

No. 284.

AN ACT

Authorizing the laying out a state road from the Greensburg turnpike, at or near Stewartsville, in the county of Westmoreland, by the way of M'Keesport to the Washington turnpike, at or near Canonsburg, in Washington county, to regulate tolls on the Cumberland road, and for other purposes.

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* John Klingensmith, jr. of Westmoreland county, John J. Muse of Allegheny county, and John Parke of Washington county, be and they are hereby appointed commissioners to view and lay out a state road from the Greensburg turnpike, at or near Stewartsville, in Westmoreland county, by the way of M'Keesport to the Washington turnpike, at or near Canonsburg, in the county of Washington, by the nearest and best route. Commissioners.

SECTION 2. It shall be the duty of the said board of commissioners or a majority of them, after taking and subscribing an oath or affirmation before a justice of the peace, to perform the duties enjoined on them by this act with fidelity and impartiality, to carefully view the ground over which said road may pass, and to lay out the same of the width of thirty-three feet, and as near to a straight line between the aforesaid points, as the nature of the ground will permit, so that the vertical departure from a horizontal line shall at no point exceed five degrees, except at crossing ravines and streams, when by a moderate excavation, filling or bridging, the declination of said road may be preserved within that limit. Locate.

SECTION 3. That it shall be the duty of said commissioners plainly and distinctly to mark the ground on the route agreed upon for said road, in such manner as to enable the supervisors readily to find the same; and for the purpose of fulfilling the duties of this act, the said commissioners are hereby authorized to employ one surveyor, at a per diem not exceeding two dollars; two chain bearers and one axeman, at a per diem of one dollar each; and the said commissioners shall each receive a per diem not exceeding one dollar and fifty cents, for each and every day necessarily spent in the discharge of the duties enjoined by this act, in manner and form as hereinafter directed. Mark. Pay.

SECTION 4. It shall be the duty of the said board of commissioners, to make out a fair and accurate draft of the location of said road, noticing therein the courses and distances as they occur, the improvements passed through, and also the crossing of 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 Tuesday of January, A. D., eighteen hundred and forty-six, and one copy in the office of the clerk of the court of the respective county in which said road may be laid out, on the day aforesaid, or as much sooner as may be practicable, which shall be record thereof, and from thenceforth the said road shall be to all intents and purposes a public highway, and shall be opened and Draft.

repaired, in all respects as roads are opened and repaired which are laid out by order of the courts aforesaid.

Vacate. SECTION 5. Said commissioners shall have authority to vacate so much of any road as may be supplied by the new one, if it should appear expedient so to do; and in case access to any branch or lateral road may be obstructed by vacating any part of roads so supplied, it shall be the duty of said commissioners to connect all such lateral or cross roads with the main line of road laid out by them.

Pay. SECTION 6. That the accounts of the said commissioners, for their own and the pay of a surveyor, chain bearers, axemen, &c., shall be made out and returned to the commissioners of such counties in which said road may be located, in proportion to the time spent in the respective counties in locating said road; and that they be paid out of the treasury of the respective counties, on warrants drawn in the usual way.

Meeting. SECTION 7. That the said commissioners shall meet on or before the first day of September next, and complete the view of said road; and if any vacancy shall occur by resignation or otherwise, the court of quarter sessions of the county where such vacancy shall exist, shall appoint a suitable person, who shall perform said duty.

Vacancy. SECTION 8. That it shall be the duty of the said commissioners to endeavor to procure from the persons through whose land such location may be made, releases for all claims of damages that might arise from opening the same; and in every case where said commissioners shall fail to procure such releases, and it shall appear to them that any damages will be sustained, it shall be their duty to assess the damages and make report thereof, signed by a majority of them, and return the same, together with all releases obtained, to the court of quarter sessions of the respective county in which such damages may accrue.

Release. SECTION 9. That the provisions of the act incorporating a company to build a bridge across the Juniata river, at Lewistown, Mifflin county, approved the fourth day of April, eighteen hundred and thirty-eight, be and the same is hereby extended for and during the term of ten years, from and after the passage of this act.

Juniata bridge company at Lewistown. SECTION 10. That the nineteenth, twentieth, twenty-first, and twenty-second sections of "An Act authorizing the laying out of certain state roads, and for other purposes," approved the twenty-second day of April, one thousand eight hundred and forty-four, be and the same is hereby extended to the first day of December, eighteen hundred and forty-five.

