

No. 171.

AN ACT

relative to certain state roads, and declaring certain creeks highways, and for other purposes.

SECT. 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 all monies which may within six years from and after the passage of this act, be received by the treasurer of Luzerne county, for or on account of road taxes, assessed, and levied, or which shall hereafter be assessed and levied, on certain unseated lands, lately belonging to the estates of Matthias Hollenback and Edward Tilghman, situate within the townships of Lehman, Monroe, Dallas, Union, Northmoreland and Eaton, shall be appropriated and held on a separate account, by the treasurer aforesaid, which account the said treasurer is hereby authorized to keep for the purposes hereinafter mentioned.

Treasurer of Luzerne co. to keep in a separate fund road taxes levied for six years on certain lands of M. Hollenback & E. Tilghman.

SECT. 2. *And be it further enacted by the authority aforesaid,* That the court of Quarter Sessions of Luzerne county, shall, upon the petition of at least twenty five of the freeholders of each of the said townships, appoint two suitable persons commissioners, whose duty it shall be, as soon as a sufficient sum of money comes to the hands of the treasurer, agreeably to the provisions of the first section, to contract with such person or persons for the opening and completion of that part of the state road lately laid out from near Harvey's Lake, in Luzerne county, to Berwick turnpike in Lycoming county, as lays within the county of Luzerne; and they are hereby authorized and empowered to draw their warrants on the county treasurer for the payment of such contract or contracts, entered into by them upon the performance of the contracts, to the satisfaction of the commissioners; and the said treasurer is hereby directed to pay the warrants so drawn, to any amount not exceeding the sum appropriated by the foregoing provisions of this act.

Sum to be applied upon petition, under direction of court of Q'r. Sessions to complete part of the state road from Harveys lake to the Berwick turnpike.

Treasurer to pay warrants.

SECT. 3. *And be it further enacted by the authority aforesaid,* That all the monies which may within three years from and after the passage of this act, be received by the treasurers of Butler and Venango counties, on account of road taxes, assessed and levied on all unseated lands, situated in Centre, Slipperyrock, Mercer and Venango townships, in Butler county, and also on all unseated lands situated in Scrubgrass, Irvine, Sandy creek and French creek townships, in Venango county, are hereby appropriated to

Road taxes received for three years on unseated lands in certain townships in Butler and Venango counties, appropriated to improvement of road from Butler to Franklin.

the improvement of the state road from Butler, by the way of Murrinsville, to Franklin.

SECT. 4. *And be it further enacted by the authority aforesaid,* That the court of Quarter Sessions of Butler county, shall, upon petition of at least a majority of the taxable inhabitants residing in the townships through which the aforesaid road passes, in Butler county, appoint one person as road commissioner, who also resides in one of those townships in Butler county, as aforesaid: *And also,* upon petition of at least a majority of the taxable inhabitants of the townships in Venango county, through which the said road passes, the court of Quarter Sessions of Venango county, shall appoint one person as road commissioner, who resides in one of the aforesaid townships, in Venango county; and the commissioners so appointed, shall, as soon as a sufficient sum of money comes into the treasury of each county respectively, or may be assessed and levied from and after the passage of this act, for the term of three years, contract with such person or persons for the improvement and completion of such part or parts of the aforesaid state road, which to them may be deemed expedient: *Provided,* The amount expended on said road in each township, shall not exceed the amount of road tax assessed and levied in each township through which the said road passes; and the said commissioners are hereby authorized and empowered to draw their warrants on the county treasurer of their respective county, for the payment of such contract or contracts, entered into by them, upon the performance of said contracts to their satisfaction; and the said treasurers are hereby directed to pay the warrants so drawn, to any amount not exceeding the sum appropriated by this act.

Courts of respective counties to appoint commissioners to superintend expenditure.

Proviso. Expenditure of portions only in respective townships.

Payment of warrants.

Commissioners to give bond.

To render annual statement to auditors.

Their compensation.

