

LAWS OF PENNSYLVANIA,

We do hereby certify that the bill, entitled "An Act relating to judgments and the acknowledgment of deeds and sequestration of life estates, and relative to the high constable of the borough of Wilkes-barre," was presented to the late governor, Francis R. Shunk, on the third day of April, one thousand eight hundred and forty-eight, and was not returned within three days after the meeting of the present legislature, wherefore it has, agreeably to the constitution of this commonwealth, become a law in like manner as if it had been signed.

Clerk of the House of Representatives.

SAM'L. W. PEARSON,

Clerk of the Senate.

HARRISBURG, January 24, 1849.

No. 420.

AN ACT

Authorizing the commissioners of the incorporated districts of the Northern Liberties and Kensington, to open a street to be called Delaware avenue; relative to the duties of assessors; venders of mineral waters; the Fire association of Philadelphia; vacancies in the school boards in the county of Philadelphia; to lost mortgages; auditors of Philadelphia county; rebuilding of the court house in Philadelphia; to enable the commissioners of Philadelphia county to borrow money; to settle certain accounts between Spring Garden and the commonwealth; and respecting the appointment of auditors.

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

Commissioners of the incorporated district of the Northern Liberties, of Philadelphia county, authorized to survey and lay out a street to be called Delaware avenue. *in the county of Philadelphia, be and they are hereby authorized and empowered to survey, lay out and regulate a passage or street fifty feet wide, at such distances, east of the eastern line of Water street and Washington avenue, to be called Delaware avenue; and having surveyed, laid out and regulated said Delaware avenue as aforesaid, shall deposit a plan or draft thereof, in the office of the clerk of the court of quarter sessions, for the city and county of Philadelphia, which plan or draft shall forever remain unalterable: Provided, That the location of said avenue shall not be east of Delaware avenue, along the city front; and that the wharf line along the said districts shall be a uniform continuation of the city line, and shall not exceed the distance of one hundred and eighty feet east of said avenue: And provided further, That the plan or draft of said avenue shall be first approved of by a majority of the members composing the county board.*

Proviso.

SECTION 2. That the commissioners and inhabitants of the Kensington district of the Northern Liberties, in the county of Philadelphia, be and they are hereby authorized and empowered to survey, lay out and regulate a passage or street fifty feet wide, to be called Delaware avenue,

beginning at the point where Delaware avenue shall intersect the boundary line between the district of Kensington and the district of the Northern Liberties, and extending along or near Delaware front of the Kensington district; and having surveyed, laid out and regulate said Delaware avenue as aforesaid, the said commissioners shall deposit a draft thereof in the office of the clerk of the court of quarter sessions for the city and county of Philadelphia, subject to the same conditions and restrictions as are applied to Delaware avenue through the Northern Liberties, by the first section of this act.

Commissioners and inhabitants of the Kensington district of the Northern Liberties, authorized to survey and regulate a street to be called Delaware avenue.

SECTION 3. That after depositing the plan or draft of the said Delaware avenue as directed by the first section of this act, and complying with the other provisions of the first and second sections thereof, the board of commissioners of the district of Northern Liberties, and the commissioners of the Kensington districts respectively, be and they are hereby authorized and empowered to designate from time to time, by a vote of two-thirds of the members of the board of commissioners of the Northern Liberties or of Kensington, what part or proportion of the said Delaware avenue shall be opened and appropriated for public use at any one time, and on giving notice of said vote to the judges of the court of quarter sessions for the city and county of Philadelphia, it shall be the duty of said judges as soon as conveniently may be after the receipt of said notice, to appoint a jury of twelve disinterested taxable inhabitants of the county of Philadelphia, neither of whom shall be an owner of or directly or indirectly interested in any property adjacent to or through which said Delaware avenue shall be laid out, or a citizen of either of said districts, who shall forthwith inquire what damages the owner or owners of land or property may sustain by reason of the same, or any part thereof, being taken, used, and appropriated for public use, in opening such part or proportion of said Delaware avenue as may have been authorized to be opened for public use, by said board of commissioners respectively; and the jurors so appointed shall also inquire and take into consideration the advantages which may accrue to the said owner or owners of said property by reason of the laying out said Delaware avenue, or any part thereof for public use, and any ten of said jurors shall be competent to assess said damages, if any as aforesaid, and upon the return of the valuation and assessment of damages for land and other property, or any part thereof so taken, used, and appropriated from time to time as aforesaid, and the judges of the court of quarter sessions for the city and county Philadelphia, and the county board of said county shall approve of the same; they shall be paid in the same manner as is now provided by law for the opening of streets and roads, in the county of Philadelphia.

