

No. 62.

## AN ACT

To amend sections eight and sixteen of the act, approved the thirty-first day of May, one thousand nine hundred and eleven (Pamphlet Laws, four hundred and sixty-eight), entitled "An act providing for the establishment of a State Highway Department, by the appointment of a State Highway Commissioner, two Deputy State Highway Commissioners, chief engineer, chief draughtsman, superintendents of highways, and a staff of assistants and employes; defining their duties and the jurisdiction of the State Highway Department, and fixing salaries of commissioner and deputies and other appointees; providing for taking over from the counties or townships of the Commonwealth certain existing public roads connecting county-seats, principal cities, and towns and extending to the State line; describing and defining same by route numbers as the State Highways of the Commonwealth; providing for the improvement, maintenance and repair of said State Highways solely at the expense of the Commonwealth, and relieving the several townships or counties from any further obligation and expense to improve or maintain the same, and relieving said townships or counties of authority over same; requiring boroughs and incorporated towns to maintain certain State Highways wholly and in part; requiring the State Highway Commissioner to make maps to be complete records thereof; conferring authority on the State Highway Commissioner; providing for the payment of damages in taking of property, or otherwise, in the improvement thereof; providing for purchase or acquiring of turnpikes or toll-roads forming all or part of any State Highway, and procedure therein; providing for work of improvement of State Highways to be done by contract, except where the State Highway Commissioner decides the work be done by the State; providing aid by the State to counties and townships desiring the same in the improvement of township or county roads; defining highways and State-aid highways; providing method of application for State aid in the improvement, maintenance and repair of township or county roads and prescribing the contents of township, county, borough, or incorporated town petitions; providing for percentage of cost of improvement or repairs to be paid by State, county, township, borough or incorporated town, and requiring contracts by counties, townships, boroughs, and incorporated towns with Commonwealth governing same; providing for the minimum width of State Highways and State aid highways, and kind of materials to be used in the improvement; providing for payment of cost of improvement and repairs; providing penalties for injuring or destroying State Highways; making appropriations to carry out the provisions of the act; and providing for the repeal of certain acts relating to Highway Department and improvement of roads, and of all acts or parts of acts inconsistent herewith; and providing that existing contracts are not affected by provisions of this act"; authorizing the State Highway Commissioner to establish the location, lines and width of State Highways; providing for the recording of the same; and denying to owners and occupiers of land damages for improvements erected within the established lines and width of State Highways so laid out; and providing for the payment of damages to property owners by counties; and repealing existing laws.

Section 1. Be it enacted, &c., That section eight of the act, approved the thirty-first day of May, one thousand nine hundred and eleven (Pamphlet Laws, four hundred sixty-eight), entitled "An act providing for the establishment of a State Highway Department, by the appointment of a State Highway Commissioner,

Highways.

Amendments to  
the act of May 31,  
1911 (P. L. 468).

two Deputy State Highway Commissioners, chief engineer, chief draughtsman, superintendents of highways, and a staff of assistants and employes; defining their duties and the jurisdiction of the State Highway Department, and fixing salaries of commissioner and deputies and other appointees; providing for taking over from the counties or townships of the Commonwealth certain existing public roads connecting county-seats, principal cities, and towns and extending to the State line; describing and defining same by route numbers as the State Highways of the Commonwealth; providing for the improvement, maintenance and repair of said State Highways solely at the expense of the Commonwealth, and relieving the several townships or counties from any further obligation and expense to improve or maintain the same, and relieving said townships or counties of authority over same; requiring boroughs and incorporated towns to maintain certain State Highways wholly and in part; requiring the State Highway Commissioner to make maps to be complete records thereof; conferring authority on the State Highway Commissioner; providing for the payment of damages in taking of property, or otherwise, in the improvement thereof; providing for purchase or acquiring of turnpikes or toll-roads forming all or part of any State Highway, and procedure therein; providing for work of improvement of State Highways to be done by contract, except where the State Highway Commissioner decides the work be done by the State; providing aid by the State to counties and townships desiring the same in the improvement of township or county roads; defining highways and State-aid highways; providing method of application for State aid in the improvement, maintenance and repair of township or county roads, and prescribing the contents of township, county, borough, or incorporated town petitions; providing for percentage of cost of improvement or repairs to be paid by State, county, township, borough, or incorporated town, and requiring contracts by counties, townships, boroughs, and incorporated towns with Commonwealth governing same; providing for the minimum width of State Highways and State-aid highways, and kind of materials to be used in the improvement; providing for payment of cost of improvement and repairs; providing penalty for injuring or destroying State Highways; making appropriations to carry out the provisions of the act; and providing for the repeal of certain acts relating to Highway Department and improvement of roads, and of all acts or parts of acts inconsistent herewith; and providing that existing contracts are not affected by provisions of this act," which reads as follows:—

“Section 8. Whenever in the construction, reconstruction, maintenance, and repair of any of the State Highways, it shall appear to the Commissioner that any part or portion of a State Highway, as now defined and described in this act, is dangerous or inconvenient to the traveling public, in its present location, either by reason of grades, dangerous turns, or other local conditions; or that the expense to the Commonwealth in the construction, building, rebuilding, maintenance, and repair thereof would be too great or unreasonable, and could be materially reduced or lessened by a divergence from the road or route, the commissioner is hereby empowered to divert the course or direction of same; and he may diverge from the line or route of same as herein described, in such direction or directions as in his discretion may seem best, in order to correct said danger or inconvenience or lessen the cost to the Commonwealth: Provided, That the said commissioner shall first submit a plan of the proposed change to the Governor and that the same shall be approved by him,” is hereby amended to read as follows:—

Section 8, cited for amendment.