SECT. 5. *And be it further enacted by the authority aforesaid,* That the commissioners appointed in pursuance of this act, shall, before they enter upon the discharge of their duty, enter into bond, with sufficient security, in any sum not exceeding five hundred dollars, to be approved of by the court of Quarter Sessions of their respective county, conditioned for the faithful performance of the duties enjoined upon them by this act, which bond shall be filed in the office of the clerk of the said courts; and the said commissioners shall annually, on the first Monday of January, render their accounts to the auditors of their respective county for settlement, exhibiting a full and fair statement of the application of the monies which they may have each drawn and expended in pursuance of this act; and for the faithful performance of all the duties imposed upon them by this act, they shall receive out of the said road tax, one dollar per diem, for each and every day necessarily employed as commissioners aforesaid, as a full compensation for their services; and in case of death, inability or refusal to act, of both or either

of the commissioners appointed, then, in such case, the court as before mentioned, shall, upon application of six freeholders, proceed to appoint in like manner, another or others in their place or stead, to carry into effect the foregoing provisions.

SECT. 6. *And be it further enacted by the authority aforesaid,* That Samuel Hill and Joseph Barr of Washington county, and Harvey H. Peterson of Allegheny county, are hereby appointed commissioners to lay out, by courses and distances, a state road, beginning at or near the house of Robert Love, on the Williamsport and Washington turn-pike, in Washington county; thence by the nearest and best route to James Conner's, on the road leading to Pittsburg, in Allegheny county.

SECT. 7. *And be it further enacted by the authority aforesaid,* That Michael Reed, John Bennett, John Wolf and Peter Schell, of Bedford county, and Alexander Knox, of the town of Newry in Huntingdon county, are hereby appointed commissioners to lay out a state road, by courses and distances, beginning at Bedford, to Hollidaysburg, in the county of Huntingdon.

SECT. 8. *And be it further enacted by the authority aforesaid,* That Benjamin Adams and James Johnston, of Beaver county, and John Stevenson, of Allegheny county, be, and hereby are appointed commissioners, to view, lay out and mark a state road, beginning at Phillipsburg, in Beaver county; thence by the White Oak Flats, to intersect with Hookstown state road, at or near the Big Lick, in Robinson township, Allegheny county.

SECT. 9. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said commissioners, or a majority of them, after taking an oath or affirmation before a justice of the peace, to perform the duties enjoined upon them by this act, with impartiality and fidelity, carefully to view the ground over which the said road may pass, and lay out the same as near to a strait line between the aforesaid points, as the nature of the ground and other important circumstances will permit, and in such manner that the vertical departure from a horizontal line shall at no point exceed five degrees, unless it be at the crossing of ravines and streams, where by moderate filling or bridging, the declination of the road may be preserved within that limit.

SECT. 10. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the commissioners, or a majority of them in choosing the ground, to have due regard to the crossing of water, to the declination and nature of the ground, to the expense of the townships, to the damages to private property, and to all other circumstances affecting the route, so that by a judicious and skilful combination of them the route finally adopted may best promote the public good.

Commissioners to mark route on ground.
—To employ assistants.

SECT. 11. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the commissioners plainly and distinctly, to mark upon the ground, the route agreed upon for the road as aforesaid, in such manner as to enable the supervisors readily to find the same, and for the purpose of fulfilling the duties in this act enjoined, the commissioners are hereby authorized to employ one surveyor, at a reasonable allowance per day, and two chain bearers, one axe man and one staff bearer, at a per diem allowance not exceeding seventy-five cents.

Draughts of location.

SECT. 12. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the commissioners, to make out a fair and accurate draft of the said location, noting thereon the courses and distances from point to point, as they occur the improvements they pass through, and also the crossings of county and township lines, roads or waters, with such other matters as may serve for explanation, one copy whereof shall be deposited in the office of the secretary of the commonwealth, on or before the first day of December next, and one copy in the office of the clerk of the court of Quarter Sessions of the respective counties, aforesaid, on the day aforesaid, or as much sooner as practicable, which shall be a record thereof, and thenceforth the said road shall be to all intents and purposes a public highway, and shall be opened and repaired in all respects as roads are opened and repaired, which are laid out by order of the courts aforesaid.

When filed roads to be highways.

Pay of commissioners and assistants.

