

No. 149.

AN ACT

To amend the road laws of Erie county, 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 all property, real and personal, trades, occupations, professions, and every other thing which is now made taxable by law, or that shall hereafter be made taxable by law, for county purposes, shall and the same is hereby made taxable for road purposes in the several townships of Erie county. Road taxes to be levied.

SECTION 2. That the road commissioners shall not hereafter collect more than ten per cent. in any one year in money, on the road tax so laid by them, and said money shall be collected by the several path-masters in each of their several districts, under a warrant issued by said road commissioners, which warrant shall state the amount which said commissioners have decided to raise in money; and the said path-masters shall proceed in the same manner as collectors of county taxes, and have like powers and compensation, and return the same to the township treasurer within three months after the date of such warrant. By whom collect-

SECTION 3. That the qualified citizens of the several townships in Erie county, shall at the election for township officers, elect *viva voce*, one person for path-master in each district in the said townships, which election shall commence at three o'clock, P. M. of said day, and be conducted by two of the road commissioners of said townships, without fee; and the path-masters so elected, shall hold their office for one year, and the said road commissioners shall enter the result of said election in their book of records. Election of path-masters.

SECTION 4. That if any district shall fail or neglect to elect a path-master as aforesaid, or if any vacancy shall occur from any other cause, the said commissioners shall fill such vacancy by appointment until the next election. Vacancies, how supplied.

SECTION 5. That when any of the path-masters in any of the said districts shall make return to the road commissioners of the township, of any tax which has been neglected or refused to be paid, as directed by the nineteenth section of the act to which this is a supplement, it shall be the duty of the said road commissioners, and they are hereby required to issue their warrant immediately against such delinquent, and have the same collected and returned agreeably to the twenty-first section of the act to which this is a supplement; and any property found within said district where said tax was levied and belongs, and said property belongs to said delinquent, all such property shall be liable to distress and sale on the said warrant for the amount of said tax and costs, although the said delinquent may not reside within the said district or township where such tax was laid. How taxes are to be collected from delinquents.

SECTION 6. That any person claiming damages on account of the location of a road through his improvement, may within sixty days apply to the said road commissioners for redress, and if in the opinion of the road commissioners, the applicant is entitled to damages, they shall proceed to assess the same; and if the amount agreed upon by the Damages, how assessed and paid.

said commissioners shall be accepted by the complainant, then the said commissioners shall make an order on the township treasurer for the amount so fixed and agreed upon, which shall be paid by said treasurer out of any money in the treasury not otherwise appropriated; but before any such order shall be paid, it shall be approved by at least two of the township auditors, on the back of said order; and if the complainant shall not be satisfied with the amount fixed by said commissioners, or said commissioners shall not allow any damages, then the complainant may enter his complaint before a justice of the peace, as is hereafter provided in cases of confirming or rejecting roads, and the justice shall proceed in like manner as is provided hereafter in confirming or rejecting roads; and that decision shall be final and conclusive, and the twenty-sixth section of the act to which this is a supplement, is hereby repealed: *Provided*, That any suit now pending shall not be affected by a repeal of this section.

Proviso.

Road views.

SECTION 7. That the road commissioners shall not be required to view any route of a proposed road, unless the petition praying for the same be signed by at least twelve citizens of the township where said proposed route for a road is located.

Grievances, how remedied.

SECTION 8. That if any person or persons shall feel aggrieved on account of any new road being laid out by said road commissioners, or on account of the alteration of any old road by the same, such person may apply to a justice of the peace of said township, or to a justice of an adjoining township or borough, and make his or their complaint, and if the said justice shall be of the opinion that there is good cause of complaint, he shall issue a summons directed to any constable to summon the said road commissioners to appear before him at a time fixed in the said summons, not more than eight nor less than four days after the date of said summons.

Reference to jury of six men.

SECTION 9. That the said justice shall at the same time of issuing the summons as directed by the eighth section of this supplement, issue a notice to six reputable disinterested citizens, to appear at his office at the same time the summons is made returnable, and when the six citizens have appeared, shall administer an oath or affirmation to them to well and truly try all matters in regard to the location of the said road, or the establishing of the same; the said justice shall preside and decide the questions of law that may arise in the trial of the case, and after a full hearing of the case, the six men so chosen as a jury, shall determine whether such road so laid out by said commissioners shall be confirmed or not; the said justice always giving the casting vote in case of an equal division by the jury, and the decision so made by a majority of said justice and jury, shall be final and conclusive in regard to said road for two years thereafter: *Provided*, That the said road commissioners may reject any of the six men chosen by said justice up to the number of four, on the grounds of interest or other cause, and substitute others in their place, who shall be sworn as aforesaid, and subject to the same regulations as the first chosen.

Proviso.

Fees of justices and constable.

SECTION 10. That the said justice and constable shall be entitled to the same fees that are now allowed by law for similar services, and the six men chosen by the said justice as a jury, shall each be allowed seventy-five cents per day for every day necessarily spent in such trial; but before any suit shall be brought under this act, the person or persons making such complaint, if they shall not be good responsible freeholders, shall enter good and sufficient bail for all costs that may accrue on the trial of the case, which bail so entered, shall be holden absolute for the payment of all cost as aforesaid, should judgment be rendered against said complainant on the trial of such case.

