of their own lots, at their own expense, according to the grade fixed by the commissioners, and approved by the town council: *Provided*, They have it completed within sixty days after due notice, in writing, is given for that purpose by the council or other agent: *And provided*, That nothing herein contained, shall be construed to give power to the council, to compel any person to pave at his own expense. Improve streets. Proviso.

SECTION 15. That the high constable shall give bond and security to the said corporation, in such sum as the said council shall approve, conditioned for the performance of all the duties enjoined upon him by this act, as by the ordinances and by-laws of the council; and that from and after the passage of this act, the citizens of this borough of Saint Mary's, shall be exempted from paying road tax to the township of Bensinger. High constable.

SECTION 16. That the officers of the said borough election are hereby entitled to receive the sum of fifty cents each, which shall be paid them by the treasurer, upon an order signed by the president, and countersigned by the secretary of the town council; and any qualified elector in said borough may be an officer at said election, any existing law of this commonwealth to the contrary notwithstanding: *And it is further enacted by the authority aforesaid*, That the writs for the recovery of fines and for forfeitures, to be issued by the chief Burgess or president of council, under the aforesaid contingency, shall be in the form of writs of summons, capias, execution, and such other necessary writs as are issued by justices of the peace, in pursuance of the laws of this commonwealth. Compensation to election officers. Process.

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

WM. WILLIAMSON,  
*Speaker of the Senate.*

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

FRS. R. SHUNK.