SECT. 13. *And be it further enacted by the authority aforesaid,* That the compensation of the commissioners shall be one dollar and fifty cents each, for every day necessarily employed, by virtue of this act, and the accounts of the said commissioners, for their own pay and the pay of their hands as aforesaid, shall be adjusted and allowed by the commissioners of their respective counties and paid by the treasurers thereof, on warrants drawn in the usual way, each county to pay in proportion to the distance said road shall pass through the same, the commissioners shall meet on the second Monday of May next, or as soon thereafter as possible, and complete the said work as soon as practicable; and if any vacancy or vacancies shall happen by the resignation of one or more of the commissioners, or by any other cause, the Governor is hereby authorized to fill the vacancy or vacancies by a suitable appointment.

Warrants on treasurers of respective counties. Meeting of commissioners. Governor to supply vacancies.

SECT. 14. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said commissioners to take from each and every person or persons owning lands along the roads, by them respectively to be laid out, acquittances or releases from any claim or damages: *Provided,* such releases can be obtained upon the condition that such road shall pass through such person or persons land or lands,

Commissioners to take releases.

Proviso.

and to file the same in the commissioners' offices of the proper county.

SECT. 15. *And be it further enacted by the authority aforesaid,* That David Dillinger, George F. Goodman and Joseph Moore, M. D. be and they are hereby appointed commissioners, who, or any two of them, taking to their assistance an able surveyor, shall have full power and authority and are hereby enjoined and required to continue the survey of the streets, roads and lanes, laid out in the incorporated districts of Spring Garden, Northern Liberties and Kensington, within the following bounds, to wit: beginning at the northernmost bounds of the said incorporated districts of Spring Garden, Northern Liberties and Kensington, and continuing the same northwardly the extent of the limits of unincorporated Penn township and unincorporated Northern Liberties, and also to lay out such other streets and roads as they shall deem necessary within the said limits, for the convenience of the public and the inhabitants thereof; and it shall be the duty of the said commissioners, after having made such survey and laid out such streets and roads as they shall deem proper as aforesaid, to make or cause to be made a correct draught or plan thereof, with every explanation necessary for the perfect understanding of the same, and return it to the court of Quarter Sessions for the county of Philadelphia, and it shall be the duty of the clerk of said court to receive and file the said draught or plan in his office for public inspection and examination, and give public notice in at least two of the daily newspapers published in the city of Philadelphia, that on a certain day to be appointed by the court, the said court will hear any objections that may be made thereto by any of the freeholders residing within the said district, who shall consider themselves aggrieved; and the said court shall, at the time, appointed, judge and determine whether the same shall be fully and finally established, and direct the said draught or plan, with such alterations as shall be made, to be recorded, and from thenceforth all the streets, lanes and roads so approved, shall be forever hereafter deemed, adjudged and taken public highways: *Provided,* That nothing herein contained, shall authorize any survey to be made, or any street, road, lane or alley, to be laid out through the land bequeathed by Stephen Girard for the erection of a college or school in said district or township: *And provided further,* That nothing herein contained, shall authorize the commissioners to lay out any street or streets through the property of the mayor, aldermen, and citizens at Fair Mount water works, without the consent of the city authorities.

Commissioners appointed to continue survey of certain streets, &c. in Spring Garden, N. Liberties and Kensington.

Draughts of surveys.

Court to appoint day to hear objections and decide thereon.

Proviso. Not to interfere with the Girard college property, or that of Fair Mount.

SECT 16. *And be it further enacted by the authority aforesaid,* That in case of death, resignation, or refusal to serve of any of the said commissioners, the Governor shall appoint

Governor to fill vacancies.

one or more proper person or persons to supply his or their place or places, from time to time, until the end of this act shall be fully answered, which person or persons so to be appointed shall have the same powers as if he or they were named in this act.

SECT. 17. *And be it further enacted by the authority aforesaid,* That the commissioners of the county of Philadelphia be authorized and are hereby required to pay to the commissioners appointed or to be appointed for the purposes named in this act, out of the county treasury, the sum of two dollars for each and every day they shall be employed in performing the duties by this act required, and also their reasonable costs and charges in procuring the surveys and draughts herein before directed to be made.

Commissioners of Philadelphia co. to bear expenses.