Jurors pay.

Security.

SECTION 11. That the six men chosen as a jury by the said justice shall meet as required by said justice, or pay the sum of two dollars for non-attendance, to be recovered at the suit of the complainant, in the case as debts ance. of like amount are recoverable and collectable by law, unless such juror shall be detained in consequence of the sickness of himself or family, or some other unavoidable cause, which shall be adjudged by the justice before whom suit is brought, to be sufficient to excuse said juror; and the justice before whom suit is brought for the trial of the case by jury, as named in the ninth section of this act, shall have power to fill any vacancy that may occur by the non-attendance of any such juror, by appointment of some other person at the time and on the day of such trial; and any such person so appointed, shall be liable to the same penalty as though he had been originally appointed.

Excuse.

SECTION 12. That when the justice and jury shall hear and determine any suit under this act, the justice before whom the suit is brought, shall enter judgment for costs against the complainant, if the said road is confirmed, and against the said road commissioners, if the said road is condemned; and when the justice enters judgment against the said commissioners, the said commissioners shall pay the same by an order on the treasurer of the township, which said order shall be paid by said treasurer out of any money that may be in the treasury of the township, and not otherwise appropriated; but if judgment be entered by the said justice against the defendant, then execution shall issue as in other cases of debt, before a justice of the peace; and this same proceeding in disposing of costs and damage shall extend to any suit brought under this act.

Substitution.
Judgment for costs to be entered.

SECTION 13. That the said road commissioners shall have power to lay an extra road tax in any district, when in their opinion the same is necessary, in order to keep the roads in good repair, or when any emergency occurs that may require the same; but no extra tax shall be levied in any one district by said commissioners, for the purpose of making or improving a road in any other district in said township; nor shall any extra tax be laid in any one district, when an extra tax has been laid on the township in the same year by said road commissioners; and not more than one extra tax shall be laid in any one year; nor shall such extra tax exceed six mills on every dollar of the valuation in the township for said year.

Extra road tax may be laid.

SECTION 14. That the whole expense of laying out the public road from Peter Hilliards, in Butler county, through Venango county, to Georgetown, in Mercer county, and thence through the county of Crawford, to a point on or near the Ohio state line, in the direction of Conneaut harbor, shall be borne and paid by said counties severally, in proportion to the time spent in each of said counties by the persons engaged in the several views of said roads; and such of said counties as may already have paid more than their due proportion as herein directed of said expense, shall be reimbursed such excess, by such other county or counties aforesaid, as may not have paid for the said time spent as aforesaid in such county or counties; and in case of any difficulty in adjusting the amount to be paid by or to either of said counties, the same shall be fixed and determined by the court of quarter sessions of Crawford county, who shall hereby have full power to enforce its decrees in the premises against each of said counties.

Expenses for laying out a public road from Butler county to Ohio state line, how to be paid.

SECTION 15. That the act entitled "An Act to declare certain parts of Conococheague creek, a public highway," passed the eighth of April,

Conococheague creek a public highway repealed

one thousand seven hundred and ninety-four, be and the same is hereby repealed.

FINDLEY PATTERSON,
Speaker of the House of Representatives.
 DANIEL L. SHERWOOD,
Speaker of the Senate.

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

FRS. R. SHUNK.

No. 150.

AN ACT

To change the venue of certain suits pending in the common pleas of Lycoming county.

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 a certain issue respecting the distribution of moneys, &c., directed by the court of common pleas of Lycoming county, and joined in said court, but certified to and now pending in the special court, to be held in and for said county, in which Samuel T. Borrows, George Tomb, Francis C. Campbell, George Tomb, assignee of John Stauffer, J. and A. Grafies, Wilson and M'Clintock, James Tagget, Lewis Dewart, Hickman and Brothers, and William Cameron, are plaintiffs, and Augustus E. Shulze defendant; and a certain other issue framed in said common pleas of Lycoming county, under the directions of said court, and certified and pending in the same special court, wherein the president and managers of the Lewisburg and Jersey Shore turnpike road and bridge company, are plaintiffs, and Augustus E. Shulze, defendant; and also a certain other issue pending as aforesaid, wherein George Reidenaur is plaintiff, and Augustus E. Shulze defendant, be and the same are hereby removed to the court of common pleas of Union county, for trial by juries of Union county aforesaid; and that the said court is hereby authorized to proceed to trial, verdict and judgment, in said issues, as the said courts in Lycoming county, in which the same are now pending, could or might do; and that it shall be the duty of the court of common pleas of Lycoming county, to make distribution of the moneys, for which these several issues were framed upon the verdicts and judgments, which shall be rendered and entered in, and by the said court in Union county, on receiving a copy of the records thereof; and the costs heretofore incurred in said issues, shall abide the event of the same; and the record of said issues, shall be duly certified by the prothonotary of Lycoming county, to the said court of common pleas of Union county: *Provided*, That the said county of Union, shall be reimbursed by said county of Lycoming, all costs and expenses to be incurred in consequence or by reason of the transfer, removal and trial

Certain issues.

Removed to
 Union county for
 trial.

Proviso.