

passable for the period of two years, then the charter shall be null and void except so far as not to exonerate the owners of said road, from the payment of any damages that may have accrued to individuals.

Citizens of borough may remove certain limitations.

SECT. 24. *And be it further enacted by the authority aforesaid,* That the limitations contained in the preceding sections for the commencement and completion of the aforesaid rail road, shall not extend to the construction and continuation of rail roads along other streets of the borough, after the periods therein mentioned, when hereafter in the opinion of the company and two thirds of the taxable inhabitants of the borough, the public interest may seem to require it.

Reservation of right to repeal.

SECT. 25. *And be it further enacted by the authority aforesaid,* That if at any time, any of the privileges hereby granted, shall be wilfully and unlawfully abused, the Legislature may resume all the rights and privileges conferred by this act.

Of the elections, &c. of the Lackawana and Susquehanna rail road co.

SECT. 26. *And be it further enacted by the authority aforesaid,* That the secretary of the Lackawana and Susquehanna rail road company, be and he is hereby authorized to fix the place of holding the annual and special elections and meetings of the said company, when the by-laws shall not have determined the same, and the judges of the elections shall be chosen by a majority of the stockholders present, either in person or by proxy, and so much of any law as is hereby altered or supplied, be, and the same is hereby repealed.

SAM'L. ANDERSON,

Speaker of the House of Representatives.

THO'S. RINGLAND,

Speaker of the Senate.

APPROVED—The ninth day of April, A. D. one thousand eight hundred and thirty-three.

GEO. WOLF.

No. 173.

AN ACT

Authorizing the laying out of a state road from McClean's mill, in Beaver county, to some point at or near Porrysville, in Allegheny county, 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 William M'Calister and Robert Reno, of Beaver

county, and James Duff, of Allegheny county, be, and hereby are appointed commissioners, to view, lay out and mark a state road, beginning at McCleans mill, in Beaver county, to some point on the Franklin road, near the village of Perrysville, in Allegheny county.

Road.
M'Cleane's
mill and Per-
rysville.
Commiss'rs.
appointed.

SECT. 2. *And be it further enacted by the authority aforesaid,* That Enoch Phillips, of Washington county, and Joseph E. M'Cabe and Alexander Carnahan, of Allegheny county, be, and they are hereby appointed commissioners, to view, lay out and mark a state road, beginning at the farm of Alexander Murdock, in Washington county; thence by the nearest and best route to the bridge across Sawmill run, near the Burnt Mills, in Allegheny county.

Road from
Murdock's to
Sawmill run.
Commiss'rs.
appointed.

SECT. 3. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said commissioners, or a majority of them, appointed to view as aforesaid, after having been sworn or affirmed before some justice of the peace, who shall file and preserve the same in his office, to perform the duties enjoined on them by this act with impartiality and fidelity, carefully to view the ground over which the road by them laid out may pass, and lay out the same as near to a straight line, between the aforesaid points, as the nature of the ground and circumstances will permit, and so that the vertical departure from a horizontal line shall in no point exceed five degrees, except at the crossing at ravines and streams, where by moderate filling and bridging, the declination of the road may be preserved within that limit; and further, it shall be the duty of said commissioners to have due regard to the crossing of waters, the nature of the ground, and damages to private property, and all other circumstances that may affect the route, so that by a judicious combination of them, the route adopted may best promote the public good, and that they shall clearly and distinctly mark upon the ground the route agreed upon, in such a 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 herein mentioned shall receive a per diem allowance of one dollar and fifty cents each, for every day they shall be necessarily employed in performing the duties of this act, and in case any of the said commissioners shall perform the duties of surveyor, he shall receive fifty cents per day in addition, and the said commissioners are hereby authorized to employ one surveyor, at one dollar and fifty cents per diem; two chain bearers and one axe man, at a per diem allowance not exceeding seventy-five cents.

General du-
ties of com'rs.

Elevation
of road.

Damages to
private pro-
perty.

Compensat'n
of comm'rs.
and assistants

SECT. 4. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said commissioners, to make out a fair and accurate draft of the location of said roads, noting thereon the courses and distances as they occur, the improvements passed through, and also the cross-

Drafts of
location.

To be deposited in Secretary's office, and in respective counties.

sing of county and township lines, roads and 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 January next, and one copy in the office of the clerk of the court of Quarter Sessions of the respective counties through which said road may pass, on the day aforesaid, or as much sooner as practicable, which shall be a record thereof, and from 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 orders of the courts aforesaid.

Adjustment of accounts.

SECT. 5. *And be it further enacted by the authority aforesaid,* That the accounts of the said commissioners, for their own pay and for the pay of surveyors, chain carriers and markers, shall be adjusted by the commissioners of the respective counties through which said road shall pass, and paid by the treasurers thereof, on warrants drawn in the usual way, in proportion to the length of the road in such county respectively.

Times and places of meeting.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the said commissioners shall meet on or before the first Monday in May next, or as soon thereafter as practicable, at such places as a majority of them shall agree upon, and complete the location of said road as soon as practicable, and if any vacancy or vacancies shall happen by resignation or any other cause, the court of Quarter Sessions of the proper county as the case may be, are hereby authorized to fill the vacancy or vacancies by a suitable appointment.

Vacancies, how filled.

SECT. 7. *And be it further enacted by the authority aforesaid,* That so much of the act of the twenty-third April, one thousand eight hundred and twenty-nine, entitled "An act to authorize the laying out a state road from Gettysburg, in Adams county, to a point at or near the summit of the Conococheague Hill, in Perry county," as extends the said road from the road leading from Henry's Mill, to Landisburg to the top of the Conococheague Hill, be, and the same is hereby repealed; and that part of the said road lying between the said points, be, and the same is hereby vacated.