And whereas, the public convenience will be at present answered by the certain knowledge where and in what manner such streets, roads and lanes, will in future run, but it will not be necessary immediately to lay them open; in order, therefore to provide for the opening of the same from time to time as the increasing improvements may require:

SECT. 18. *Be it further enacted by the authority aforesaid,* That upon the petition of any number of the citizens of said township not less than twenty, whose lands lie near or adjoining to such streets, roads or lanes, it shall and may be lawful to and for the court of Quarter Sessions of Philadelphia county, after hearing the petitions, and such freeholders through whose land such street or road shall pass, as shall offer objections thereto, to appoint viewers to report whether it be proper, at the time, to open such street or road, and if they shall be of opinion that the state of improvement in the neighborhood thereof shall require it, they shall issue an order to the supervisors or other officers of the roads of the proper township, requiring and enjoining them to open such street or road, and to cause the same to be put in order and kept in repair in the same manner as other streets or roads are by law to be opened, repaired and maintained; and the owner or owners of ground through and over which any of the streets or roads shall pass, shall proceed in the same manner to obtain indemnification for any injury they may sustain thereby, as if the said streets or roads had been opened in the manner usually pursued for opening roads: *Provided however,* That nothing contained in this act shall authorize the laying out of any street, road, lane or alley, through the property bequeathed by Stephen Girard for the establishment and erection of a school, but that said property shall remain undivided.

Immediate opening of streets, &c. not requisite.

Mode of opening them from time to time pointed out.

Redress of injuries.

Proviso. No road, &c. to go through the Girard school property.

SECT. 19. *And be it further enacted by the authority aforesaid,* That Mordecai Davis, Randal Evans, Josiah Heston, Thomas Jones, Esq. Joseph Roberts and Jonathan Jones, are hereby appointed commissioners to review that part of a

state road laid out from New Hope to the Maryland state line in a direction to Baltimore, commencing where the said road strikes the land of Enock Malin and Abner Griffith, in the township of Willistown and county of Chester, in course (then running) south fifty one and a quarter degrees, west sixty-four chains fifty-four links, being a part of said course; thence through the said Griffith's land south forty-eight degrees west nine chains fifty links, south forty-three degrees west eleven chains eighty-two links; thence through the said Abner Griffith's and William Kelly's land, south thirty-one degrees and three quarters, west seven chains, to the line between the townships of Willistown and East Goshen; thence continuing the same course last mentioned through East Goshen township, and through Joseph Eldridge's land, to the ford on the land of the said Joseph Eldridge, being part of a distance of sixteen chains, laid down in the report of the commissioners on said road, and again commencing one course and distance west of Hoopes and Garretts corner, where the said road strikes the land late of Joseph Hoopes, deceased, through last mentioned land south fifty-seven degrees west twelve chains fifty links; thence through land of George Garret and Joseph Hoffman, south fifty-one degrees west thirty-four chains thirty-six links, and through the said Hoffman's land south thirty and a half degrees west fifteen chains, thirteen thereof to the General Green to an existing road in the said township of East Goshen.

Commissioners appointed to review part of state road from New Hope to the Maryland state line.

SECT. 20. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the aforesaid commissioners, agreeably to the several provisions of the act entitled, An act for laying out a state road from the bridge over the river Delaware, at New Hope, through Doylestown to the Maryland line, to meet at the house of Jonathan W. Hoffman on the second Monday of April next, or as soon thereafter as possible, to review that part of said state road passing through East Goshen and Willistown townships described aforesaid, and alter or change said road, as they shall deem expedient; also, to vacate any part or parts of said road that will be rendered useless by the aforesaid alteration, and the aforesaid road shall thenceforth become a public highway, under all the regulations, provisions and restrictions of the act authorizing the laying out of the said road.

Time of meeting, power and duties of commissioners.

SECT. 21. *And be it further enacted by the authority aforesaid,* That the commissioners of the district of Kensington, in the county of Philadelphia, shall henceforth have full power to regulate the height of the several streets which now exist or may hereafter exist in said district, and that so much of the act entitled, An act to incorporate the Kensington district of the Northern Liberties, passed the sixth

Commissioners of dist. of Kensington may regulate height of streets.

day of March, one thousand eight hundred and twenty, as is hereby altered and supplied, be and the same is hereby repealed.