Damages, how ascertained and adjusted.

SECTION 4. That it shall be lawful for said boards of commissioners, upon receiving notice from the judges of the court of quarter sessions for the city and county of Philadelphia, of their approval of said assessment of damages, to proceed forthwith and open for public use and forever keep the same open as a common and public highway, and for that purpose shall enter upon such land or other property as may be found within the lines of said Delaware avenue, the damages of which shall have been first assessed and paid agreeably to the third section of this act, to remove all obstruction, fill up, curb, pave, light, cleanse, govern and control said Delaware avenue as other streets and highways in the districts of the Northern Liberties and Kensington are or may be hereafter governed and controlled; and if any person or persons, owner or owners or occupiers of any land or other property shall erect any building, shed or other structure of whatsoever kind, east of the western line of said Delaware avenue, or shall erect any platform projecting into the river

Lawful for the board of commissioners upon receiving notice from the judges, &c., to proceed to open said street, &c.

Delaware, or suffer any building, shed or other structure of whatsoever kind, east of the western line of Delaware avenue, after receiving damage for opening said avenue as aforesaid, each and every person so offending, and who shall refuse or neglect to remove such building, shed or other structure, for the space of thirty days after notice shall have been given by the said board of commissioners or their agent, shall forfeit and pay the sum of one hundred dollars; and the said board of commissioners are hereby authorized to remove the same, the expense of which, together with the fine or forfeiture aforesaid, shall be sued for by the said commissioners, as debts of an equal amount are by law recoverable, to the use of the board of commissioners of the incorporated district of the Northern Liberties, or of the commissioners of the Kensington district, as the case may be.

Assessors of the several wards and boroughs, duties of.

SECTION 5. That from and after the passage of this act the several assessors of the respective wards and boroughs in this commonwealth, shall perform the same duties that are required by the twenty-first section of an act, entitled "An Act to reduce the expenses of the militia system of this commonwealth, and to provide a more rigid mode for the collection of militia fines," passed the twenty-fifth day of April, A. D., eighteen hundred and forty, to be performed by the assessors of townships, and every person so enrolled shall be subject to the same fines for non-performance of militia duty as persons enrolled by township assessors.

Manufacturers or venders of mineral waters to file description of bottles in the office of the secretary of the commonwealth.

SECTION 6. That manufacturers or venders of mineral waters and other beverages in bottles, upon which their names or other marks shall be respectively impressed, may file in the office of the secretary of the commonwealth a description of such bottles, and of the name or marks thereon, and may cause the same to be published for six weeks successively in a weekly newspaper published in the county wherein the same shall be manufactured or sold, except in Philadelphia, in which city said publication shall be made for the same time in two daily newspapers thereof.

Penalty for selling, or disposing, or buying, or trafficking in bottles not bought by him from the owner.

SECTION 7. It is hereby declared to be unlawful for any person hereafter to sell or dispose of, or to buy or traffic in any bottles so marked and not bought by him of such owner thereof, and every person so offending shall be liable to a penalty of fifty cents for every bottle so sold or disposed of, or bought or trafficked in, for the first offence, and five dollars for every subsequent offence, to be recovered by the party whose name or mark shall be stamped on the bottles so sold or purchased, and who shall have complied with the provisions of the preceding section of this act; and the fact of any person using any such bottles for the sale therein of any beverage not of the same manufacture as that with which they had been filled by the rightful owners thereof respectively, shall be *prima facie* proof of the unlawful purchase of such bottles as aforesaid, and any such owner upon making such proof before any alderman or justice of the peace of the proper city or county may obtain process, and may thereupon search for, take and carry away for his own use, any bottles so impressed with his name or mark which may be found on the premises or wagons of such offenders.

Board of trustees of the Fire association may deduct from each and every dividend made by said trustees to any of the companies, &c., that are in arrears, &c.