State road from Gettysburg to Conococheague Hill; part thereof vacated.

SECT. 8. *And be it further enacted by the authority aforesaid,* That the sum of six hundred dollars appropriated by the third section of "the act entitled An act granting a sum of money to aid in opening and improving a certain state road therein mentioned," approved the thirteenth day of April, eighteen hundred and twenty-seven, shall be paid by the State Treasurer to John Harper, of Cumberland county, and Samuel Loy, of Perry county, to be laid out by them in improving the state road from Gettysburg to the Conococheague hill, and on that part of the road which passes over

\$600 appropriated by act of 13th April, 1827, directed to be paid to J. Harper and S. Loy for certain purposes.

the Blue or North mountain, one half in Perry county, and the other half in Cumberland: *Provided*, That the said named persons shall give bonds to the Commonwealth, with sufficient sureties, conditioned for the faithful application of the said money, to be approved by the Secretary of the Commonwealth, and filed in his office; *Provided further*, before the said sum shall be paid to the said named persons, they shall satisfy the State Treasurer that the sum of two hundred dollars has been subscribed and paid to them by individuals; and so much of any act as requires any other subscription to be made before the opening of said road be, and the same is hereby repealed.

Proviso.
Bonds with
sureties.

2d proviso.
\$200 to be
first paid by
individuals.

SECT. 9. *And be it further enacted by the authority aforesaid*, That the sum of one thousand dollars be, and the same is hereby appropriated to be paid to Samuel Moorhead, Esq. Jacob D. Mathiot and John Bingham, Esqrs. commissioners, by warrants drawn by the Governor upon the State Treasurer in favor of the said commissioners, for the purpose of improving the state road from Johnstown, in Cambria county, to New Alexandria, in Westmoreland county: *Provided*, That before the said money is paid, the said commissioners shall file a bond in the office of the Secretary of the Commonwealth, with one or more sureties to be approved of by any two of the judges of the court or courts of the counties of Cambria and Westmoreland, conditioned for the faithful application of said money, and that they will settle an account or accounts thereof in the courts of Quarter Sessions, in the counties of Cambria and Westmoreland, within one year after receiving said money.

\$1000 appro-
priated to
improvement
of state road
from Johns-
town to New
Alexandria.

Expending
comm'rs. to
give bond,
file acct's. &c.
within one
year.

SECT. 10. *And be it further enacted by the authority aforesaid*, That the Governor be and he is hereby authorized to draw his warrant on the State Treasurer in favor of the commissioners of Washington and Greene counties, for the sum of one thousand dollars, to be laid out by them in erecting a bridge over Ten Mile creek, where the state road leading from Morgantown to Pittsburg crosses the same.

\$1000 appro-
priated to the
bridge across
Ten Mile
creek.

SECT. 11. *And be it further enacted by the authority aforesaid*, That the Secretary of the Commonwealth and the clerks of the courts of Quarter Sessions of Allegheny and Butler counties, be and they are hereby authorized and required to receive and file the report and draft of a state road laid out from Arthur McGill's mill, in Butler county, to Martin Byrn's, in Allegheny county, and said report and draft shall have the same force and effect, as if the same had been deposited within the time specified in the twenty-first section of an act passed the fifth day of May, one thousand eight hundred and thirty-two, entitled An act to authorize the Governor to incorporate a company for making a turnpike road from the borough of Pottsville, through Mingersville and

State road
from A.
M'Gill's to
M. Byrn's.

Report of
com'rs. may
be received,
notwithstand-
ing expira-
tion of time
fixed by law.

Carbondale, in Schuylkill county, to Daniel Herb's tavern in Northumberland county, and for other purposes.

SAM'L. ANDERSON,

Speaker of the House of Representatives.

THO'S. RINGLAND,

Speaker of the Senate.

APPROVED—The ninth day of April, A. D. one thousand eight hundred and thirty-three.

GEO. WOLF.

No. 174.

AN ACT

To abolish imprisonment for debt, 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 the costs on appeals hereafter entered, from the judgments of justices of the peace and aldermen, shall abide the event of the suit, and be paid by the unsuccessful party as in other cases: *Provided,* That if the plaintiff be the appellant, he shall pay all costs which may accrue on the appeal, if in the event of the suit he shall not recover a greater sum, or a more favorable judgment than was rendered by the justice: *And provided also,* That if the defendant, either on the trial of the cause before the justice or referees, or before an appeal is taken, shall offer to give the plaintiff a judgment for the amount which the defendant shall admit to be due, which offer it shall be the duty of the justice and of the referees to enter on the record, and if the said plaintiff, or his agent, shall not accept such offer, then and in that case, if the defendant shall appeal, the plaintiff shall pay all the costs which shall accrue on the appeal, if he shall not in the event of the suit recover a greater amount than that for which the defendant offered to give a judgment, and in both cases the defendant's bill shall be taxed and paid by the plaintiff, in the same manner as if a judgment had been rendered in court for the defendant.

SECT. 2. *And be it further enacted by the authority aforesaid,* That so much of any act of Assembly as is altered or supplied by this act, shall be and the same is hereby repealed.

Costs on appeals from judgments of justices to abide event.

Proviso. When plaintiff is the appellant.

2d proviso. When defendant offers a judgment before appeal.

Duty of justices, &c.

Repealing clause.