State road in Columbia and Lycoming counties. SECTION 11. That whereas it has lately been decided by the supreme court of the United States, that the acts of assembly of this commonwealth, relating to the collection of tolls on that part of the Cumberland road which is within this state, passed June the thirteenth, eighteen hundred and thirty-six, and April fifth, eighteen hundred and forty-three, do not authorize the collection of any amount of tolls whatever for the passage upon said road of any stage, coach, and other vehicle carrying passengers with their baggage and goods, if such stage, coach, or other vehicle is at the same time carrying any of the mails or property of the United States: *And whereas*, The said court sanctions the power of Pennsylvania to provide for the repairs of said road by a general assessment of tolls upon persons travelling thereon, which it is deemed just and right should be paid: *And whereas, also*, It is found to be impracticable to keep said road in good repair and out

Preamble.

of debt by the tolls collectable under the existing laws of this commonwealth, as interpreted by said court; therefore,

SECTION 12. In addition to the tolls, which, by the operative laws heretofore enacted, are authorized to be demanded and received at the gates erected upon the Cumberland road, within Pennsylvania, there shall be paid, on and after the first day of May next, at each of said toll gates, by each and every person riding or travelling in or upon any dearborne, sulkey, chair, chariot, coach, coachee, stage, wagon, phaeton, chaise or other carriage of pleasure or travel, including stages, coaches, or other vehicles carrying United States' mails, which shall pass or run upon said road, and through or to any toll gate thereon lawfully erected, a tax or toll of not less than two nor more than fifteen cents, as shall be fixed and determined from time to time, by the commissioner of said road, for every fourteen miles upon said road in which such person shall have been a passenger or traveller belonging to any such carriage, and in proportion for shorter distances: *Provided*, That no toll under this act shall be demanded for any driver of any coach, stage or other public vehicle, nor from any person bona fide employed as a guard to the mails or other public property in any such carriage, nor from any duly employed agent of the general post office department, nor from any bearer of despatches to or from the government of the United States or this state, nor from any naval or military officer of the United States or of this state, who shall be at the time travelling in discharge of the duties of his office; but all such persons, upon exhibiting satisfactory evidence of the character in which they are travelling, shall pass free from the toll imposed by this act: *Provided also*, That no toll under this act, shall be demanded and received from any of the persons exempt from toll by the laws of this commonwealth, relating to said road, heretofore enacted: *And provided further*, That nothing herein shall be construed, so as to prevent changes of the present rates of tolls upon the vehicles, as authorized by the law heretofore enacted relating to said road; such changes, as well as those which may be made under this act, to be uniform on each particular species or mode of travel or riding, and to be regulated according to the wants of the road.

Tolls on Cumberland road within Pennsylvania.

Tolls.

Exemptions from tolls.

Reservation.

Tolls uniform.

SECTION 13. That should any passenger or traveller, liable to the payment of toll by this act, neglect or refuse to pay the same at any gate, then it shall and may be lawful to collect the same, with costs, as debts of like amounts are collectable by suit, in the name of the commissioner of said road, against such person, or his or her parent, husband, master or guardian, or against the owner or owners, or bailee or bailees of the carriage in which such person shall be, or shall have been a passenger or traveller; and in no suit for tolls under this act, or under former acts relating to the same road, shall any plea in abatement for non-joinder of any person or persons, jointly liable with the person or persons sued, be allowed or sustained: *Provided*, That nothing herein contained, shall be construed to prohibit any receiver or collector of tolls on said road, or other agent of the commissioner, from stopping and detaining any carriage for the non-payment of toll, by any person or persons riding or travelling therein, and liable therefor; but the right of any such agent so to do is hereby given, in addition to the other remedies by this act provided.

Collection of tolls.

Detention for non-payment, authorized.

SECTION 14. That it shall be the duty of every driver, or person in charge of any carriage of pleasure or travel upon said road, under penalty of fifty dollars for every wilful neglect or refusal, to be collected by suit as hereinbefore directed, for the use of the road, faithfully to

Duty of drivers, et al.

Penalty.

report at every gate through which such carriage may pass, the number of persons or passengers properly belonging to such carriage, who are liable to the payment of the tolls imposed by this act, in such way as to inform the collector of tolls how much toll should be paid by all of the persons or passengers.