SECTION 8. That from and after the passage of this act it shall be lawful for the board of trustees of the Fire association to deduct from each and every dividend made by the aforesaid board of trustees, to any of the companies composing the said Fire association that may be in arrears for interest, upon money loaned to the said companies by the aforesaid board of trustees, the amount of interest due and unpaid by the said companies respectively at the period of paying the said dividends.

SECTION 9. That the board of trustees of the aforesaid Fire association, having first deducted the arrears of interest from the dividends, shall make a deduction of the amount of any fines or penalties that the board of delegates of the said Fire association shall report to the board of trustees, as having imposed upon any of the companies composing the association for a violation of any of the provisions of the charter, or of any of the rules and regulations of the said board of delegates, and the amount of such fines or penalties, when deducted from the said dividends, shall be for the benefit of, and subject to the order of the board of delegates: *Provided*, That nothing herein contained shall interfere with the existing power of the board of delegates to collect the aforesaid fines or penalties, or with the right of the board of trustees to collect any arrears of interest from said companies by due process of law.

SECTION 10. That from and after the passage of this act, whenever a vacancy occurs in any board of school directors in the incorporated districts in the county of Philadelphia, it shall be the duty of the secretary of such board of school directors to give notice to the board of commissioners of the section in which the vacancy occurs, and the said board of commissioners shall fill the vacancy: *Provided*, That the provisions of this section shall not apply to districts electing school directors by the people.

Vacancy in any board of school directors in the incorporated districts of the county of Philadelphia, how filled. *Proviso.*

SECTION 11. That in all cases when a mortgage hath been heretofore made or shall hereafter be made, and hath been or shall hereafter be lost or mislaid before the mortgage debt shall be paid, and the mortgagor or mortgagors, or his, her, or their legal representative or representatives, or the owner or owners of the mortgaged premises shall be desirous to pay off and satisfy such mortgage, and to have satisfaction entered on the record of the same, or the mortgagee or mortgagees, or his, her, or their legal representative or representatives, or other person or persons who may be entitled to such mortgage debt, shall or may be desirous to recover or receive the same, but payment or satisfaction shall be withheld or denied until such mortgage shall be produced; it shall and may be lawful for such mortgagor or mortgagors, or his, or her, or their legal representative or representatives, or the owner or owners of the mortgaged premises, or for the person or persons entitled to such mortgage debt, or his, her, or their legal representative or representatives, or any or either of them, or other person or persons interested therein, to apply by bill or petition to the court of common pleas of the county where the mortgaged premises are situated, setting forth the facts of the case, with the complaint or grievance, and after due notice, to be given in such manner and for such time as the court may direct, to such mortgagor or mortgagors, or to his, her, or their legal representative or representatives, and to the owner and owners of the mortgaged premises, and the person or persons in possession thereof, or to the person or persons entitled to such mortgaged debt, or his, her, or their legal representative or representatives, as the case may be, and to all and every other person and persons interested therein, requiring them to appear in such court, on a day certain to be fixed by said court, and answer such bill or petition; at which time or at any subsequent time, the said court, sitting as a court of equity, shall have power to examine into the facts of the case, and the complaint or grievance, and to grant such relief and make such order and decree therein as the necessities of the case may in justice and equity require, as fully, to all intents and purposes, as if the remedy were herein particularly prescribed and set forth: *Provided*, This section shall only extend to the city and county of Philadelphia.

Proceedings to have satisfaction entered on lost or mislaid mortgages, &c.

Auditors of the county of Philadelphia, pay of in certain cases.

SECTION 12. That the auditors of the county of Philadelphia shall receive from the guardians of the poor, the inspectors of the county prisons, the board of health, and controllers of public schools, compensation for auditing their accounts for the fiscal year ending on and previous to the thirtieth day of June, Anno Domini one thousand eight hundred and forty-seven; compensation being the same as heretofore received for auditing said accounts.

Commissioners of the county of Philadelphia, duties of, relating to the new court house, offices, &c.

SECTION 13. That if the commissioners of the county of Philadelphia, in pursuance of the authority vested in them by the eighth section of an act, entitled "A supplement to an act, entitled 'An Act relating to the auditors of Philadelphia county; also to Delaware Sixth street in said county; also to the sinking fund of the said county; also to the disposal of certain real estate by the commissioners of said county; also to the vacation of a certain alley in Philadelphia city; to the erection of new county buildings; to the borough of Manayunk; and to the opening of Amber street,'" passed the sixteenth day of March, one thousand eight hundred and forty-seven," with the consent of the select and common councils of the city of Philadelphia, and the approbation of the county board of the said county, shall decide to erect the new court house in the said section mentioned, on the site of the present county buildings, it shall be the duty of the said commissioners to provide suitable offices for the accommodation of the officers of the said county, and the prothonotary of the supreme court for the Eastern district, and for the reception and safe keeping of the records and other papers in charge of said officers, during the time that the said court house is in the progress of erection.

