

No. 90.

AN ACT

Relating to registered taxes and municipal claims in the county of Philadelphia.

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 third section of an act relating to the lien of taxes in the county of Philadelphia, passed the sixteenth day of April, one thousand eight hundred and forty-five, shall not be taken and construed to require that taxes heretofore registered in the office of the county commissioners of Philadelphia county, shall be again copied into another or separate books; but the registry thereof, in books heretofore, shall be deemed and taken to be a compliance with the requisition of said act, in respect to taxes so registered; nor shall said act be construed or taken, as requiring the taxes of the year one thousand eight hundred and forty-five, to be filed before the first of July of that year, but on or before the first of July of the present year; and so much of said act as requires claims for taxes to be filed in the office of any prothonotary, and the revival of the same, as in case of mechanics' claims to continue the lien thereof, is hereby repealed; and all taxes registered as aforesaid, in said county commissioners' office, shall cease to be liens, after the expiration of five years from the first day of January in the year succeeding that in which they became due, unless suit be brought to recover the same, as it now is or may be provided by law for the recovery of the same, and duly proceeded in to judgment; and thereafter the lien of such judgments, and the transcripts filed of those recovered for taxes before magistrates, shall be and continue liens as in other judgments.

SECTION 2. That recovery may be had on claims for taxes filed under the provisions of the said act, or of the act of the third of February, one thousand eight hundred and twenty-four, by the said county, or other corporation required to register its taxes; and in all cases where the claim shall exceed one hundred dollars, it shall be lawful to file a copy in the office of the prothonotary of the district court for the city and county of Philadelphia, and to proceed thereon by action of debt to recover a general judgment against the debtor or debtors, as is now provided by law in respect to said county, or to proceed thereon by *scire facias*, as in the case of mechanics' claims; and the claims so filed shall be *prima facie* evidence of the amount thereof, and of the same being due and owing, and judgment be entered by default therefor, unless the defendant shall file his affidavit of the nature of his defence, as required in other cases where the plaintiff has filed his copy of the cause of action in such court; and the judgment and execution shall be with the like effect as in other cases: *Provided*, That where any real estate, subject to such lien, shall have been conveyed, and deed recorded, after the assessment of the tax sued for, the present owner shall be served with the process; and if there be several owners of distinct portions of the premises, recovery shall be had under the same writ against their respective shares, according to a just rateable proportion of the tax,

Construction of
act relating to
registered taxes.

Liens to cease in
five years.

Taxes over \$100.

How recovered.

Proviso.

Who liable.

costs and expenses of collection; and if any such owner shall be omitted, he may be brought in by a rule of the court on him, to show cause why he shall not be made a party to such suit; and on proof of service thereof, judgment may be entered against his share by default of appearance, or affidavit, as aforesaid: *And provided*, That no such apportionment shall effect the personal liability of the owner, at the time of the assessment, for the whole amount of the tax, interest and costs, including the five per cent. commission to be paid for such collection. Proviso.

SECTION 3. That in the city and county of Philadelphia, all writs of *scire facias* on claims for taxes, municipal charges and assessments, Scire facias, how served. and for expenses of removing nuisances, shall be served by the sheriff of the said county, by posting a true and attested copy of the writ on a conspicuous part of the premises therein described, and by publishing a brief notice thereof in a daily newspaper in said county twice a week, for two weeks before the return day; on which service being made, the plaintiffs in such suits may proceed to recover judgments, as in suits on mechanics' liens.

SECTION 4. Such claims may, in suits thereon, be read as evidence of the facts therein set forth; and no plea alleging non-joinder, or misjoinder of parties; no plea averring want of notice to remove nuisances; no plea touching the rates or proportions of contribution among parties jointly interested; nor any plea touching the question of ownership, shall be allowed in any such action. Evidence and pleas.

SECTION 5. In all writs of *levari facias* on such claims, the sheriff's handbills and advertisements shall contain at the foot thereof a memorandum, setting forth the name of the party plaintiff, and the nature and character of the claim; in default whereof, the sale under such writ may be set aside by the court. Proceedings upon levari facias.

SECTION 6. The lien of such claims shall not be divested by any judicial sale, as respects so much thereof, as the proceeds of such sale divested may be insufficient to discharge and pay. Lien, when not divested.

SECTION 7. So much of the act passed on the sixteenth day of April, one thousand eight hundred and forty-five, entitled "An Act vacating part of Old Masters street, or Masters lane, in Penn township, in the county of Philadelphia, and for other purposes," as provides for the collection of registered taxes by the treasurer of the county of Philadelphia, shall be restrained in its operation and effect, to the collection of state, county, poor and road taxes only; and all other taxes, assessments and public claims shall be collected by, and under the authority of the corporations, respectively entitled to receive the same. Act of 16th April, 1845, relative to registered taxes restrained as to the collection of certain taxes.

SECTION 8. In all cases where the taxes on separate and distinct properties, in the said city and county of Philadelphia, shall be assessed together as one estate, it shall and may be lawful for the county commissioners, at any time before the payment of the said taxes so assessed, to apportion the same rateably, upon the said several and distinct portions of the property so assessed together; and no law now in force shall be so taken or construed, as to require the city of Philadelphia, or any district of the county of Philadelphia, or the board of health, to register in the office of the county commissioners, any claim for curbing, paving, grading, laying pipes or culverts, or the expenses of removing nuisances. Apportionment of taxes in certain cases.

SECTION 9. The fee to the prothonotary for filing, docketing and indexing each claim for taxes or liens, and transcripts of judgments therefor, in the city and county of Philadelphia, shall be twenty-five cents. Prothonotary's fee.

Penalties and forfeitures, how recovered.

SECTION 10. All specific penalties and forfeitures enuring to the use of the board of health, or any municipal corporation of the county of Philadelphia, shall be recovered by suits, as debts of like amount are by law recoverable.

FINDLEY PATTERSON,
Speaker of the House of Representatives.

DANIEL L. SHERWOOD,
Speaker of the Senate.

APPROVED—The eleventh day of March, one thousand eight hundred and forty-six.

FRS. R. SHUNK.

No. 91.

AN ACT

To refund a certain amount of money paid by Henry Sively to the commonwealth.

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

State treasurer to pay certain money to Henry Sively.

the state treasurer be and he is hereby authorized to pay to Henry Sively, the sum of two hundred and seventy-eight dollars, and ninety-two cents, it being for moneys paid by said H. Sively, for a piece of land, the title to which was subsequently found not to be in the commonwealth; and also, the sum of two hundred and fifty dollars, for moneys expended by the said Henry Sively, in improvements made on the said lands; and the state treasurer is hereby authorized and directed to cancel all bonds in his possession, given by the said Henry Sively to the commonwealth, for the payment of the balance of the purchase money for said lands.

FINDLEY PATTERSON,
Speaker of the House of Representatives.

DANIEL L. SHERWOOD,
Speaker of the Senate.

APPROVED—The eleventh day of March, one thousand eight hundred and forty-six.

FRS. R. SHUNK.