SECT. 22. *And be it further enacted by the authority aforesaid,* That Edward M. Henry and Thomas Moorehead, of the county of Columbia, and Robert Curry, of the county of Northumberland, be and they are hereby appointed commissioners to view, lay out, and mark a state road, commencing at or near the house of John Stucker, in the county of Columbia, through Rhorsburg, Jerseytown and Washingtonville, to the borough of Milton, in the county of Northumberland, subject to all the provisions and restrictions contained in the act entitled, An act authorizing the laying out a state road from Pennsborough, in the county of Lycoming, to Danville, in the county of Columbia, passed the twenty-seventh day of February, one thousand eight hundred and twenty-two.

Commissioners appointed to lay out a state road from Stuckers to Milton.

Subject to provisions of act of 27th Feb. 1822.

Certain parts of Pine, Broadhead, Oil & French creeks, declared public highways.

SECT. 23. *And be it further enacted by the authority aforesaid,* That from and after the passing of this act, the first fork of Pine creek, in the county of Lycoming, from the mouth thereof up to the Block House fork and Broadhead's creek, from Eleazer Price's mill dam, in Pike county, to forks; also, the west branch to Nicholas Bush's to the forks of said Broadhead's creek; also, the east branch of Oil creek, from Centreville to the state road in Sparta township, in the county of Crawford, and the east branch of French creek, commencing at the point of its junction with the west branch of French creek, in the county of Erie, on or near the forty-second degree of north latitude, and thence up said east branch to the west line of the state of New York, be, and the same are hereby declared public highways, for the passage of rafts, boats or other crafts, and it shall and may be lawful for the inhabitants desirous of using the navigation of said creeks, to remove all natural and artificial obstructions from the bed or channel of said creeks, except dams for mills and other water works, and also to erect such slopes at the mills or other dams in said creeks, as may be necessary for the passage of rafts, boats or other vessels: *Provided,* such slopes be so constructed as not to injure the works of such dams: *And provided also,* That any person or persons owning or possessing lands on said creeks, shall have liberty to construct any dam or dams across the same, agreeably and subject to all the restrictions and provisions of an act of the general assembly of this commonwealth, passed the twenty-third day of March, one thousand eight hundred and three, entitled "An act to authorize any person or persons owning lands adjoining navigable streams of water, declared public highways, to erect dams upon such streams, for mills and other water works."

Proviso. Slopes for dams. 2d proviso. Not to prevent erection of dams.

SECT. 24. *And be it further enacted by the authority aforesaid,* That from and after the passage of this act, "The West Branch of the river Susquehanna," from John Douglass' saw mill, in Cambria county, up to the fork of said branch, a distance of about three miles, be, and the same is hereby declared a public highway, subject to the same privileges and restrictions contained in the act passed the seventeenth day of January, Anno Domini, one thousand eight hundred and thirty-one, for declaring a certain part of the river Susquehanna a public highway.

3 miles of W. Branch of Susquehanna, in Cambria co. declared a highway, under act of 17th Jan. 1831.

JOHN LAPORTE,
Speaker of the House of Representatives.

WM. G. HAWKINS,
Speaker of the Senate.

APPROVED—The third day of May, A. D. one thousand eight hundred and thirty-two.

GEO WOLF.

No. 172.

AN ACT

To confirm certain surveys of lands returned and accepted in the Land Office.

SECT. 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 all the surveys of land heretofore returned and accepted by the officers of the Land Office, are hereby declared to be valid and effectual, to all intents and purposes, notwithstanding the said surveys may have been actually made on the ground before the warrants on which they were returned had been placed in the hands of the deputy surveyor: *Provided,* That this act shall not be so construed as to alter or impair the existing rights of third persons.

Surveys made before receipt of warrants.

Proviso.

JOHN LAPORTE,
Speaker of the House of Representatives.

WM. G. HAWKINS,
Speaker of the Senate.

APPROVED—The third day of May, A. D. one thousand eight hundred and thirty-two.

GEO. WOLF.