Borrow money.

SECTION 14. That the commissioners of the county of Philadelphia shall have authority, by and with the consent and approbation of the county board of said county, to borrow any sum or sums of money on the credit of said county, not exceeding in the whole, the sum of sixty thousand dollars, reimbursable at such time or times as said county board shall direct.

Accounting officers of the commonwealth authorized to examine and settle the accounts between the district of Spring Garden and the commonwealth.

SECTION 15. That the accounting officers of the commonwealth be and they are hereby authorized and required to examine and settle on the books of the departments, the accounts between the district of Spring Garden, Philadelphia county, and the commonwealth, and upon such settlement and payment of balances, if any shall be found due, to have the necessary satisfaction entered upon the records of the district court of the city and county of Philadelphia.

Who shall not be appointed auditor, master in chancery, examiner, &c., in the several courts of this commonwealth.

SECTION 16. That from and after the passage of this act, it shall not be lawful for the judges of the several courts of this commonwealth, or any one of said judges, to appoint as auditor, master in chancery, examiner, commissioner or appraiser, any person related or connected with said judges, or any one or more of them, by ties of consanguinity or marriage.

SECTION 17. That so much of any act of assembly as is inconsistent with this act, be and the same is hereby repealed.

WILLIAM F. PACKER,

Speaker of the House of Representatives.

WM. F. JOHNSTON,

Speaker of the Senate.

We do hereby certify that the bill, entitled "An Act authorizing the commissioners of the incorporated districts of the Northern Liberties and Kensington to open a street, to be called Delaware avenue; relative to the duties of assessors; venders of mineral waters; the fire associa-

tion of Philadelphia; vacancies in the school boards in the county of Philadelphia; to lost mortgages; auditors of Philadelphia county; rebuilding of the court house in Philadelphia; to enable the commissioners of Philadelphia county to borrow money; to settle certain accounts between Spring Garden and the commonwealth; and respecting the appointment of auditors," was presented to the late governor, Francis R. Shunk, on the eleventh day of April, one thousand eight hundred and forty-eight, was not returned within three days after the meeting of the present legislature; wherefore it has, agreeably to the constitution of this commonwealth, become a law in like manner as if it had been signed.

Clerk of the House of Representatives.

SAM'L W. PEARSON,

Clerk of the Senate.

HARRISBURG, January 24, 1849.

No. 421.

A SUPPLEMENT

To an act to authorize the governor to incorporate the Erie canal company.

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 said Erie canal company shall be and is hereby empowered to charge and receive tolls for the passage of merchandize and other commodities on said canal, at a rate not to exceed one cent per mile for every thousand pounds, and shall be and is hereby allowed to discriminate in the rates of toll so charged and received between that which passes through the whole length of the line and that which passes only through portions of the same: *Provided*, That no discrimination in the rate of tolls shall be made on any merchandize or other commodities shipped to or from any point of the said canal between Adams' dam and the Ohio river: *Provided further*, That the same discrimination shall be made upon the same articles coming from or going to the Pennsylvania and Ohio canal, so that the rates of toll charged and received upon the through and local trade, upon both lines, shall be the same; that so much of the thirteenth section of the act to which this is a supplement, as is hereby altered, be and the same is hereby repealed: *Provided also*, That iron, iron ore, coal and lumber, on which no higher rate of tolls shall at any time be charged than the rates authorized to be charged by the act to which this is a supplement; that the Erie canal company shall not discriminate on through trade in the rate of tolls charged on boats, passengers, or freight on account of the same passing either northward or southward, and that the said company shall not charge any lower rates on boats, passengers, or freight coming on to their canal from the Pennsylvania and Ohio canal and passing from the junction to the borough of Erie, than the rates now charged by the said Erie canal company.

Rates of toll.

Allowed to discriminate in the rates of toll.

Proviso.

Proviso.

Proviso.