Section 8. Whenever, in the construction, reconstruction, maintenance, and repair of any of the State Highways, it shall appear to the commissioner that any part or portion of a State Highway, as now defined and described in this act, is dangerous or inconvenient to the traveling public in its present location, either by reason of grades, dangerous turns, or other local conditions, or that the expense to the Commonwealth in the construction, building, rebuilding, maintenance, and repair thereof would be too great or unreasonable, and could be materially reduced or lessened by a divergence from the road or route, the commissioner is hereby empowered to divert the course or direction of same, and he may diverge from the line or route of same, as herein described, in such direction or directions as in his discretion may seem best, in order to correct said danger or inconvenience or lessen the cost to the Commonwealth: Provided, That the said commissioner shall first submit a plan of the proposed change to the Governor, and that the same shall be approved by him.

Change of route of highway.

*The State Highway Commissioner shall also have power, with the approval of the Governor, to establish the width and lines of any State Highway before or after the construction, reconstruction, or improvement of the same, not, however, exceeding the maximum width fixed by law for public roads. Whenever the State Highway Commissioner shall establish the width and lines of any such State Highway, he shall cause a description and plan thereof to be made, showing the center line of said highway and the established width thereof, and shall attach thereto his acknowledgment. Thereupon such description, plan, and acknowledgment*

Proviso.

Change of width and lines.

Plan of change.

Recordation.

*shall be recorded in the office of the recorder of deeds of the proper county, in a separate book kept for such purpose, which shall be furnished to the recorder of deeds by the county commissioners at the expense of the county.*

Erection of improvement within new lines.

*No owner or occupier of lands, buildings, or improvements shall erect any building or make any improvements within the limits of any State Highway the width and lines of which have been established and recorded as provided in this section, and, if any such erection or improvement shall be made, no allowance shall be had therefor by the assessment of damages.*

Damages.

Section 2. That section sixteen of said act, which reads as follows:—

Section 16, cited for amendment.

“Section 16. Before the commissioner shall undertake the construction, reconstruction, or improvement of any State Highway on the plan of the State Highways, wherein a change of existing lines and location is necessary and damage is likely to result to abutting property, he shall, when possible, enter into an agreement with the owner or owners of said property as to amount of damage to be paid to the said owner or owners *by the State*; or in case an agreement satisfactory to the *commissioner* and said owner or owners cannot be made, the commissioner may proceed with the work of construction, reconstruction, or improvement, and the owner or owners of said property, damaged thereby, may present their petition to the court of quarter sessions for the appointment of viewers to ascertain and assess such damages. The proceedings upon said petition and by the viewers shall be governed by existing laws relating to the ascertainment and assessment of damages for opening public highways; and such damages, when ascertained, shall be certified by the *State Highway Commissioner to the Auditor General, who shall pay the amount thereof by warrant drawn on the State Treasurer*,” is hereby amended to read as follows:—

Change of width.

Section 16. Before the *State Highway Commissioner* shall undertake the construction, reconstruction, or improvement of any State Highway, on the plan of the State Highways, wherein a change of *width* or of existing lines and location is necessary, and damage is likely to result to abutting property, he shall *notify the county commissioners of the proper county in writing of the contemplated change in such existing lines and location, whereupon the county commissioners,* when possible, shall enter into an agreement with the owner or owners of said property as to amount of damage to be paid to the said owner or owners, *which damage, if agreed upon, shall be paid by the county*; or, in case an agreement satisfactory to the *county commissioners* and said owner or owners cannot be made

Notification of county commissioners

Agreement with land owners.

Damages to be paid by county.

the *State Highway* Commissioner may proceed with the work of construction, reconstruction, or improvement, and the owner or owners of said property damaged thereby may present their petition to the court of quarter sessions for the appointment of viewers to ascertain and assess such damages. The proceedings upon said petition and by the viewers shall be governed by existing laws relating to the ascertainment and assessment of damages for opening public highways; and such damages, when ascertained, *shall be paid by the county in which the State Highway is located.*

Failure to agree

Viewers.

Damages to be paid by county.

Section 3. The act, approved the eighteenth day of July, one thousand nine hundred and seventeen (Pamphlet Laws, one thousand forty), entitled "An act relating to the assessment and payment of damages to owners of property abutting on State Highways, in certain counties, damaged by a change of the existing lines and location of such State Highway; imposing certain powers and duties upon the Highway Commissioner and the county Commissioners; and providing for the payment of such damages by such counties," be, and the same is hereby, repealed.

Act of July 18, 1917 (P. L. 1040), repealed.

APPROVED—The 5th day of April, A. D. 1921.

WM. C. SPROUL.

No. 63.

### AN ACT

To further amend section five of the act, approved the thirteenth day of June, one thousand eight hundred and thirty-six (Pamphlet Laws, five hundred and fifty-one), entitled "An act relating to roads, highways, and bridges"; fixing the width of public roads.

Section 1. Be it enacted, &c., That section five of the act, approved the thirteenth day of June, one thousand eight hundred and thirty-six (Pamphlet Laws, five hundred and fifty-one), entitled "An act relating to roads, highways and bridges," which, as amended by the act, approved the seventh day of June, one thousand nine hundred and seven (Pamphlet Laws, four hundred and fifty-two), entitled "An act to amend the fifth section of an act, entitled 'An act relating to roads, highways, and bridges,' approved the thirteenth day of June, Anno Domini one thousand eight hundred thirty-six," reads as follows:—

Public roads.

"The breadth of a private road shall not in any case exceed twenty-five feet, and the width of a public road shall not *exceed eighty feet,*" is hereby further amended to read as follows:—

Section 5, act of June 13, 1836 (P. L. 551), as amended by act of June 7, 1907 (P. L. 452).