Unpaid tolls. SECTION 15. That if by reason of the neglect or refusal of passengers or travellers to pay, of drivers or conductors faithfully to report as hereinbefore directed, or from any other cause, any tolls by this act authorized, be not paid as hereinbefore required, it shall and may be lawful for the collectors of tolls at the gates on said road, to charge in a book the unpaid tolls to either the passenger or passengers, or any of the other persons specified in the foregoing section of this act, which account, when duly proved as other book accounts are allowed to be by law, shall be competent evidence in any suit for such unpaid tolls; and the amount thereof liable to be paid by any one person, or by any two or more persons jointly, may be sued for at the expiration of any period of time, not longer than one year, during which such tolls shall have been charged, and such suit or suits shall be in the name of the commissioners of the road, for the use thereof, and be exempt from abatement for non-joinder, as hereinbefore directed.

Evidence of.

Suits.

Estimate of tolls, not reported. SECTION 16. That if from any omission or neglect of drivers, or travellers or passengers, collectors, or any collector of tolls on said road, shall not be enabled to ascertain the number of passengers or persons properly belonging to any carriage, who are liable to toll under this act, he or they shall charge therefor, according to the number of passengers which such carriage shall be capable of carrying, and the tolls therefor shall be collected and recovered as hereinbefore directed; *Provided*, That nothing in this act shall prevent the commissioner of said road from accepting from the owner or owners, bailee or bailees of any carriage or line, or number of carriages of pleasure or travel, a gross sum per month, per quarter, or per year, so as thereby to exempt from tolls all persons riding or travelling in the carriages of such owner or owners, bailee or bailees, during the time for which such gross sum shall be paid, or agreed to be paid, but the right of the commissioner so to do is hereby given, and all contracts made in pursuance of this proviso shall be valid: *And provided also*, That the right of the commissioner of said road to sue for and recover unpaid tolls, under any of the provisions of this act, shall not be impaired or defeated by any omission or defect in the book charges hereinbefore authorized, but the same may be recovered upon other adequate evidence in lieu of, or in addition to, such book charges.

Commutation.

Evidence of non-payment.

Frauds. SECTION 17. That every person who shall fraudulently evade or attempt to evade the payment of the toll imposed by this act, shall for every offence forfeit and pay to the commissioner, for the use of said road, a penalty of not more than twenty dollars, to be recovered by action as hereinbefore directed; and should the name or names of any person or persons liable for the toll or any penalty imposed by this act, be unknown to the proper collector of tolls or other agent of the commissioner, then a suit or suits therefor may be instituted in the manner directed by the seventh and eighth sections of the act, entitled "An Act relating to the commencement of actions," approved the thirteenth June, eighteen hundred and thirty-six.

Penalty.

Road viewers, &c., in Lycoming county. SECTION 18. That from and after the passage of this act, the number of viewers and reviewers of roads and bridges within the county of Lycoming, shall be three; and the act of assembly passed the twenty-

fourth day of February, eighteen hundred and forty-five, entitled "An Act relative to public roads in certain counties therein named," shall have full force and effect in the said county of Lycoming, and any law to the contrary is hereby repealed.

FINDLEY PATTERSON,
Speaker of the House of Representatives.
 WILLIAM P. WILCOX,
Speaker of the Senate.

APPROVED—The fourteenth day of April, one thousand eight hundred and forty-five.

FRS. R. SHUNK.

No. 285.

AN ACT

To extend the charter of the Carlisle Bank.

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 charter of the Carlisle Bank shall be, and the same is hereby continued and extended for the term of five years from the expiration of the present charter, subject to the provisions imposed by this act, and to all the provisions now imposed upon the said bank by existing laws of this commonwealth; and also subject to such further provisions as the legislature may hereafter think proper to enact for the regulation of banking institutions. Charter continued.

SECTION 2. The total liabilities of the said bank, exclusive of deposits, shall not at any time exceed double the amount of its capital stock paid in, nor shall the debts of every kind due, and to become due to the said bank, except debts due from the state of Pennsylvania, ever amount to more than three times its capital stock paid in; and the said bank shall not loan or discount any, when its circulation shall be, for thirty consecutive days, equal to three times the amount of specie, and notes of specie paying banks in its possession, belonging to said bank, and balances standing to the credit of said bank in any specie paying banks, convertible into specie at the pleasure of the said Bank of Carlisle. Liabilities of bank limited.

SECTION 3. In addition to the returns which the said bank is now required by law to make, when notified so to do by the auditor general, it shall also return on the oath or affirmation of the cashier, a statement in tabular form, showing first, the whole amount of its liabilities; second, the amount of debts due or to become due to said bank, except as before excepted; and if upon the return so made, it shall appear that its liabilities or available debts due or to become due to it, except as before excepted, shall have exceeded for thirty consecutive days, at any quarter of the last year, three times the amount of its capital stock paid in, or that its cir- Statement to auditor general.